

Property Tax Exemptions:  
An Overview of State  
Constitutional and Statutory Provisions

Prepared By:

Elizabeth Siegal  
Research Consultant  
and  
Scott Metcalf  
Manager of Research

The Civic Federation  
243 South Wabash, Suite 850  
Chicago, IL 60604  
(312) 341 – 9603

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In the United States, not-for-profit organizations have a long history of receiving special treatment under Federal, state and local tax codes. Qualifying organizations receive tax exemptions of varying sorts and to varying degrees. At the state and local levels, certain not-for-profit organizations are exempted from paying local property taxes. This practice occurs throughout the country and is an area that has received little attention by researchers and tax practitioners.

The Civic Federation undertook the Property Tax Exemption Procedure Study in response to concerns by local property tax experts and business owners concerning the scarcity of research in this area and, more importantly, a growing concern regarding erroneous and questionable property tax exemptions afforded not-for-profit organizations. The concern focused on organizations that received property tax exemptions improperly, i.e., organization's not meeting the minimum standards of eligibility, as well as, organizations that continued to receive property tax exemptions even though the justification for the exemption ceased to exist.

Given the status of the limited data, the Federation agreed to conduct a basic study, focusing on property tax exemption laws in states and localities, as well as on procedures for granting and removing property tax exemptions for not-for-profit organizations. The purpose of the study is to shed new light on the exemption process and identify areas where local assessing jurisdictions can improve and strengthen existing procedures.

This part of the study is a compendium of state constitutional provisions and state statutes governing the granting, maintaining, and removal of property tax exemptions. It concentrates on exemptions for charitable properties, but a variety of other exemptions are also included. While the work is not exhaustive, it is our hope that it will be a valuable resource to those interested in the laws regulating these procedures.

The Civic Federation is a nonpartisan government and fiscal watchdog and research organization founded in 1894. The Federation provides three primary services. First, it promotes efficiency and economy in the organization and management of public business. Second, it guards against excessive taxation and wasteful expenditure of public funds. Finally, the organization serves as a technical resource providing objective information regarding state and local governmental revenues and expenditures. The Civic Federation fulfills its mission by analyzing public finance and government service delivery through research reports and public commentary. Recent research reports have assessed the impact of tax increment finance in northeastern Illinois, evaluated the status of major local pension funds and analyzed Cook County property tax trends.

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## ALABAMA

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

AL CONST Art. IV, s 91

Sec. 91. Exemption from taxation of state, county, municipal, cemetery and certain religious, educational and charitable property.

The legislature shall not tax the property, real or personal, of the state, counties, or other municipal corporations, or cemeteries; nor lots which are used exclusively for religious worship, for schools, or for purposes purely charitable.

AL CONST Art. XI, s 217

Sec. 217. Property of private corporations, associations and individuals to be taxed at same rate; exception as to religious, educational and charitable property.

The property of private corporations, associations, and individuals of this state shall forever be taxed at the same rate; provided, this section shall not apply to institutions devoted exclusively to religious, educational, or charitable purposes.

AL CONST Amend. No. 325

Amendment No. 325

AMENDMENT OF SECTION 217.

Sec. 217. Classification of taxable property for purposes of ad valorem taxation; taxable property to be taxed by state, counties, municipalities, etc., at same rate; assessment ratios for purposes of ad valorem taxation; increase or decrease of ad valorem tax rate by counties, municipalities, etc.; exemption of state, county and municipal property and property used for religious, educational or charitable purposes from taxation; legislature may provide exemptions from taxation; interpretation of authority for counties, municipalities, etc., to levy taxes, incur indebtedness, etc., in relation to assessment of property; maximum rate of ad valorem tax in any one taxable year.

(f) The legislature is authorized to enact legislation to implement the provisions of this amendment, and may provide for exemptions from taxation; provided, however, that any statutory exemption existing prior to the adoption of this amendment shall not be repealed, except by subsequent legislative act, and shall remain in full force and effect.

AL CONST Amend. No. 373

AMENDMENT OF SECTION 217.

Sec. 217. Classification of taxable property for purposes of ad valorem taxation; taxable property to be taxed by state, counties, municipalities, etc., at same rate; assessment ratios for purposes of ad valorem taxation; increase or decrease of assessment ratios by counties, municipalities, etc.; increase or decrease of ad valorem tax rates by counties, municipalities,

etc.; maximum amount of ad valorem tax; certain property to be assessed at current use value and not market value; exemption of certain property from ad valorem taxation; interpretation of authority for counties, municipalities, etc., to levy taxes, borrow money, etc., in relation to assessment of property; counties, municipalities, etc., authorized to levy additional ad valorem tax for costs of certain state-wide reappraisal of property.

(g) The legislature is authorized to enact legislation to implement the provisions of this section and may provide for exemptions from taxation; provided, that unless otherwise expressly provided, no amendment to this section shall be construed to repeal any statutory exemption existing on the effective date of any such amendment hereto.

(k) The following property shall be exempt from all ad valorem taxation: the real and personal property of the state, counties and municipalities and property devoted exclusively to religious, educational or charitable purposes, household and kitchen furniture, all farm tractors, all farming implements when used exclusively in connection with agricultural property and all stocks of goods, wares and merchandise.

#### AL CONST Art. XII, s 229

Sec. 229. Special laws conferring corporate powers prohibited; general law as to grant or amendment of corporate charters; corporation franchise taxes to be paid; exemption of benevolent, educational or religious corporations from franchise taxes.

The legislature shall pass no special act conferring corporate powers, but it shall pass general laws under which corporations may be organized and corporate powers obtained, subject, nevertheless, to repeal at the will of the legislature; and shall pass general laws under which charters may be altered or amended. The legislature shall, by general law, provide for the payment to the State of Alabama of a franchise tax by corporations organized under the laws of this state, which shall be in proportion to the amount of capital stock; but strictly benevolent, educational, or religious corporations shall not be required to pay such a tax. The charter of any corporation shall be subject to amendment, alteration, or repeal under general laws.

#### AL ST s 40-9-1. Persons and property generally.

The following property and persons shall be exempt from ad valorem taxation and none other:

(1) All bonds of the United States and this state and all county and municipal bonds issued by counties and municipalities in this state, all property, real and personal, of the United States and this state and of county and municipal corporations in this state; all cemeteries, all property, real and personal, used exclusively for religious worship, for schools or for purposes purely charitable; provided, that property, real or personal, owned by any educational, religious or charitable institution, society or corporation let for rent or hire or for use for business purposes shall not be exempt from taxation, notwithstanding that the income from such property shall

be used exclusively for education, religious or charitable purposes; all mortgages, together with the notes, debts and credits secured thereby on real and personal property situated in this state, which mortgages have been filed for record and the privilege tax paid thereon; all security agreements and security interests under the Uniform Commercial Code, together with the notes, debts and credits secured thereby; all money on deposit in any bank or banking institution and all other solvent credits; all warrants issued by county boards of education and city boards of education for the purpose of erecting, repairing, furnishing school buildings or for other school purposes;

(2) All property, real or personal, used exclusively for hospital purposes, to the amount of \$75,000, where such hospitals maintain wards for charity patients or give treatment to such patients; provided, that the treatment of charity patients constitutes at least 15 percent of the business of such hospitals; provided further, that such hospital need not be assessed for taxation if the owner or manager shall file with the county tax assessor wherein such hospital is located within the time allowed for assessing such property for taxation a certificate that such hospital has done 15 percent charity work in the preceding tax year; and further provided, that such hospital through its owner or manager shall have until the expiration of the preceding tax year to class its work and ascertain whether or not such hospital has done 15 percent of its treatment of patients as charity work;

(3) The shares of the capital stock of any corporation owning and operating a hospital, to the extent of \$75,000 in value; provided, that said corporation maintains wards for charity patients and gives treatment to such patients, which treatment constitutes at least 15 percent of the business of the hospital of said corporation; provided, that the total exemption granted to any such corporation shall not exceed \$75,000, taking into consideration its real and personal property and the value of its shares of capital stock;

(4) All property owned by the American Legion or by Veterans of Foreign Wars or by the Disabled American Veterans, or any post thereof; provided, that such property is used and occupied exclusively by said organization;

(5) All the property of literary and scientific institutions and literary societies, when employed or used in the regular business of such institutions;

(6) The libraries of ministers of the gospel, all libraries other than those of a professional character and all religious books kept for sale by ministers of the gospel and colporteurs;

(12) No license or taxation of any character, except franchise taxes provided by Section 229 of the Constitution of the State of Alabama, shall be collected or required to be paid to the state or any county or municipality therein by any state or county fair, agricultural association, stock, kennel or poultry show. Athletic stadiums owned and controlled by universities, schools or colleges and which are used exclusively for the purpose of promoting intercollegiate or interschool athletics; provided, that the revenue received from athletic stadiums, when admission is charged, shall be used for the benefit of athletic associations of such universities, colleges or schools.

(15) All property, both real and personal, owned by any unit or organization of the Alabama National Guard officially recognized as such by the federal government and organized and maintained by the state, and all property owned by shares and used exclusively by and kept exclusively in the possession of any such unit or organization of the Alabama National Guard, the annual rent or hire of which is not in excess of the annual state, county and municipal taxes on said property shall be exempt from taxation by the state, and the county and municipality in which the same may be situated;

(19) All property owned by the Benevolent and Protective Order of Elks, Fraternal Order of Police, Fraternal Order of Eagles or Loyal Order of Moose, or lodge thereof; provided, that such property is used and occupied exclusively by such organization;

(25) All property described in Title 12 U.S.C. s 1701(Q), commonly known as HUD 202 property, is hereby exempt from any and all ad valorem taxes.

AL ST s 40-9-16. Property of corporation or association formed for social or literary advancement and used in connection with college or university. The property of corporations or associations formed and organized in good faith for the social or literary advancement of their members and not for pecuniary purposes nor for individual profit and used as an adjunct of or in connection with any college or university and approved by the governing body of said college or university in this state shall be exempt from all state, county and municipal taxation, but if used for any other purpose or not as an adjunct of or in connection with any college or university it shall not be so exempt.

AL ST s 40-9-17. Property owned and used or held by colleges for certain purposes. All property owned and used by a college for the purpose of housing students, members of the faculty or other employees of the college is exempt from taxation.

All property owned by a college and held for the bona fide purpose of being used for enlargement of a campus or for the development of a new campus is exempt from taxation.

AL ST s 40-9-9. Y.M.C.A.

All Young Men's Christian Associations and all real and personal property of all Young Men's Christian Associations, and of any branch or department of same heretofore or hereafter organized and existing in good faith in the State of Alabama, for other than pecuniary gain and not for individual profit

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Applicability of exemption. The supreme court has held consistently that the exclusive use of the property at issue for religious worship, schools, or

charity is the true test of whether the exemption applies. For exemption to apply, the property must be exclusively used for religious worship, schooling, or charity; meaning the property must be used solely, only, or wholly for a religious, educational, or charitable purpose. *Most Worshipful Grand Lodge of Free and Accepted Masons of State of Ala. v. Norred*, 603 So.2d 996 (Ala.1992).

This section is strictly construed, etc. Tax exemptions are to be strictly construed against the exemption and in favor of the tax. *Crim v. Phipps*, 601 So.2d 474 (Ala.1992).

Uncertain language construed in favor of taxing authority. When an exemption statute is uncertain in language, the court must construe it in favor of the taxing authority. *State Dept. of Revenue v. Delta Air Lines, Inc.*, 549 So.2d 1352 (Ala.Civ.App.1989).

## **B. Partial Exemptions.**

No partial AL CONST Art. IV s 91 exemption is available. *Most Worshipful Grand Lodge of Free and Accepted Masons of State of Ala. v. Norred*, 603 So.2d 996 (Ala.1992).

Partial ad valorem tax exemption available to hospitals that treated charity patients was applicable to for-profit hospitals, portion of whose property was used for charitable purposes; nonprofit hospitals whose overall objective was to provide health services to public at large, with no reservation as to those who could not afford to pay and with no eye toward attainment of profit or private advantage, instead qualified for general charitable purpose exemption. *Mingledorff v. Vaughan Regional Medical Center, Inc.*, 682 So.2d 415 (Ala.1996).

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

AL ST s 40-7-25. Estimation by assessor of fair market value; entry of deductions for exemptions; addition of omitted items; statements of increases by county board of equalization; reopening assessment before county board of equalization.

Except as otherwise provided by law, the assessor shall, from information entered on the tax return list and from all other information known to him, or which he may procure, proceed to ascertain what, in his best judgment, is a fair and reasonable market value of each item of property returned by or listed to any taxpayer; provided, that the assessed value of any real estate or improvements as fixed for taxation for the year next preceding the then current tax year shall be prima facie the basis of the value of such property for

assessment for the current tax year, and such property shall not be assessed for taxation at a less valuation unless, upon evidence submitted to the county board of equalization, as provided for herein, it is found that the assessed valuation of the property reviewed should be reduced; and the assessor shall in separate columns enter on such list such amount and value and the deduction for exemption to which such taxpayer is entitled; and the tax assessor shall also add to such list any item of property subject to taxation owned by such taxpayer, or in which he has any interest whatever and which he had failed or omitted to place on such list; and the taxpayer shall be given notice by the assessor, by certified or registered mail, return receipt demanded, or in person, of the items of property added to his assessment list or items claimed as exempt which are disallowed by the tax assessor after such list has been filed and before the tax assessor has completed his assessment; and the assessor shall, upon demand, furnish the taxpayer with a certified copy of his assessment list so amended. In the event the value of real or personal property of any taxpayer is increased by the county board of equalization, herein created, over the assessed value thereof for the next preceding year, the taxpayer shall be furnished by certified or registered mail, return receipt demanded, or in person, by the secretary of the county board of equalization, with a statement showing separately the value of his personal property and his real property, and improvements thereon, such statement to be signed by the chairman of the county board of equalization, and also that such taxpayer may file in writing, with the secretary of the county board of equalization, on or before the last Monday in April, objections to any assessed valuation fixed as herein provided. But failure to give or receive the notices required in this section shall not invalidate such assessment. The taxpayer shall have the right any time before the taxes become delinquent to appear before the county board of equalization and have the assessment of his property reopened, if satisfactory proof is made that the taxpayer or his agent did not receive notice of such increase. The expense of postage incurred in carrying out the provisions of this section shall be paid in equal proportions by the county and state, upon a certified statement thereof by the secretary of the county board of equalization, filed with the court of county commissioners, or the board or court of like jurisdiction and with the Department of Finance. The tax assessor shall be allowed \$.25 for each notice served as provided in this title, where the assessed valuation of any taxpayer's property is increased over the valuation as fixed for the preceding year, the same to be charged and collected as fees collected for delinquent assessments.

## **B. Procedures for Retaining an Exemption.**

AL ST s 40-7-2.1. Timing of property assessments, etc., homestead exemption.  
(a) This amendatory act shall be known as the 1983 Taxpayer Convenience Act.  
(b) Notwithstanding any other law to the contrary, the county tax assessor may assess property for tax purposes and perform related tax assessing functions and requirements, including the acceptance of applications for homestead

exemptions, from January 1 to September 30 of each taxable year and the assessment, including the homestead exemption, shall become effective on the following October 1. Provided, however, nothing herein contained shall be construed to relieve a person claiming a homestead exemption under Sections 40-9-19 to 40-9-21, inclusive, or any other law of the responsibility of furnishing proof of age, or disability, and total gross income for the year preceding the year for which the exemption will be effective as required by law. Any person who has qualified for the homestead exemption because of age or disability and income shall not be required to reapply for the personal exemption based on age, disability, and income until the eligibility ceases. The person shall only be required to verify by signature, on a form provided by the county tax assessor, that the qualifying conditions continue to exist and return the form by mail.

(c) Notwithstanding any other law to the contrary, an attorney in a timely manner may apply to the county tax assessor for a homestead exemption on behalf of a person entitled to claim the exemption.

AL ST s 40-7-6. Assessor to interrogate as to items and details of property; listing exempt property.

After administering the foregoing oath, the assessor, his deputy, or other officer shall particularly inquire of the taxpayer as to the items of property and subjects of taxation owned by the taxpayer and for which he is liable to be taxed, and property exempt from taxation, which shall be listed by items, in order that he may elicit from the taxpayer a complete statement of the whole amount and specified items of property, and subjects of taxation with which he should be charged for purposes of assessment and taxation, and the same shall be entered upon the proper blank, and the tax assessor, his deputy, or other officer administering the oath shall require the taxpayer to give an estimate of the value of each item of personal property. Each taxpayer shall give to the assessor his occupation and post-office address. All property claimed exempt from taxation under the provisions of this title shall be listed with the tax assessor by the taxpayer and entered on his return showing the items of property sought to be exempted, and no property omitted from said return shall be exempted.

### **C. Annual Certification.**

AL ST s 40-7-10. Allowance of statutory exemptions; property no longer exempt.

The tax assessor shall have the right and authority beginning October 1, 1951, and annually thereafter, to credit any person entitled to a statutory ad valorem exemption that the tax assessor has the authority and right to grant, and who has heretofore claimed such exemption, such statutory exemption, without such person claiming same annually. Any person who shall hereafter become entitled to such statutory exemption shall make a claim to the tax assessor between October 1 and prior to January 1 of any taxable year and, if such claim is allowed, shall not be required to annually thereafter repeat such

claim. Any person who has claimed a homestead exemption and is entitled to same shall be annually credited with such exemption, and such homestead exemption shall encompass all additions or extensions made to the homestead structure or structures since the homestead exemption was claimed and shall encompass any additional buildings, being a part of the homestead, erected since the homestead exemption was claimed, any provision of the law to the contrary notwithstanding.

#### **D. Obligation to File Copies of Lease or Agreements.**

AL ST s 40-9A-2. Private user leasing private use property from government required to file report; inability to file information; information needed in report.

(a) Any private user of private use property leased by the private user from a municipality, county, or public authority of the State of Alabama shall, not later than January 1, 1993, file with the tax assessor of the county in which the leased property is located, the information required by subsection (c) of this section.

(b) In the event any lessee described in subsection (a) of this section is unable to file the information required by subsection (c) of this section by January 1, 1993, such lessee shall on or before January 1, 1993, notify the tax assessor in writing, setting forth the item or items of required information which the lessee is unable to ascertain or calculate, the reason or reasons for such inability, and if the inability to file any one or more of the items of required information can be corrected with additional time, the additional time, not to exceed four months, which the lessee shall require. In the event any lessee described in subsection (a) of this section shall not have filed either the information required by subsection (c) of this section or the notification described in the preceding sentence of this subsection (b) by January 1, 1993, or having requested additional time as described in the preceding sentence of this subsection (b), shall not have filed within the additional time stated to be required the item or items for the ascertainment or calculation of which the additional time was required, the tax assessor of the county in which the leased property is located shall notify the lessee in writing by certified mail, specifying the action required of the lessee and stating that the same must be performed within 60 days of the date such notice is given, whereupon the lessee shall, within the required period, either file the items or items of missing information or a notification of inability to comply as described in the preceding sentence of this subsection (b). Notwithstanding the preceding sentence, any lessee who receives an extension shall file with both the tax assessor and the Department of Revenue the required information by April 30, 1993.

(c) Every lessee of property described in subsection (a) of this section shall file the following information:

(1) The location of the real property subject to the lease with the public authority, county, or municipality of the State of Alabama.

- (2) A list of all improvements to the property since the effective date of the lease with the public authority, county, or municipality of the State of Alabama.
- (3) A list of all personal property subject to the lease with the public authority, county, or municipality of the State of Alabama.
- (4) The purchase price and date of acquisition, or a reasonable estimate thereof, of such real and personal property.
- (5) An estimate of the fair and reasonable market value of the property; provided, however, that such estimate may be made without obtaining an appraisal of the property.
- (6) The effective date and term of the lease with the public authority, county, or municipality of the State of Alabama, including any extension or renewal options provided in the lease.

#### **E. Notification Requirements After Change in Use or Ownership.**

AL ST s 40-7-10.

If on October 1 of any year any such exempted property shall have become subject to taxation, it shall be the duty of the person or persons who are liable for the tax on such property to notify the tax assessor between October 1 and prior to January 1 of that tax year that the property is no longer subject to exemption, and the tax assessor shall list the property for taxation. If the tax assessor discovers, at any time, that property so exempted is no longer entitled to exemption and such fact has not been reported to him as required above, he may list such property as an escape in accordance with the procedure pertaining to escaped taxes in this title.

AL ST s 40-7-12. Fraudulent failure to report change in condition of property, etc.

Any person who fraudulently fails, neglects, or refuses to notify the tax assessor of any change in the condition of his property or of the relinquishment, abandonment, or loss of his homestead exemption or of any other exemptions as required herein shall be guilty of a misdemeanor.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

Exemptions are monitored by the Board of Tax Assessors. See also annual certification and creation of exemption sections.

## **B. Removal of Exemptions.**

Exemptions are removed when an assessor deems the property no longer exempt or when the tax payer reports a change in use status which would disqualify the property for the exemption.

## **C. Assessment of Omitted Property.**

AL ST s 40-7-6.

No property omitted from said return shall be exempted.

AL ST s 40-7-25.

Omitted property will be placed on the assessment lists and taxed as assessed.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

No information was found about how a taxing body can challenge an existing exemption. The only challenges that have been codified are those of either the tax board of the individual tax payer when complaining about his/her own property's assessment.

## ALASKA

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

AK CONST Art. 9, § 4

The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for non-profit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation. General law may grant other exemptions of like or different kind. All valid existing exemptions shall be retained until otherwise provided by law.

AK ST s 18.55.620

Housing, Public Buildings, Urban Renewal, and Regional Housing Authorities

(a) All property held by the corporation for a purpose set out in AS 18.55.300 -- 18.55.470 and in AS 18.55.480 -- 18.55.960 is exempt from levy and sale by virtue of an execution, and an execution or other judicial process may not issue against it nor may judgment against it be a charge or lien upon its property. However, this subsection does not apply to or limit the right of an obligee to foreclose or otherwise enforce any mortgage of the corporation or to pursue remedies for the enforcement of a pledge or lien given by the corporation on its rents, fees, grants, or revenue.

(b) The property held by the corporation for a purpose set out in AS 18.55.300 -- 18.55.470 and in AS 18.55.480 -- 18.55.960 is declared to be public property used for essential public and governmental purposes and the property is exempt from all taxes of the state or a political subdivision of the state. However, subject to (c) of this section, the corporation shall, from the time it acquires title to property in a redevelopment project until it sells, leases, or otherwise disposes of that property, make payment equal in amount and in lieu of taxes that would be assessed and paid to a political subdivision in which the property is situated if the property had not been acquired by the corporation. From the time the corporation sells, leases, or otherwise transfers the property, the obligation of the corporation to make payment in lieu of taxes shall cease and the property shall thereafter be taxable in the same manner as other property within the political subdivision, unless the property is exempt from taxation by law. The property sold, leased, or otherwise transferred by the corporation may be assessed for taxation on that part of the tax year during which it was not owned by the corporation, unless the property is exempt from taxation by law. Except for the payments required by this subsection, the power vested in the corporation to make payments in lieu of taxes under AS 18.55.250 or other law is not affected by this subsection.

AK ST s 29.35.670

Port Authorities.

(a) An authority exercising the powers granted by the enabling ordinance under AS 29.35.600 -- 29.35.730 is in all respects for the benefit of the people of the municipalities participating in the authority and the people of the state in general, for their well-being and prosperity, and for the improvement of their social and economic condition. The real

and personal property of an authority and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

AK ST s 29.45.030

(a) The following property is exempt from general taxation:

(1) Municipal property, including property held by a public corporation of a municipality, or state property, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, (see full text for exceptions.)

(3) Property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(b) In (a) of this section, "property used exclusively for religious purposes" includes the following property owned by a religious organization:

(1) The residence of a bishop, pastor, priest, rabbi, minister, or religious order of a recognized religious organization;

(2) A structure, its furniture, and its fixtures used solely for public worship, charitable purposes, religious administrative offices, religious education, or a nonprofit hospital;

(3) Lots required by local ordinance for parking near a structure defined in (2) of this subsection.

(c) Property described in (a)(3) or (4) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups. If used by nonprofit educational groups, the property is exempt only if used exclusively for classroom space.

AK ST s 29.45.050

(a) A municipality may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at an election. An exclusion or exemption authorized by this section may not exceed the assessed value of \$10,000 for any one residence.

(b) A municipality may by ordinance

(1) Classify and exempt from taxation

(A) The property of an organization not organized for business or profit-making purposes and used exclusively for community purposes if the income derived from rental of that property does not exceed the actual cost to the owner of the use by the renter;

(B) Historic sites, buildings, and monuments;

(C) Land of a nonprofit organization used for agricultural purposes if rights to subdivide the land are conveyed to the state and the conveyance includes a covenant restricting use of the land to agricultural purposes only; rights conveyed to the state under this subparagraph may be conveyed by the state only in accordance with AS 38.05.069(c);

(D) All or any portion of private ownership interests in property that, based upon a written agreement with the University of Alaska, is used exclusively for student housing for the University of Alaska; property may be exempted from taxation under this subparagraph for no longer than 30

years unless the exemption is specifically extended by ordinance adopted within the six months before the expiration of that period

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Provisions exempting property from ad valorem taxation must be strictly construed against the property holder and in favor of the taxing authority. *McKee v. Evans*, 490 P.2d 1226 (Alaska 1971). *Greater Anchorage Area Borough v. Sisters of Charity*, 553 P.2d 467 (Alaska 1976).

The test of charitable exemption looks to the use of the property, not to the use of the income derived from that property. Actual use rather than owner's use should be analyzed in determining eligibility for an exemption. *City of Nome v. Block No. H, Lots 5, 6 & 7*, 502 P.2d 124 (Alaska 1972). *Greater Anchorage Area Borough v. Sisters of Charity*, 553 P.2d 467 (Alaska 1976).

In order to qualify for an exemption, the taxpayer must show not benefits, but exclusive use for nonprofit religious, charitable, cemetery, hospital or educational purposes. *Greater Anchorage Area Borough v. Sisters of Charity*, 553 P.2d 467 (Alaska 1976).

A taxpayer claiming a tax exemption has the burden of showing that the property is eligible for the exemption. *Greater Anchorage Area Borough v. Sisters of Charity*, 553 P.2d 467 (Alaska 1976).

### **B. Partial Exemptions.**

When the property in question is used even in part by nonexempt parties for their private business purposes, there can be no exemption. *Greater Anchorage Area Borough v. Sisters of Charity*, 553 P.2d 467 (Alaska 1976).

Office space in a building partially used exclusively for nonprofit hospital purposes, rented to doctors engaged in the private practice of medicine by a nonprofit charitable and religious corporation, was not exempt from taxation. *Greater Anchorage Area Borough v. Sisters of Charity*, 553 P.2d 467 (Alaska 1976).

Several other statutes allow for a partial exemption on the total amount of property but no exemptions for the part of the property that is not used for exempt purposes.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

AK ST s 44.68.120

(a) The Department of Administration may

(3) Distribute the property to tax-supported medical institutions, hospitals, clinics, health centers, school systems, colleges, schools, and universities in the state, to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges and universities exempt from taxation under § 501(c)(3) of the United States Internal Revenue Code of 1954, including future amendments, to civil defense organizations of the state established under state law, to organizations or institutions engaged in educational activities which are of special interest to the armed services, and to other types of institutions or activities eligible under federal law to acquire the property.

(b) The Department of Administration may receive applications from the eligible institutions listed in (a)(3) of this section, including the state government and its political subdivisions, for the acquisition of federal surplus real property, investigate the applications, get an expression of views on the applications from the health or educational authorities of the state, make recommendations on applicants, needs for the property, the merits of its proposed program of use, and the suitability of the property for these purposes, and otherwise assist in the processing of applications for acquisition of real and related personal property of the United States under § 203 (k) of the Federal Act.

### **B. Procedures for Retaining an Exemption.**

Property will not lose an exemption under paragraph (a)(3) even if payment is received for the use of the property if:

- (1) The property is used exclusively for exempt purposes
- (2) The payment is not sought as a result of a dominant profit motive
- (3) The payment is both incidental to and reasonably necessary for the accomplishment of the exempt activity and does not exceed the operating costs of the exempt activity for which payment is received. If (3) is not met, the property is only exempt if used for classroom space.

*City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985).

### **C. Annual Certification.**

AK ST s 29.45.160

(a) The assessor shall prepare an annual assessment roll. The roll must contain

- (1) a description of all property subject to an ad valorem tax;
- (2) the assessed value of all property subject to an ad valorem tax;
- (3) the names and addresses of persons with property subject to an ad valorem tax.

(b) The assessor may list real property by any description that may be made certain. Real property is assessed to the record owner. The district recorder shall at least monthly provide the assessor a copy of each recorded change of ownership showing the name and

mailing address of the owner and the name and mailing address of the person recording the change of ownership. Other persons having an interest in the property may be listed on the assessment records with the owner. The person in whose name property is listed as owner is conclusively presumed to be the legal record owner. If the property owner is unknown, the property may be assessed to "unknown owner". An assessment is not invalidated by a mistake, omission, or error in the name of the owner, if the property is correctly described.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found to require filing leases or agreements.

#### **E. Notification Requirements After Change in Use or Ownership.**

AK ST s 18.55.620

(b) From the time the corporation sells, leases, or otherwise transfers the property, the obligation of the corporation to make payment in lieu of taxes shall cease and the property shall thereafter be taxable in the same manner as other property within the political subdivision, unless the property is exempt from taxation by law. The property sold, leased, or otherwise transferred by the corporation may be assessed for taxation on that part of the tax year during which it was not owned by the corporation, unless the property is exempt from taxation by law.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

AK ST s 29.45.130

(a) The assessor is not bound to accept a return as correct. The assessor may make an independent investigation of property returned or of taxable property on which no return has been filed. In either case, the assessor may make the assessor's own valuation of the property subject to an ad valorem tax and this valuation is prima facie evidence of the value of the property.

(b) For investigation, the assessor or the assessor's agent may enter real property during reasonable hours to examine visible personal property and the exterior of a dwelling or other structure on the real property. The assessor or the assessor's agent may enter and examine the interior of a dwelling or other structure or the personal property in it only (1) if the structure is under construction and not yet occupied; (2) with the permission of a person in actual possession of the structure; or (3) in accordance with a court order to compel the entry and inspection. The assessor or the assessor's agent may examine all property records involved. A person shall, on request, furnish to the assessor or the assessor's agent assistance for the investigation and permit the assessor or the assessor's agent to enter a dwelling or other structure to examine the structure or personal property in it during reasonable hours. The assessor may seek a court order to compel entry and production of records needed for assessment purposes.

(c) An assessor may examine a person on oath. On request, the person shall submit to examination at a reasonable time and place selected by the assessor.

### **B. Removal of Exemptions.**

Exemptions are removed when the assessor deems that the property no longer qualifies for the exemption or when the property owner ceases to file for the exemption.

### **C. Assessment of Omitted Property.**

No statute was found that discusses the assessment of omitted property.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

AK ST s 29.45.190

- (a) A person whose name appears on the assessment roll or the agent or assigns of that person may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the taxpayer's satisfaction.
- (b) The appellant shall, within 30 days after the date of mailing of notice of assessment, submit to the assessor a written appeal specifying grounds in the form that the board of equalization may require. Otherwise, the right of appeal ceases unless the board of equalization finds that the taxpayer was unable to comply.
- (c) The assessor shall notify an appellant by mail of the time and place of hearing.
- (d) The assessor shall prepare for use by the board of equalization a summary of assessment data relating to each assessment that is appealed.
- (e) A city in a borough may appeal an assessment to the borough board of equalization in the same manner as a taxpayer. Within five days after receipt of the appeal, the assessor shall notify the person whose property assessment is being appealed by the city.

# ARIZONA

## WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

AZ ST s 42-11102

- A. Federal, state, county and municipal property is exempt from taxation, including:
1. Property that is owned by a nonprofit organization but is used by this state or a political subdivision during the entire tax year exclusively for a governmental activity.
  2. Property that is the subject of a lease-purchase agreement that is authorized by law in which this state or a political subdivision is the lessee- purchaser and the property is used by this state or a political subdivision during the entire taxable year exclusively for a governmental activity.
  3. Improvements that are placed on public lands held under grazing permits, the title to which passes to the federal government.

B. Article 4 of this chapter does not apply to the exemption from taxation for federal, state, county and municipal property.

C. Notwithstanding subsection A of this section relating to state property, property that is owned by the Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system or the elected officials' retirement plan, that is not used during the entire taxable year exclusively for a governmental activity and that is acquired either by foreclosure of an authorized investment or for the purposes of producing income for the system or plan is subject to either a government property lease tax under chapter 6, article 5 of this title or, if a government property lease tax is not paid or is not economically feasible, to voluntary contributions of money to the county, municipality, school district, community college district and any other special taxing district in which the property is located in lieu of taxes otherwise levied by those entities. The system or plan may not continue to hold title to the property as an authorized investment under title 38 unless a tax or voluntary contribution is paid pursuant to this subsection. On or before April 1 of each year the plan or system shall notify the county assessor of the county in which the property is located whether a government property lease tax or voluntary contribution will be paid. If a tax is not economically feasible, the county assessor may require the plan or system to pay voluntary contributions. If the system or plan pays a voluntary contribution:

1. The assessor shall determine the full cash value of the property at market value and shall transmit that determination to the board of supervisors on or before the third Monday in June.
2. On or before the third Monday in August the assessor shall compute the contribution to be made based on the determined valuation using the method of assessment applied in assessing ad valorem taxes of properties of similar character and devoted to the same use in the county for the current tax year.
3. The assessor shall:
  - (a) Submit the computation of the contribution to the board of supervisors at the same time that the assessor submits the assessment roll.
  - (b) Notify the county school superintendent of the amount of the

contribution.

4. The plan or system shall pay one-half of the amount determined not later than the first Monday in November and the other one-half not later than the first Monday in May of the next year.

5. The county treasurer shall distribute the monies received to the various taxing jurisdictions in the same manner as property taxes are distributed.

6. Any person, public official or taxing entity that is not satisfied by a determination under this subsection has the same remedies provided by this title or may file a civil action to determine the correct amount due. In any such action the only issue shall be the correctness of the computation of the amount due.

#### AZ ST s 42-11104

A. Libraries, colleges, school buildings and other buildings that are used for education, with their furniture, libraries and equipment and the land that is appurtenant to and used with them, are exempt from taxation if they are used for education and not used or held for profit.

#### AZ ST s 42-11105

A. Hospitals for the relief of the indigent or afflicted, appurtenant land and their fixtures and equipment are exempt from taxation if they are not used or held for profit.

B. Property that is used to operate a health care institution that provides medical, nursing or health related services to persons who are handicapped or sixty-two years of age or older is exempt from taxation if the property is not used or held for profit.

#### AZ ST s 42-11109

A. Property or buildings that are used or held primarily for religious worship, including land, improvements, furniture and equipment, are exempt from taxation if the property is not used or held for profit.

B. Within ten days after receiving an initial affidavit of eligibility submitted under § 42-11152 by a nonprofit organization that owns property used primarily for religious worship, the county assessor, on request, shall issue a receipt for the affidavit.

C. If the organization files with the assessor evidence of the organization's tax exempt status under § 501(c)(3) of the internal revenue code or § 43-1201, the organization is exempt from the requirement of filing subsequent affidavits under § 42-11152 until all or part of the property is conveyed to a new owner or is no longer used for religious worship. At that time the organization shall notify the assessor of the change in writing.

D. A nonprofit organization that obtains title to property that was previously owned by another nonprofit organization and used primarily for religious worship shall comply with the requirements of § 42-11152 to qualify and establish eligibility for exemption.

E. If a nonprofit organization that holds title to property used primarily for religious worship fails to file the affidavit required by § 42-11152 in a timely manner, but otherwise qualifies for exemption, the county board of supervisors, on petition by the organization, shall direct the county treasurer to:

1. Refund any property taxes paid by the organization for a tax year if the organization submits a claim for the refund to the county treasurer within one year after the date the taxes were paid. The county treasurer shall pay the claim within

thirty days after it is submitted to the treasurer. The county treasurer is entitled to credit for the refund in the next accounting period with each taxing jurisdiction to which the tax monies may have been transmitted.

2. Forgive and strike off from the tax roll any property taxes and accrued interest and penalties that are due but not paid.

AZ ST s 42-11110

Cemeteries that are set apart and used to inter the dead are exempt from taxation except for any portion that is used or held for profit.

AZ ST s 42-11113

Land and buildings that are owned by societies to prevent cruelty to animals and to shelter, care for and control animals are exempt from taxation if the land and buildings are used only for those purposes and are not used or held for profit.

AZ ST s 42-11115

Property that is held by a charitable organization, recognized under § 501(c)(3) of the internal revenue code or under § 43-1201, to preserve and protect scientific, biological, geological, paleontological, natural or archaeological resources is exempt from taxation.

AZ ST s 42-11116

Property of musical, dramatic, dance and community arts groups, botanical gardens, museums and zoos, qualified as nonprofit charitable organizations under § 501(c)(3) of the internal revenue code or under § 43-1201, is exempt from taxation if the property is used for those purposes and not used or held for profit.

AZ ST s 42-11117

The property of a volunteer fire department, recognized under § 501 of the internal revenue code or under § 43-1201, is exempt from taxation if the property is used exclusively for fire suppression and prevention activities and neither used nor occupied by or for the benefit of any person.

AZ ST s 42-11118

A. Property that is owned by a volunteer nonprofit organization that is recognized under § 501(c)(4) of the internal revenue code or under § 43-1201 and that is operated exclusively to promote social welfare and provide community quasi-governmental services in an unincorporated area of a county is exempt from taxation.

B. To qualify as providing quasi-governmental services under this section, the organization must provide at least six of the following services:

1. Public information and complaint office.
2. Voter registration.
3. Property tax assessment information.
4. Building permit distribution.
5. Resident assistance with deed restrictions and violations.
6. County planning and zoning review.
7. Water resources planning and management.

8. Public safety planning, oversight and maintenance.
9. Government liaison for regional planning activities.

AZ ST s 42-11121

Property that is not used or held for profit and that is owned by a community service organization the mission of which is to serve a population that includes persons who are indigent or afflicted, as defined in § 42-11101, and that qualifies as a charitable organization and is recognized under § 501(c)(3) of the internal revenue code is exempt from taxation if the community service organization is primarily engaged in delivering services on that property consisting of fitness programs, camping programs, health and recreation services, youth programs, child care, senior citizen programs, individual and family counseling, employment and training programs, services for individuals with disabilities, meals, feeding programs or disaster relief.

AZ ST s 42-11154

For the purposes of article 3 of this chapter:

1. Nonprofit organization status may be established by a letter of determination issued in the organization's name by the United States internal revenue service or the department of revenue recognizing the organization's tax exempt status under § 501(c)(3) of the internal revenue code or under § 43-1201.
2. The requirement that property is not used or held for profit may be met by a letter of determination described in paragraph 1 of this section and issued in the name of the organization holding title to the property and for each organization using the property.

**WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

**A. Full Exemptions.**

AZ ST s 43-1201

Organizations that are exempt from federal income tax under § 501 of the internal revenue code are exempt from the tax imposed under this title. In addition, the following organizations are exempt from the taxes imposed under this title, except as otherwise provided in this chapter:

1. Labor, agricultural or horticultural organizations, other than cooperative organizations.
2. Fraternal beneficiary societies, orders or organizations both:
  - (a) Operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system.
  - (b) Providing for the payment of life, sick, accident or other benefits to the members of such society, order or organization or their dependents.
3. Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit or any corporation chartered for burial purposes and not permitted by its charter to engage in any business not necessarily related to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual member thereof.
4. Corporations organized and operated exclusively for religious, charitable, scientific,

literary or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation.

5. Business leagues, chambers of commerce, real estate boards or boards of trade, not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

6. Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare or local organizations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, the net earnings of which are devoted exclusively to charitable, educational or recreational purposes.

7. Clubs organized and operated exclusively for pleasure, recreation and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

8. Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom and turning over the entire amount of such income, less expenses, to an organization which itself is exempt from the tax imposed by this title.

9. Voluntary employees' beneficiary organizations providing for the payment of life, sick, accident or other benefits to the members of such organizations or their dependents, if both of the following apply:

(a) No part of their net earnings inures, other than through such payments, to the benefit of any private shareholder or individual.

(b) Eighty-five per cent or more of the income consists of amounts collected from members and amounts contributed to the organization by the employer of the members for the sole purpose of making such payments and meeting expenses.

10. Teachers' or public employees' retirement fund organizations of a purely local character, if both of the following apply:

(a) No part of their net earnings inures to the benefit of any private shareholder or individual, other than through payment of retirement benefits.

(b) The income consists solely of amounts received from public taxation, amounts received from assessments upon the salaries of members and income in respect of investments. For the purposes of this paragraph, "public employees" means employees of the state and its political subdivisions.

11. Religious or apostolic organizations or corporations, if such organizations or corporations have a common treasury or community treasury, even if such corporations or organizations engage in business for the common benefit of the members, but only if the members thereof include, at the time of filing their returns, in their Arizona gross income their pro rata shares, whether distributed or not, of the net income of the organizations or corporations for such year. Any amount so included in the Arizona gross income of a member shall be treated as a dividend received.

12. Voluntary employees' beneficiary organizations providing for the payment of life, sick, accident or other benefits to the members of such organization, their dependents or their designated beneficiaries, if both of the following apply:

(a) Admission to membership in such organization is limited to individuals who are officers or employees of the United States government.

- (b) No part of the net earnings of such organization inures, other than through such payments, to the benefit of any private shareholder or individual.
13. Corporations classified as diversified management companies under § 5 of the federal investment company act of 1940 and registered as provided in that act.
14. Insurance companies paying to the state tax upon premium income derived from sources within this state.
15. Mutual ditch, irrigation or water companies or similar nonprofit organizations if eighty-five per cent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.
16. Workers' compensation pools established pursuant to § 23-961.01.

## **B. Partial Exemptions.**

Partial exemptions are allowed for the part of the property that is used for charitable purposes.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

AZ ST s 42-11152

A. Except as provided in § 42-11109, subsection B and except for property described in §§ 42-11125 and 42-11127, a person who claims exemption from taxation under article IX, § 2, 2.1 or 2.2, Constitution of Arizona, shall:

1. When initially claiming the exemption, appear before the county assessor to make an affidavit as to the person's eligibility.
2. When claiming the exemption in subsequent years, appear before the county assessor or a notary public to make an affidavit as to the person's eligibility.
3. Fully answer all questions on the eligibility form or otherwise required by the assessor for that purpose.

B. At the assessor's discretion, the assessor may require additional proof of the facts stated by the person before allowing an exemption.

C. A person who is in the United States military service and who is absent from this state or who is confined in a veterans' hospital or another licensed hospital may make the required affidavit in the presence of any officer who is authorized to administer oaths on a form obtained from the county assessor.

D. A false statement that is made or sworn to in the affidavit is perjury.

### **B. Procedures for Retaining an Exemption.**

AZ ST s 42-11153

A. Except as provided in § 42-11109, subsection B, a failure by a taxpayer who is entitled to an exemption to make an affidavit or furnish evidence required by this article between the first Monday in January and March 1 of each year constitutes a waiver of the exemption.

B. If a widow, widower or disabled person whose property is exempt from tax under §

42-11111, or an organization that is exempt from federal income tax under § 501(c) of the internal revenue code and is exempt from property tax under article 3 of this chapter, submits a petition after the deadlines prescribed by subsection A of this section, the person or organization may have the waiver redeemed by the county board of supervisors at any regular meeting, except that no taxes that were due and payable before the petition was submitted may be refunded or abated.

### **C. Annual Certification.**

According to AZ ST s 42-11153, an affidavit must be filed annually to keep an exemption.

### **D. Obligation to File Copies of Lease or Agreements.**

AZ ST s 35-741

The corporation and its income and all bonds issued by it and the income therefrom shall be exempt from all taxation in this state, except that property of the corporation shall be subject to all applicable ad valorem taxes. If such property is leased, such ad valorem taxes shall be charged to the lessee as fully as if the lessee were the owner of such leased property except that no ad valorem tax shall be imposed upon any property of the corporation which is leased to a person qualified for exemption from such taxes by article 9, section 2, constitution of Arizona and no charge for such a tax shall be made to any such lessee.

### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found to require notification after change in use.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

AZ ST s 42-15052

The county assessor may:

1. Demand from each person or firm or from the president, cashier, treasurer or managing agent of each corporation or association that owns, claims, controls or possesses property in the county a correct report under oath or affirmation of all property in the county that the person, firm, corporation or association owns, claims, possesses or controls.
2. Request information from each person, firm, corporation or association that bears on reporting or valuing taxable property.
3. Examine maps, drawings, books, invoices and papers.
4. Summon witnesses to appear and compel them to provide the information.

## **B. Removal of Exemptions.**

Exemptions are removed when the annual paperwork is not filed properly or when either the assessor or the property owner alerts the other party that the property no longer qualifies for the exemption.

## **C. Assessment of Omitted Property.**

AZ ST s 42-13302

A. In the following circumstances the limited property value shall be established at a level or percentage of full cash value that is comparable to that of other properties of the same or similar use or classification:

1. Land or improvements that were erroneously totally omitted from the property tax rolls in the preceding tax year.
2. Property for which a change in use has occurred since the preceding tax year.
3. Property that has been modified by construction, destruction or demolition since the preceding valuation year.
4. Property that has been split, subdivided or consolidated since the preceding valuation year.

B. If it is determined that a parcel of property's value-adding characteristics or attributes that were in existence in a preceding valuation year have been previously partially omitted from or erroneously stated on the tax rolls to exempt the property from § 42-13301, the county assessor shall prepare a written statement of the full details relating to the property, the omitted or erroneously stated characteristics, the difference in value that should be added to or subtracted from the limited property value and any other relevant information that the assessor may provide.

C. If a parcel of real property has multiple improvements and in tax year 1979 the assessor's records recorded more or less than all of the improvements, then on determining that the improvement exists the assessor shall treat the property as missed parcels in subsection A of this section and the entire parcel with all improvements is subject to revaluation pursuant to subsection A of this section.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

AZ ST s 42-16168

A. Any party, or the department, that is dissatisfied with the valuation or classification of property reviewed by the state board may appeal to court as provided by § 42-16203.

B. Appeals from all other orders and decisions of the state board shall be as provided by law.

## ARKANSAS

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

AR CONST Art. 16, § 5

(b) The following property shall be exempt from taxation: public property used exclusively for public purposes; churches used as such; cemeteries used exclusively as such; school buildings and apparatus; libraries and grounds used exclusively for school purposes; and buildings and grounds and materials used exclusively for public charity. Nothing in this Section shall affect or repeal the provision of Amendment 57 to the Constitution of the State of Arkansas pertaining to intangible personal property.

AR CONST Art. 16, § 6

All laws exempting property from taxation other than as provided in this Constitution shall be void.

AR ST § 14-137-114

It is declared that each public facilities board created pursuant to this chapter will be performing public functions and will be a public instrumentality of the municipality or county creating the board. Accordingly, all properties at any time owned by the board and the income there from shall be exempt from all taxation in the State of Arkansas.

AR ST § 14-169-804

(a) The property of an urban renewal agency used exclusively for public purposes and not for profit is declared to be public property, and this property and the agency shall be exempt from all taxes and special assessments from the state or any public body thereof.

(b) Any property of an agency used for commercial, business, or industrial purposes shall be assessed and ad valorem taxes paid on it in the manner provided by law for the assessment and payment of taxes on other property. The agency shall furnish the assessor with a certified statement, in writing, of the value at which the property was originally acquired to assist the assessor in arriving at the assessable value of it as provided by law.

(c) An agency may agree to make payments in lieu of taxes to a state public body for the benefit of a renewal project. However, in no event shall such payments exceed the estimated cost to the state public body of the improvements, services, or facilities to be so furnished.

AR ST § 26-3-301

All property described in this section, to the extent limited, shall be exempt from taxation:

(1) All public schoolhouses and houses used exclusively for public worship and the grounds attached to these buildings necessary for the proper occupancy, use, and enjoyment of the buildings, not leased or otherwise used with a view to profit;

(2) All public institutions of higher learning and all buildings and grounds belonging to those institutions;

(3) All lands used exclusively as graveyards or grounds for burying the dead, except

those held by any person, company, or corporation with a view to profit or for the purpose of speculation in the sale thereof;

(4) All property, whether real or personal, belonging exclusively to this state, including property of state agencies, institutions, boards, or commissions, or the United States;

(5) All buildings belonging to counties used for holding courts, for jails, or for county offices, with the grounds not exceeding in any county ten (10) acres, on which the buildings are erected;

(6) All lands, houses, and other buildings belonging to any county, city, or town used exclusively for the accommodation of the poor;

(7) All buildings belonging to institutions of purely public charity, together with the land actually occupied by these institutions, not leased or otherwise used with a view to profit, and all moneys and credits appropriated solely to sustaining, and belonging exclusively to, these institutions;

(8) All fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safekeeping thereof, and for the meeting of fire companies, whether belonging to any town or to any fire company organized therein;

(9) Other public property.

(A) All market houses, public squares, other public grounds, town and city houses or halls owned and used exclusively for public purposes, and all works, machinery, and fixtures belonging to any town and used exclusively for conveying water to the town.

(B) Public property which may be reserved for use by any person or organization, with or without a fee for such use, and is being used exclusively for public purposes, regardless of whether the event for which the property is reserved is open for attendance or participation by the general public;

(10) All property owned by the Girls' 4-H house, Boys' 4-H house, and the Future Farmers of America houses when the houses are used for the sole purpose of occupancy and use and enjoyment by students thereon and not leased or otherwise used with a view to profit;

(11) Church property.

(A) Under the provisions of this section, all dedicated church property, including the church building used as a place of worship, buildings used for administrative or missional purposes, the land upon which the church buildings are located, all church parsonages, any church educational building operated in connection with the church, including a family life or activity center, a recreation center, a youth center, a church association building, a day care center, a kindergarten, or a private church school shall be exempt.

(B) However, in the event any property is used partially for church purposes and partially for investments or other commercial or business purposes, the property shall be exempt from the ad valorem tax.

AR ST § 26-3-303

Parsonages owned by churches and used as homes for pastors shall be exempt from all taxes on real property, except improvement district taxes.

**WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

**A. Full Exemptions.**

Exemptions, no matter how meritorious, are acts of grace and must be strictly construed, and every reasonable intendment must be made that it was not the design to surrender the power of taxation or to exempt any property from its due proportion of the burden of taxation. *Hilger v. Harding College, Inc.*, 231 Ark. 686, 331 S.W.2d 851 (1960); *Sebastian County v. Educare Ctrs. of Ark., Inc.*, 296 Ark. 538, 758 S.W.2d 413 (1988).

The test for exemption under subsection (b) of AR CONST Art. 16, s 5 is:

- (1) whether the property is public property
- (2) whether it is being used exclusively for public purposes

*City of Little Rock v. McIntosh*, 319 Ark. 423, 892 S.W.2d 462 (1995).

**B. Partial Exemptions.**

AR ST § 26-3-206

(b) However, in the event any property is used partially for church purposes and partially for investments or other commercial or business purposes, the property shall be exempt from the ad valorem tax.

Part of property for which rents were collected and which was not being directly and exclusively used for public charity was subjected to taxation, as the exemption is based upon the actual use of property rather than the use of its revenues. *Burgess v. Four States Mem. Hosp.*, 250 Ark. 485, 465 S.W.2d 693 (1971).

**WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

**A. Creation of Exemptions.**

In order to qualify for the exemption under the constitution, an entity must show that it is a charitable organization and that the property claimed for exemption is used exclusively for charitable purposes. *Sebastian County Equalization Bd. v. Western Ark. Counseling & Guidance Ctr., Inc.*, 296 Ark. 207, 752 S.W.2d 755 (1988).

**B. Procedures for Retaining an Exemption.**

AR ST § 26-26-1001

The assessor, at the time of making the assessment of real property subject to taxation, shall enter in a separate list pertinent descriptions of all burying grounds, public school houses, houses used exclusively for public worship, and institutions of purely public charity, and public buildings and property used exclusively for any public purpose, with the lot or tract of land on which the house or institution or public building is situated, and

which are by law exempt from taxation. If the property is held and used for other public purposes, he shall state by whom or how it is held.

### **C. Annual Certification.**

AR ST § 26-18-305

(b) No taxpayer shall be subjected to unnecessary examination or investigations, and only one (1) inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the director, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

Also see monitoring exemptions section.

### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found to require filing agreements or leases.

### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found to require notification of change in use or ownership.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

AR ST § 26-18-305

(a) Authorities have the right to examine property.

(1) May examine returns for accuracy.

(A) In the administration of any state tax law, the director, for the purpose of determining the accuracy of a return or fixing any liability under any state tax law, may make an examination or investigation of the place of business, the tangible personal property, equipment, and facilities, and the books, records, papers, vouchers, accounts, and documents of any taxpayer or other person. Every taxpayer or other person and his agents and employees shall exhibit to the director these places and items and facilitate any examination or investigation. The director may employ proper and reasonable audit methods as he deems necessary, including the use of sampling. If sampling is to be employed as an audit method, the taxpayer's consent to the sampling technique must be obtained at the commencement of the audit.

(B) Every taxpayer or other person and his agents and employees shall exhibit to the director these places and items and facilitate any examination or investigation.

(2) Audit techniques.

(A) The director may employ proper and reasonable audit methods as he

deems necessary, including the use of sampling.

(B) If sampling is to be employed as an audit method, the taxpayer's consent to the sampling technique must be obtained at the commencement of the audit.

(c) Conducting the investigation.

(1) When conducting an investigation or an audit of any taxpayer, the director may, in his discretion, examine the records and files of any person, except where privileged by law, any other business, institution, financial institution, the records of any state agency, agency of the United States Government, or agency of any other state where permitted by agreement or reciprocity.

(2) The director may compel production of these records by summons. A summons may be served directly by the director.

(i) Additional examinations.

(1) The director is authorized to examine the books, records, and other documents of transportation companies, agencies, firms, or persons that conduct business by truck, rail, water, airplane, or otherwise in order to determine any sales or use tax due on out-of-state purchases and to determine which dealers are importing or shipping articles of tangible personal property and are liable for any state tax.

(2) If the transportation company, agency, firm, or person refuses to allow an examination of its books, records, and other documents, the director may petition the appropriate chancery court to require the transportation company, agency, firm, or person to show cause as to why its books, records, and other documents should not be examined and why a bond should not be required in an amount not to exceed two thousand dollars (\$2,000) for a period of not more than one (1) year to guarantee compliance with the provisions of this section.

(3) Refusal to permit the director to examine books, records, and other documents pursuant to this section is a Class C misdemeanor.

**B. Removal of Exemptions.**

Exemptions are removed when the assessors deems that the exemptions no longer apply or when the tax payer fails to request the exemption.

**C. Assessment of Omitted Property.**

AR ST § 26-26-1002

(a) Whenever the assessor of any county has, during any year at the time of making the assessment of real property subject to taxation, failed to enter in a separate list pertinent descriptions of all burying grounds, public school houses, houses used exclusively for public worship, institutions of purely public charity, public buildings, and property used exclusively for any public purpose, libraries, and grounds used exclusively for school purposes, and property which by the Arkansas Constitution is exempted from taxation, the lots or tracts of land on which the institution or public building is situated, and which by law are exempted from taxation, and the value thereof, the assessor of the county, or his successor in office, is authorized and empowered, at any time and during any year

thereafter, upon discovery of the omission to make out separate lists, giving their description and the value of all the described property which has been omitted from the list.

(b) The list.

(1) The list of the property, together with the valuation thereof, shall be filed with the county clerk of the county and by him entered upon the proper assessment book of the county.

(2) When the list of the omitted property has been filed by the assessor, or his successor in office, with the county clerk in the county where the property is situated, it shall have the same force and validity as if entered, made, and filed at the proper time as prescribed by law.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

AR ST § 26-27-318

(a) The complaint.

(1) The assessor or any property owner who may feel aggrieved at the action of the county equalization board may appeal from the action of the board to the county court by filing a petition of appeal with the clerk of the county court.

(2) The clerk shall summon the members of the board and issue such process as the assessor, board, or county judge may request for witnesses and evidences of amount and value of property.

(b) No appeal to the county court shall be taken except by those who have first exhausted their remedy before the board, excepting all cases where the petitioner shall have had no opportunity to appear before the board.

(c) Appeals must be filed on or before the second Monday in October of each year and shall have preference over all matters in the court and shall be heard and order made on or before the first Monday in November. The county court shall notify the property owner or assessor of its decision, in writing, no later than twenty (20) working days after the property owner's appeal hearing or the second Monday in November, whichever is earlier. The notification shall state the county court's decision, and that the property owner may appeal the decision to the circuit court.

(d) No reduction shall be allowed except on evidence corroborative of that of the owner.

(e) Upon an appeal, any owner of property in the county may appear and be heard in support of or in opposition to the appeal.

(f) The county court shall acquire no jurisdiction to hear the appeal unless the county clerk shall have first given notice of the appeal by publication in a daily or weekly newspaper published and having a bona fide general circulation in the county, by one (1) insertion published not less than one (1) week before the date fixed for the hearing of the appeal, or in any county in which there is no daily or weekly newspaper published, by posting a notice at the courthouse and in four (4) other conspicuous places in the county seat of the county, for a period of not less than one (1) week before the date fixed for the hearing of the appeal. The notice shall state the name of the parties taking the appeal, the assessment complained of, together with a definite description of the property so assessed, the name of the supposed owners of the property, the time and place fixed for

the hearing of the appeal, and further stating that any owner of property in the county may appear at the hearing of the appeal and be heard in support thereof, or in opposition thereto.

(g) It shall be the duty of the prosecuting attorney or his deputy, when called upon by the county assessor, a member of the board, or the county court, to represent the county and the state in the prosecution of all appeals before the county and circuit courts.

Subsection (a) of AR ST § 26-27-318 specifically provides for appeals on tax questions by either the property owner or the assessor; no further authorization for appeal is needed, for under § 16-67-201, all appeals from county court judgments are granted as a matter of right. *Pulaski County v. Jacuzzi Bros.*, 317 Ark. 10, 875 S.W.2d 496 (1994).

## CALIFORNIA

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

CA CONST Art. 13, s 3

Sec. 3. The following are exempt from property taxation:

- (a) Property owned by the State.
  - (b) Property owned by a local government, except as otherwise provided in Section 11(a).
  - (c) Bonds issued by the State or a local government in the State.
  - (d) Property used for libraries and museums that are free and open to the public and property used exclusively for public schools, community colleges, state colleges, and state universities.
  - (e) Buildings, land, equipment, and securities used exclusively for educational purposes by a nonprofit institution of higher education.
  - (f) Buildings, land on which they are situated, and equipment used exclusively for religious worship.
  - (g) Property used or held exclusively for the permanent deposit of human dead or for the care and maintenance of the property or the dead, except when used or held for profit.
- This property is also exempt from special assessment.

CA CONST Art. 13, s 4

Sec. 4. The Legislature may exempt from property taxation in whole or in part:

- (b) Property used exclusively for religious, hospital, or charitable purposes and owned or held in trust by corporations or other entities
  - (1) that are organized and operating for those purposes
  - (2) that are nonprofit
  - (3) no part of whose net earnings inures to the benefit of any private shareholder or individual.
- (c) Property owned by the California School of Mechanical Arts, California Academy of Sciences, or Cogswell Polytechnical College, or held in trust for the Huntington Library and Art Gallery, or their successors.

CA CONST Art. 13, s 5

Sec. 5. Exemptions granted or authorized by Sections 3(e), 3(f), and 4(b) apply to buildings under construction, land required for their convenient use, and equipment in them if the intended use would qualify the property for exemption.

CA REV & TAX § 202

- (a) The exemption of the following property is as specified in subdivisions (a), (b), (d), and (h) of Section 3 of Article XIII of the Constitution, except as otherwise provided in subdivision (a) of Section 11 thereof:
  - (1) Growing crops.
  - (2) Property used for free public libraries and free museums.
  - (3) Property used exclusively for public schools, community colleges, state colleges, and state universities, including the University of California.

(4) Property belonging to this state, a county, or a city. Property belonging to the State Compensation Insurance Fund is not property belonging to this state.

CA REV & TAX § 207

Property used exclusively for religious purposes shall be exempt from taxation. The exemption provided by this section is granted pursuant to the authority in subdivision (b) of Section 4 of Article XIII of the California Constitution, and shall be known as the "religious exemption."

CA REV & TAX § 206

Exemptions; churches.

The church exemption is as specified in subdivision (f) of Section 3 and Section 5 of Article XIII of the Constitution.

CA REV & TAX § 231

Exemptions; property of nonprofit and public corporations used exclusively by government.

(a) Property which is owned by a nonprofit corporation and leased to, and used exclusively by, government for its interest and benefit shall be exempt from taxation within the meaning of "charitable purposes" in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution.

CA REV & TAX § 214

(a) Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation, including ad valorem taxes to pay the interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1978, or any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition, if:

- (1) The owner is not organized or operated for profit. However, in the case of hospitals, the organization shall not be deemed to be organized or operated for profit if, during the immediately preceding fiscal year, operating revenues, exclusive of gifts, endowments and grants-in-aid, did not exceed operating expenses by an amount equivalent to 10 percent of those operating expenses. As used herein, operating expenses include depreciation based on cost of replacement and amortization of, and interest on, indebtedness.
- (2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.
- (3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.
- (4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through

the distribution of profits, payment of excessive charges or compensations, or the more advantageous pursuit of their business or profession.

(5) The property is not used by the owner or members thereof for fraternal or lodge purposes, or for social club purposes except where that use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose.

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation, or corporation organized and operated for religious, hospital, scientific, or charitable purposes.

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution that, in addition to complying with the foregoing requirements for the exemption of charitable organizations in general, has been chartered by the Congress of the United States (except that this requirement shall not apply when the scientific purposes are medical research), and whose objects are the encouragement or conduct of scientific investigation, research, and discovery for the benefit of the community at large.

The exemption provided for herein shall be known as the "welfare exemption."

(b) Property used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital, or charitable funds, foundations, or corporations, which property and funds, foundations, or corporations meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(c) Property used exclusively for nursery school purposes and owned and operated by religious, hospital, or charitable funds, foundations, or corporations, which property and funds, foundations, or corporations meet all the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(d) Property used exclusively for a noncommercial educational FM broadcast station or an educational television station, and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(e) Property used exclusively for religious, charitable, scientific, or hospital purposes and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations or educational institutions of collegiate grade, as defined in Section 203, which property and funds, foundations, corporations, or educational institutions meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section. As to educational institutions of collegiate grade, as defined in Section 203, the requirements of paragraph (6) of subdivision (a) shall be deemed to be met if both of the following are met:

(1) The property of the educational institution is irrevocably dedicated in its articles of incorporation to charitable and educational purposes, to

religious and educational purposes, or to educational purposes.

(f) Property used exclusively for housing and related facilities for elderly or handicapped families and financed by, including, but not limited to, the federal government and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(h) Property used exclusively for an emergency or temporary shelter and related facilities for homeless persons and families and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section. Property that otherwise would be exempt pursuant to this subdivision, except that it includes housing and related facilities for other than an emergency or temporary shelter, shall be entitled to a partial exemption.

(i) Property used exclusively for housing and related facilities for employees of religious, charitable, scientific, or hospital organizations that meet all the requirements of subdivision (a) and owned and operated by funds, foundations, or corporations that meet all the requirements of subdivision (a) shall be deemed to be within the exemption provided for in subdivision (b) of Sections 4 and 5 of Article XIII of the California Constitution and this section to the extent the residential use of the property is institutionally necessary for the operation of the organization.

#### CA REV & TAX § 214.01

For the purpose of Section 214, property shall be deemed irrevocably dedicated to religious, charitable, scientific, or hospital purposes only if a statement of irrevocable dedication to only these purposes is found in the articles of incorporation of the corporation, or in the case of any other fund or foundation, or corporation chartered by an act of Congress, in the bylaws, articles of association, constitution, or regulations thereof, as determined by the State Board of Equalization.

#### CA REV & TAX § 214.1

As used in Section 214, "property used exclusively for religious, hospital or charitable purposes" shall include facilities in the course of construction on or after the first Monday of March, 1954, together with the land on which the facilities are located as may be required for their convenient use and occupation, to be used exclusively for religious, hospital or charitable purposes.

#### CA REV & TAX § 214.11

For purposes of Section 214, property owned and operated by a nonprofit organization, otherwise qualifying for exemption under Section 214, shall be deemed to be exclusively used for hospital purposes so long as the property is exclusively used to meet the needs of hospitals which qualify for exemption from property taxation under Section 214 or any other law of the United States or this state. As used in this section, "needs of hospitals" includes any use incidental to, and reasonably necessary for, the functioning of a full hospital operation.

CA REV & TAX § 214.14

Property used exclusively for the charitable purposes of museums and owned and operated by a religious, hospital, scientific, or charitable fund, foundation, or corporation which meets all the requirements of subdivision (a) of Section 214 shall be deemed to be within the exemption provided by Sections 4 and 5 of Article XIII of the California Constitution and Section 214.

CA REV & TAX § 214.15

(a) Property is within the exemption provided by Sections 4 and 5 of Article XIII of the California Constitution if that property is owned and operated by a nonprofit corporation, otherwise qualifying for exemption under Section 214, that is organized and operated for the specific and primary purpose of building and rehabilitating single or multifamily residences for sale at cost to low-income families, with financing in the form of a zero interest rate loan and without regard to religion, race, national origin, or the sex of the head of household.

CA REV & TAX § 213.7

(a) As used in Section 214, "property used exclusively for religious, hospital, scientific or charitable purposes" shall include the property of a volunteer fire department which is used exclusively for volunteer fire department purposes, provided that the department qualifies for exemption either under Section 23701d or 23701f of this code or under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code . This section shall not be construed to enlarge the "welfare exemption" to apply to organizations qualified under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, but not otherwise qualified for the "welfare exemption" under other provisions of this code.

26 USCA § 501

Exemption from tax on corporations, certain trusts, etc.

(c) List of exempt organizations.--The following organizations are referred to in subsection (a):

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net

earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

CA INS § 10993

Tax exemption.

Every fraternal benefit society organized or admitted under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax, other than taxes on real estate and office equipment.

Property used by hospital for maintenance of tennis court as a limited recreational facility for hospital employees, student nurses, interns and residents was being used "exclusively for hospital purposes" within this section exempting from taxation under specified circumstances property used exclusively for hospital purposes. Cedars of Lebanon Hospital v. Los Angeles County (1950) 35 Cal.2d 729, 221 P.2d 31.

Recreational facilities owned by church consisting of swimming pool, tennis courts, locker rooms and sauna, were not exempt from taxation under welfare exemption where such property was not used primarily for exempt purposes, primary use of property was recreational, not evangelistic, and nature of organization which was primary user of facilities was not charitable. Peninsula Covenant Church v. San Mateo County (App. 1 Dist. 1979) 156 Cal.Rptr. 431, 94 Cal.App.3d 382.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Constitutional provisions and statutes granting exemption from taxation are to be strictly but reasonably construed. First Baptist Church of San Fernando v. Los Angeles County (App. 1952) 113 Cal.App.2d 392, 248 P.2d 101.

Constitutional provisions and statutes granting exemption from taxation are strictly construed to the end that such concession will be neither enlarged nor extended beyond plain meaning of language of the law, but rule does not require narrowest possible meaning to be given to words descriptive of exemption, and fair and reasonable interpretation is all that is required. Moody Institute of Science v. Los Angeles County (App. 1951) 105 Cal.App.2d 107, 233 P.2d 51.

In this state no property is exempt from taxation unless the Constitution clearly makes it so exempt or authorizes the Legislature to grant an exemption. 34 Ops.Atty.Gen. 210 (1959).

No property is exempt from taxation unless the Constitution clearly makes it exempt. 14 Ops.Atty.Gen. 160.

## **B. Partial Exemptions.**

CA REV & TAX § 214

(f) Property that would otherwise be exempt pursuant to this subdivision, except that it includes some housing and related facilities for other than low- or moderate-income elderly or handicapped families, shall be entitled to a partial exemption. The partial exemption shall be equal to that percentage of the value of the property that is equal to the percentage that the number of low- and moderate-income elderly and handicapped families occupying the property represents of the total number of families occupying the property.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

CA REV & TAX § 254.5

(a) Affidavits for the welfare exemption and the veterans' organization exemption shall be filed in duplicate on or before February 15 of each year with the assessor. Affidavits of organizations filing for the first time shall be accompanied by duplicate certified copies of the financial statements of the owner and operator. Thereafter, financial statements shall be submitted only if requested in writing by either the assessor or the board. Copies of the affidavits and financial statements shall be forwarded not later than April 1 by the assessor with his or her recommendations for approval or denial to the board which shall review all the affidavits and statements and may institute an independent audit or verification of the operations of the owner and operator to ascertain whether both the owner and operator meet the requirements of Section 214 of the Revenue and Taxation Code.

CA REV & TAX § 23701

Exemption of specified organizations.

Organizations which are organized and operated for nonprofit purposes within the provisions of a specific section of this article, or are defined by other relevant sections, are exempt from taxes imposed under this part, if:

- (a) An application for exemption is submitted in the form prescribed by the Franchise Tax Board; and
- (b) A filing fee of twenty-five dollars (\$25) is paid with each application for exemption filed with the Franchise Tax Board after December 31, 1969; and
- (c) The Franchise Tax Board issues a determination exempting the organization from tax.

### **B. Procedures for Retaining an Exemption.**

CA REV & TAX § 257.

(a) Any person claiming the religious exemption shall submit to the assessor an affidavit giving specific information relating to property tax exemption.

(b) The affidavit shall show that:

- (1) The building, equipment, and land are used exclusively for religious purposes.
- (2) The land claimed as exempt is required for the convenient use of the building.
- (3) The property is owned by an entity organized and operating exclusively for religious purposes.
- (4) The entity is nonprofit.
- (5) No part of the net earnings inures to the benefit of any private individual.

CA REV & TAX § 255

Affidavits; time for filing.

(a) Affidavits required for exemptions named in this article, except the homeowners' exemption, shall be filed with the assessor between the lien date and 5 p.m. on February 15.

(b) Affidavits for the homeowners' exemption except as otherwise provided in Sections 255.1, 255.2, and 275, shall be filed with the assessor any time after the claimant becomes eligible but no later than 5 p.m. on February 15.

(c) Notwithstanding the provisions of subdivision (a), any claimant who has been found ineligible for the church exemption or the religious exemption may file an affidavit for a welfare exemption. Affidavits for the welfare exemption filed pursuant to this subdivision shall be filed within 15 days from the date of notification by the assessor of the claimants' ineligibility for the church exemption or the religious exemption.

**C. Annual Certification.**

CA REV & TAX § 254.

Any person claiming the church, cemetery, college, exhibition, welfare, veterans' organization, free public libraries, free museums, aircraft of historical significance, or public schools property tax exemption and anyone claiming the classification of a vessel as a documented vessel eligible for assessment under Section 227, shall submit to the assessor annually an affidavit, giving any information required by the board.

**D. Obligation to File Copies of Lease or Agreements.**

CA REV & TAX § 251

Procedure and forms; qualified lessor

(a) The board shall prescribe all procedures and forms required to carry into effect any property tax exemption enacted by statute or constitutional amendment.

(b) Requirements.

- (1) The procedures prescribed pursuant to subdivision (a) shall be deemed satisfied by a qualified lessor by submission to the assessor within 120 days of the commencement date of the lease, or 120 days after the effective date of the act adding this subdivision to this section with respect to any existing lease, whichever is later, information which may be

- requested by the board with respect to the lease.
- (2) For purposes of this subdivision, "a qualified lessor" is a lessor under a contract designated as a lease between that lessor and an entity using property which qualifies for the property tax exemption provided for by subdivision (d) or (e) of Section 3 of Article XIII of the California Constitution under which the lessee has the option at the end of the lease term of acquiring the property described in the lease for one dollar (\$1), or any other nominal sum.
- (3) No filing or application for exemption shall thereafter be required by a qualified lessor with respect to that lease unless the option terms of the lease change.

#### **E. Notification Requirements After Change in Use or Ownership.**

##### CA REV & TAX § 254.5

(c) Notwithstanding subdivision (a), an applicant, granted a welfare exemption and owning any property exempted pursuant to Section 214.15 or Section 231, shall not be required to reapply for the welfare exemption in any subsequent year in which there has been no transfer of, or other change in title to, the exempted property and the property is used exclusively by a governmental entity or by a nonprofit corporation described in Section 214.15 for its interest and benefit. The applicant shall notify the assessor on or before March 15 if, on or before the preceding lien date, the applicant became ineligible for the welfare exemption or if, on or before that lien date, the property was no longer owned by the applicant or otherwise failed to meet all requirements for the welfare exemption.

##### CA REV & TAX § 257

(c) Any exemption granted pursuant to a claim filed in accordance with this section, once granted, shall remain in effect until such time as title to the property changes or the property is no longer used for exempt purposes. Any person who is granted an exemption pursuant to a claim filed in accordance with this section shall notify the assessor by June 30 if the property becomes ineligible for the exemption.

#### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

##### **A. Monitoring Exemptions.**

##### CA REV & TAX § 257

(d) Upon any indication that a religious exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the religious exemption. If the assessor determines that the property or any portion thereof is no longer eligible for the exemption, he or she shall immediately cancel the exemption on so much of the property as is no longer eligible for exemption.

##### CA REV & TAX § 255.6

Verification of eligibility of claims.

The assessor shall verify the eligibility of each claimant who is receiving a homeowners' exemption to continue to receive such an exemption in accordance with rules issued by the board to provide for a periodic audit and for the establishment of a control system for the homeowners' exemption claims.

### **B. Removal of Exemptions.**

Exemptions are removed when the assessor determines that the property no longer falls under an exempt category of property. This can occur when the assessor regularly checks on the validity of an existing exemption or when a taxpayer complains that his/her tax exemption was denied or wrongly executed.

### **C. Assessment of Omitted Property.**

CA REV & TAX § 254.5

(e) If a welfare exemption has been incorrectly allowed, an escape assessment as provided by Article 4 (commencing with Section 531) of Chapter 3 in the amount of the exemption, with interest as provided in Section 506, shall be made, and a penalty shall be assessed for any failure to notify the assessor as required by this section in an amount equaling 10 percent of the escape assessment, but in no event exceeding two hundred fifty dollars (\$250).

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

Taxpayers have the right to complain to the Board of Assessors if that individual disagrees with the assessor's valuation of his/her property. If the taxpayer does not find satisfaction with the tax board he/she is allowed to complain in the courts. No other specific information was found on how to challenge the decision of the Assessor.

## **COLORADO**

### **WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?**

#### **CO ST § 39-3-105**

Property, real and personal, of public libraries and of the state and its political subdivisions, including school districts or any cooperative association thereof, shall be exempt from the levy and collection of property tax.

#### **CO ST § 39-3-106**

(1) Property, real and personal, which is owned and used solely and exclusively for religious purposes and not for private gain or corporate profit shall be exempt from the levy and collection of property tax.

(2) In order to guide members of the public and public officials alike in the making of their day-to-day decisions, to provide for a consistent application of the laws, and to assist in the avoidance of litigation, the general assembly hereby finds and declares that religious worship has different meanings to different religious organizations; that the constitutional guarantees regarding establishment of religion and the free exercise of religion prevent public officials from inquiring as to whether particular activities of religious organizations constitute religious worship; that many activities of religious organizations are in the furtherance of the religious purposes of such organizations; that such religious activities are an integral part of the religious worship of religious organizations; and that activities of religious organizations which are in furtherance of their religious purposes constitute religious worship for purposes of section 5 of article X of the Colorado constitution. This legislative finding and declaration shall be entitled to great weight in any and every court.

#### **CO ST § 39-3-107**

Property, real and personal, which is owned and used solely and exclusively for schools which are not held or conducted for private or corporate profit shall be exempt from the levy and collection of property tax. No requirement shall be imposed that use of property which is otherwise exempt pursuant to the provisions of this section shall benefit the people of Colorado in order to qualify for said exemption. Any exemption claimed pursuant to the provisions of this section shall comply with the provisions of section 39-2-117.

#### **CO ST § 39-3-108**

(1) Property, real and personal, which is owned and used solely and exclusively for strictly charitable purposes and not for private gain or corporate profit shall be exempt from the levy and collection of property tax if:

- (a) Such property is nonresidential;
- (b) Such property is licensed by the state of Colorado as a health care facility; or
- (c) Such property is used as an integral part of a nonprofit domestic water company.

(1.3) Nonresidential property that is owned and used solely and exclusively by a qualified

amateur sports organization shall be presumed to be owned and used solely and exclusively for strictly charitable purposes. For purposes of this subsection (1.3), the term "qualified amateur sports organization" means any organization organized and operated exclusively to foster local, statewide, national, or international amateur sports competition if such organization is also organized and operated primarily to support and develop amateur athletes for national or international competition in sports; except that no part of the net earnings of such organization inure to the benefit of any private shareholder or individual. So long as a qualified amateur sports organization demonstrates that its membership is open to any individual who is an amateur athlete, coach, trainer, manager, administrator, or official active in such sport or to any amateur sports organization that conducts programs in such sport, or both, the organization shall be presumed to provide public benefits to an indefinite number of persons and to directly benefit the people of Colorado whether or not the right to benefit may depend upon voluntary membership in the organization.

(1.5) No requirement shall be imposed that use of property which is otherwise exempt pursuant to the provisions of this section shall benefit the people of Colorado in order to qualify for said exemption.

#### CO ST § 39-3-109

(1) Property, real and personal, which is owned and used solely and exclusively for strictly charitable purposes and not for private gain or corporate profit shall be exempt from the levy and collection of property tax if such property is residential and the structure and the land upon which such structure is located are used as an integral part of a church, an eleemosynary hospital, an eleemosynary licensed health care facility, a school, or an institution whose property is otherwise exempt from taxation pursuant to the provisions of this article.

#### CO ST § 39-3-110

(1) Property, real and personal, which is owned and used solely and exclusively for strictly charitable purposes and not for private gain or corporate profit shall be exempt from the levy and collection of property tax if such property is used as an integral part of a child care center.

#### CO ST § 39-3-111

Property, real and personal, which is owned and used solely and exclusively for strictly charitable purposes and not for private gain or corporate profit shall be exempt from the levy and collection of property tax if such property is used by any fraternal organization, as defined in section 12-9-102(6), C.R.S., notwithstanding the requirement that such organization be in existence for a period of five years, or by any veterans' organization, as defined in section 12-9-102(21), C.R.S., notwithstanding the requirement that such organization be in existence for a period of five years, and the net income derived from the use of such property is irrevocably dedicated to any of the purposes specified in sections 39-3-106 to 39-3-110, 39-3-112, or 39-3-113 and to the purpose of maintaining and operating such organization. As used in this section, the term "net income" means all items of revenue and gain minus all items of loss and expense, including amounts reasonably anticipated for future needs, as determined according to the usual method of

accounting for such organization. No requirement shall be imposed that use of property which is otherwise exempt pursuant to this section shall benefit the people of Colorado in order to qualify for said exemption. Any exemption claimed pursuant to the provisions of this section shall comply with the provisions of section 39-2- 117.

CO ST § 39-3-111.5

(1) Property, real and personal, which is owned and used solely and exclusively for strictly charitable purposes and not for private gain or corporate profit shall be exempt from the levy and collection of property tax if:

- (a) Such property is owned by a nonprofit corporation, whether organized under the laws of this state or of another state;
- (b) Such property is occupied or used by one or more physician or dentist, or both, licensed to practice medicine or dentistry, as applicable, under the laws of this state for the purpose of the practice of medicine or dentistry;
- (c) Such health care services are provided to patients who request such services and the financially needy are only charged for such services based upon the ability to pay; and
- (d) The board of county commissioners of the county in which such property is located certifies that a need exists for the provision of such health care services.

CO ST § 39-3-112.5

Residential property that is used for charitable purposes to aid the homeless shall be exempt from taxation.

CO ST § 7-47-106

All the property of such corporation used or owned for the purposes of this article (Article 47: Cemetery Companies) shall be exempt from taxation, assessment, lien, attachment, and levy and sale upon execution, except for the purchase price of the property.

CO ST § 10-14-504

Every society organized or licensed under this article is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal, and school tax other than taxes on real estate and office equipment.

CO ST § 29-4-227

The authority (Housing Authority) is exempt from the payment of any taxes or fees to the state or any subdivision thereof, or to any officer or employee of the state or any subdivision thereof. The property of an authority shall be exempt from all local and municipal taxes. Bonds, notes, debentures, and other evidences of indebtedness of an authority are declared to be issued for a public purpose and to be public instruments, and, together with interest thereon, shall be exempt from taxes. All property leased to the authority for the purposes of a project shall likewise be exempt from taxation, as shall the income derived from the authority by the lessor under such lease.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Property tax exemptions based on religious use should not be narrowly construed. *Pilgrim Rest Baptist Church, Inc. v. Property Tax Adm'r*, App.1998, 971 P.2d 270, modified on denial of rehearing, certiorari denied.

Constitutional and statutory provisions exempting from taxation property used for educational purposes are liberally construed. *Kemp v. Pillar of Fire*, 1933, 27 P.2d 1036, 94 Colo. 41.

In determining whether real and personal property is being used solely and exclusively for "strictly charitable purposes" and is, therefore, tax exempt, each case must be determined on its own facts and circumstances, inasmuch as a formal definition might unintentionally seem to impose a legal restraint on that cardinal grace which by its very nature thrives in proportion to freedom of its proper exercise. *United Presbyterian Ass'n v. Board of County Com'rs of Jefferson County*, 1968, 448 P.2d 967, 167 Colo. 485.

### **B. Partial Exemptions.**

CO ST § 39-3-132

Whenever only a portion of a parcel, tract, or lot of real property which was previously taxable becomes exempt from the levy and collection of property tax for any reason, the treasurer may, upon the basis of an appraisal and computation of the valuation for assessment of such property by the assessor, either collect the property taxes thereon for the current taxable year, calculated on the basis of the property tax levy on such property during the preceding taxable year and prorated to the date upon which title to such property was conveyed, or, if the treasurer is satisfied that there is sufficient taxable real property remaining to satisfy any lien for the amount of property taxes payable on such portion, he may defer collection of the property taxes until the following taxable year. In the event the prorated taxes on such portion are collected, the owner of the remainder of such real property shall be credited with the full amount of taxes collected when the property tax levy for the current taxable year has been fixed and made and the correct amount of property taxes determined.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

CO ST § 39-3-131

Whenever any property which was previously taxable becomes exempt from the levy and collection of property tax, the treasurer shall accept payment of property taxes levied on such property for the current taxable year. The amount of such property taxes shall be

calculated on the basis of the property tax levy on such property in the preceding taxable year and prorated to the date upon which title to such property was conveyed.

**B. Procedures for Retaining an Exemption.**

Exemptions are retained by following the annual filing requirements and by meeting the statutory requirements to receive an exemption.

**C. Annual Certification.**

CO ST § 39-3-114

The burden shall be on the owner and operator of any residential property for which an exemption is claimed pursuant to any of the provisions of sections 39- 3-109 and 39-3-112 to show facts sufficient to support the exemption claimed. In determining whether or not a particular property is entitled to such an exemption provided for in any of said sections, the administrator shall require the owner or operator of such property to annually submit a complete financial report on its operations and shall require any occupants whose residential units are claimed to qualify for such exemption to submit copies of their federal or state income tax returns.

Property tax exemptions are determined on an annual basis under the property tax scheme, based on the use of the property in each tax year, and implicit in the scheme is a requirement that, in order for that property to qualify for tax exemption for that tax year, there must be at least some actual use of the property for tax exempt purposes in that tax year. *Pilgrim Rest Baptist Church, Inc. v. Property Tax Adm'r*, App.1998, 971 P.2d 270, modified on denial of rehearing, certiorari denied.

**D. Obligation to File Copies of Lease or Agreements.**

No statute was found requiring the filing of agreements and/or agreements.

**E. Notification Requirements After Change in Use or Ownership.**

CO ST § 39-3-130

(1)(b)(I) Except as otherwise provided in subsection (2) of this section, whenever any real property that was previously exempt from the levy and collection of property tax becomes taxable, the person acquiring title to the real property shall be liable for subsequent tax obligations with respect to the real property on the date title thereto is acquired by the person.

(II) On and after January 1, 1996, except as otherwise provided in subsection (2) of this section, whenever any personal property that was previously exempt from the levy and collection of property tax becomes taxable, the taxable status shall become effective on the assessment date following the change in status. If the change in status occurred due to conveyance of the personal property, the person acquiring title to the personal property shall not be liable for any tax obligation with respect to the personal property for the property tax year in which the conveyance occurred.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

The Board of Assessors shall review annually all exemptions. In this way, the taxing board shall monitor exemptions. (See Annual Certification section.)

### **B. Removal of Exemptions.**

Exemptions shall be removed when they are no longer applicable to the property in question.

### **C. Assessment of Omitted Property.**

No statute was found regulating the assessment of omitted property.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

CO ST § 39-5-122

(1) On or before May 1 of each year, the assessor shall give public notice in at least one issue of a newspaper published in his county that, beginning on the first working day after notices of adjusted valuation are mailed to taxpayers and until June 1, he will sit to hear all objections and protests concerning valuations of taxable real property determined by him for the current year; that, for a taxpayer's objection and protest to be heard, notice must be given to the assessor; and that such notice, if given by mail, must be by May 27 or, if given in person, must be by June 1. The notice shall also state that objections and protests concerning valuations of taxable personal property determined by him for the current year will be heard commencing June 15; that, for a taxpayer's objection and protest to be heard, notice must be given to the assessor; and that such notice, if given by mail, must be by June 30 or, if given in person, must be by July 5. If there is no such newspaper, then such notice shall be conspicuously posted in the offices of the assessor, the treasurer, and the county clerk and recorder, and in at least two other public places in the county seat. The assessor shall send news releases containing such notice to radio stations, television stations, and newspapers of general circulation in the county.

(2) If any person is of the opinion that his or her property has been valued too high, has been twice valued, or is exempt by law from taxation or that property has been erroneously assessed to such person, he or she may appear before the assessor and object, complete the form mailed with his or her notice of valuation pursuant to section 39-5-121(1) or (1.5), or file a written letter of objection and protest by mail with the assessor's office before the last day specified in the notice, stating in general terms the reason for the objection and protest. Reasons for the objection and protest may include, but shall not be limited to, the installation and operation of surface equipment relating to oil and gas wells on agricultural land. Any change or adjustment of any ratio of valuation

for assessment for residential real property pursuant to the provisions of section 39-1-104.2 shall not constitute grounds for such objection. If the form initiating an appeal or the written letter of objection and protest is filed by mail, it shall be presumed that it was received as of the day it was postmarked. If the form initiating an appeal or the written letter of objection and protest is hand-delivered, the date it was received by the assessor shall be stamped on the form or letter. As stated in the public notice given by the assessor pursuant to subsection (1) of this section, if the taxpayer notifies the assessor of his or her objection and protest to the adjustment in valuation by mail, such notification shall be postmarked by May 27 in the case of real property and June 30 in the case of personal property. If the taxpayer notifies the assessor in person, such notice shall be given by June 1 in the case of real property and July 5 in the case of personal property. All such forms and letters received from protesters shall be presumed to be on time unless the assessor can present evidence to show otherwise. The county shall not prescribe the written form of objection and protest to be used. The protester shall have the opportunity on the days specified in the public notice to present his or her objection by mail or protest in person and be heard, whether or not there has been a change in valuation of such property from the previous year and whether or not any change is the result of a determination by the assessor for the current year or by the state board of equalization for the previous year. If the assessor finds any valuation to be erroneous or otherwise improper, the assessor shall correct such error, but, if the assessor declines to change any valuation that the assessor has determined, the assessor shall state his or her reasons in writing on the form described in section 39-8-106, shall insert the information otherwise required by the form, and shall, on or before the last regular working day of the assessor in June in the case of real property, except if a county has made an election pursuant to section 39-5-122.7(1), on or before the last working day of the assessor in August in the case of real property and on or before July 10 in the case of personal property, mail two copies of such completed form to the person presenting the objection and protest so denied.

(3) Any person whose objection and protest has been denied in writing by the assessor may appeal to the county board of equalization in the manner provided in article 8 of this title.

(4) The assessor shall continue his hearings from day to day until all objections and protests have been heard, but all such hearings shall be concluded by June 1 in the case of real property and July 5 in the case of personal property.

(5)(a) Any written statement given by any assessor which consists only of a denial of any objection and protest or which consists of a statement referring to compliance by the county with the requirements of valuation for assessment study shall not be sufficient to satisfy the requirements of subsection (2) of this section concerning the statement of reasons why an objection and protest is denied.

(b) Any information presented by the taxpayer regarding the value of his property shall be considered by the assessor in determining whether an adjustment in value is warranted.

#### CO ST § 39-8-106

(1) The county board of equalization shall receive and hear petitions from all persons whose objections or protests have been refused or denied by the assessor. Such petitions

shall be in a form approved by the property tax administrator pursuant to section 39-2-109(1)(d), the contents of which shall include the following:

(a) A statement informing such person of his or her right to appeal, the time and place at which the county board of equalization will hear appeals from determinations of the assessor, and that, by mailing or delivering one copy of the form to the county board of equalization that is received or postmarked on or before July 15 of that year for real property, except, if a county has made an election pursuant to section 39-5-122.7(1), on or before September 15 of that year for real property, and July 20 of that year for personal property, such person will be deemed to have filed his or her petition for hearing with the county board of equalization. The date the form is received by the county board of equalization shall be stamped on the form. All such forms shall be presumed to be on time unless the county board of equalization can present evidence to show otherwise.

(b) A requirement that the assessor's office set forth the following information on the face of the form:

(I) A description of the property claimed to be excessively, erroneously, or illegally valued;

(II) The actual value placed upon it by the assessor;

(III) A specific and detailed statement of the grounds delineated in this subparagraph (III), upon which the assessor relied to justify such valuation. The grounds are appropriate consideration of the approaches to appraisal set forth in section 39-1-103(5)(a) and classification of the property. For agricultural lands, the grounds are: Earning or productive capacity; classification; and capitalization rate.

(IV) The assessor's written statement refusing to change such valuation; and

(V) The actual value placed upon it by the person whose objection and protest has been denied.

(c) Space for the person whose objection and protest has been denied to state the grounds on which he relied and to indicate the manner, if any, in which he disagrees with the assessor's statement of the information described in paragraph (b) of this subsection (1).

(1.5) In addition to any other requirements set forth in subsection (1) of this section, any petition for appeal relating to real property shall contain the actual value of such real property, stated in terms of a specific dollar amount, which is being offered as the correct valuation. Nothing in this subsection (1.5) shall be construed to exempt paid representatives of taxpayers from the requirements of part 7 of article 61 of title 12, C.R.S., if applicable.

(2) Upon receiving a petition in the form described in subsection (1) of this section, the county board of equalization or its authorized agent shall note the filing of the petition, set a time for hearing of said petition, and notify the petitioner by mail of such time for hearing.

(3) If the assessor fails or refuses to comply with the provisions of section 39-5-122, this section, or both, relating to said form, the objecting person shall not be deprived of his right of appeal to the county board of equalization. The objecting person may present his objections and protests in person or by counsel, orally or by letter or other informal writing, on any day during the meeting of the county board of equalization held for the

purpose of hearing appeals. The said failure or refusal of the assessor shall not, in any manner, deprive the objecting person of his right to a full, fair, and complete hearing of his objections and protests by the county board of equalization.

CO ST § 39-8-108

(1) If the county board of equalization grants a petition, in whole or in part, the assessor shall adjust the valuation accordingly; but, if the petition is denied, in whole or in part, the petitioner may appeal the valuation set by the assessor or, if the valuation is adjusted as a result of a decision of the county board of equalization, the adjusted valuation to the board of assessment appeals or to the district court of the county wherein the petitioner's property is located for a trial de novo, or the petitioner may submit the case to arbitration pursuant to the provisions of section 39-8- 108.5. Such appeal or submission to arbitration shall be taken no later than thirty days after the date such denial was mailed pursuant to section 39-8- 107(2). Any decision rendered by the county board of equalization shall state that the petitioner has the right to appeal the decision of the county board to the board of assessment appeals or to the district court of the county wherein the petitioner's property is located or to submit the case to arbitration and, to preserve such right, the time by which such appeal or submission to arbitration must be made. Any request by any person other than the taxpayer pro se for a hearing before the board of assessment appeals shall be accompanied by a nonrefundable filing fee in an amount of twenty-five dollars for each tract, parcel, or lot of real property and for each schedule of personal property included in such request; except that, if any request for a hearing before the board of assessment appeals involves more than one tract, parcel, or lot owned by the same taxpayer and involves the same issue regarding the valuation of such real property, only one filing fee shall be required for such request for a hearing. In addition, any request by a taxpayer for a hearing before the board of assessment appeals shall be stamped with the date on which such request was received by the board. All such requests shall be presumed to be on time unless the board can present evidence to show otherwise.

(2) If the petitioner has appealed to the board of assessment appeals and the decision of the board of assessment appeals is against the petitioner, the petitioner may petition the court of appeals for judicial review according to the Colorado appellate rules and the provisions of section 24-4-106(11), C.R.S. If the decision of the board is against the respondent, the respondent, upon the recommendation of the board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the court of appeals for judicial review according to the Colorado appellate rules and the provisions of section 24- 4-106(11), C.R.S. In addition, on and after June 7, 1989, if the decision of the board is against the respondent, the respondent may petition the court of appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when the respondent alleges procedural errors or errors of law by the board of assessment appeals. If the board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, the respondent may petition the court of appeals for judicial review of such questions within thirty days of such decision. Any decision issued by the board of assessment appeals shall inform the petitioner or respondent, as may be appropriate, of the right to petition the court of

appeals for judicial review.

(3) If the decision of the county board of equalization has been appealed to the district court, the decision of the court shall be subject to appellate review according to the Colorado appellate rules and the provisions of section 24-4-106(9), C.R.S.

(4) If the taxpayer submits his case to arbitration pursuant to the provisions of section 39-8-108.5, the decision reached under such process shall be final and not subject to review.

(5) In any appeal authorized by this section or by section 39-10-114:

(a) The valuation shall not be adjusted to a value higher than the valuation set by the county board of equalization pursuant to section 39-8-107, except as specifically permitted pursuant to section 39-5-125;

(b) The assessor's valuation of similar property similarly situated shall be credible evidence;

(c) The respondent may not rely on any confidential information which is not available for review by the taxpayer unless such confidential data is presented in such a manner that the source cannot be identified; and

(d) Upon request, the respondent shall make available to the taxpayer two working days prior to any appeal hearing data supporting the assessor's valuation. Such request shall be accompanied by data supporting the taxpayer's valuation. Nothing in this paragraph (d) shall be construed to prohibit the introduction at such appeal hearing of any data discovered as a result of the exchange of data required by this paragraph (d).

(6) In any appeal or submission to arbitration authorized by this section, there shall be no presumption in favor of any pending valuation.

## CONNECTICUT

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

CT ST § 12-81

Exemptions.

The following-described property shall be exempt from taxation:

- (1-3) Government property at all levels.
- (4) Municipal property, including real and personal property used for cemetery purposes.
- (5) Property held by trustees for public purposes and used by the public for public purposes.
- (6) Property of volunteer fire companies and property devoted to public use. (financial stipulations must be met.)
- (7) Property used for scientific, educational, literary, historical or charitable purposes.
- (8) College property.
- (9) Personal property loaned to tax-exempt educational institutions.
- (10) Property belonging to agricultural or horticultural societies.
- (11) Property held for cemetery use. Provided it is used as a non profit entity.
- (12) Personal property of religious organizations devoted to religious or charitable use.
- (13) Houses of religious worship.
- (14) Real property and its equipment owned by, or held in trust for, any religious organization and exclusively used as a school, a Connecticut nonprofit camp or recreational facility for religious purposes, a parish house, an orphan asylum, a home for children, a thrift shop, the proceeds of which are used for charitable purposes, a reformatory or an infirmary.
- (15) Houses used by officiating clergymen as dwellings.
- (16) Hospitals and sanatoriums. Provided that it does not receive any pecuniary profit.
- (18) Property of veterans' organizations and property of the Grand Army of the Republic.
- (27) Property of grand army posts.

(29) Property of American National Red Cross.

(45) Property of units of Connecticut national guard.

(49) Nonprofit camps or recreational facilities for charitable purposes. Provided several restrictions are met. (see full text for restrictions.)

(58) Property leased to a charitable, religious or nonprofit organization.

Charitable uses and purposes for tax exemption purposes are not restricted to mere relief of the destitute or the giving of alms, but comprehend activities, not in themselves self-supporting, which are intended to improve the physical, mental and moral condition of the recipients and make it less likely that they will become burdens on society and more likely that they will become useful citizens, and embraces anything that tends to promote the well-doing and the well-being of social man. *Camp Isabella Freedman of Conn., Inc. v. Town of Canaan* (1960) 162 A.2d 700, 147 Conn. 510.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

There are three requirements for property tax exemption:

1. property must belong to or be held in trust for organization exempt from taxation under this section
2. property must be held for one of purposes stated in this section's list of exemptions
3. property must produce no rent, profits or income.

*United Church of Christ v. Town of West Hartford* (1988) 539 A.2d 573, 206 Conn. 711.

See also CT ST § 12-88 under partial exemptions.

General rule of construction in taxation cases is that provisions granting exemption from tax are to be construed strictly against party claiming exemption. *University of Hartford v. City of Hartford* (1984) 477 A.2d 1023, 2 Conn.App. 152. See, also, *Cummings and Lockwood v. City of Stamford* (1974) 330 A.2d 906, 31 Conn.Supp. 359; *Hartford Hospital v. Board of Tax Review of City of Hartford* (1969) 256 A.2d 234, 158 Conn. 138; *Frank Amodio Moving & Storage Co. v. Connelly* (1957) 135 A.2d 737, 144 Conn. 569; *Klein v. City of Bridgeport* (1939) 3 A.2d 675, 125 Conn. 129; *Town of Woodstock v. The Retreat* (1939) 3 A.2d 232, 125 Conn. 52, *Jewett City Sav. Bank v. Board of Equalization of Connecticut* (1933) 164 A. 643, 116 Conn. 172.

## **B. Partial Exemptions.**

CT ST § 12-88

When property otherwise taxable may be completely or partially exempted. Real property belonging to, or held in trust for, any organization mentioned in subdivision (7), (10), (11), (13), (14), (15), (16) or (18) of section 12- 81, which real property is so held for one or more of the purposes stated in the applicable subdivision, and from which real property no rents, profits or income are derived, shall be exempt from taxation though not in actual use therefor by reason of the absence of suitable buildings and improvements thereon, if the construction of such buildings or improvements is in progress. The real property belonging to, or held in trust for, any such organization, not used exclusively for carrying out one or more of such purposes but leased, rented or otherwise used for other purposes, shall not be exempt. If a portion only of any lot or building belonging to, or held in trust for, any such organization is used exclusively for carrying out one or more of such purposes, such lot or building shall be so exempt only to the extent of the portion so used and the remaining portion shall be subject to taxation.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

CT ST § 38a-604

Tax exemption.

Every society organized or licensed under sections 38a-595 to 38a-626, inclusive, 38a-631 to 38a-640, inclusive, and 38a-800, is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all state and municipal taxes other than taxes on real estate and office equipment.

### **B. Procedures for Retaining an Exemption.**

CT ST § 12-89a

Certain organizations may be required by assessor to submit evidence of exemption from federal income tax.

Any organization claiming exemption from property tax in any municipality in which real or personal property belonging to such organization is situated, which exemption is claimed with respect to all or a portion of such property under the provisions of any of the subdivisions (7), (8), (10), (11), (12), (13), (14), (15), (16), (18), (27), (29), (49) or (58) of section 12-81, may be required upon request, at any time, by the assessor or board of assessors in such municipality to submit evidence of certification from the Internal Revenue Service, effective at the time of such request and in whatever form is then in use under Internal Revenue Service procedure for purposes of such certification, that such organization has been approved for exemption from federal income tax as an exempt organization under Section 501(c) or 501(d) of the Internal Revenue Code.

26 USCA § 501

Exemption from tax on corporations, certain trusts, etc.

(c) List of exempt organizations.--The following organizations are referred to in subsection (a):

(1) Any corporation organized under Act of Congress which is an instrumentality of the United States.

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section. Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals.

(4) (A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes. (B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

(8) Fraternal beneficiary societies, orders, or associations--

(10) Domestic fraternal societies, orders, or associations, operating under the lodge system--

(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incident to that purpose and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(19) A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization--

(d) Religious and apostolic organizations.--The following organizations are referred to in subsection (a): Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

### **C. Annual Certification.**

#### CT ST § 12-42

Time for giving in tax lists; extension of time; penalty for failure to file.

Each resident of any town liable to give in a list and pay taxes therein shall, except as otherwise specially provided by law, on or before the first day of November, annually, give in his list, made as prescribed by law, making a separate description of each parcel of real estate. The assessors may grant an extension of not more than forty-five days to file such list upon determination that there is good cause. When reference can be made to a map on file in the town clerk's office, such reference shall be a sufficient description. If he fails to file such list, the assessors shall fill out a list for him, putting therein all property which they have reason to believe is owned by him, liable to taxation, at the percentage of its actual valuation, as determined by the assessors in accordance with the provisions of sections 12-64 and 12-71, from the best information they can obtain, and add thereto twenty- five per cent of such assessment and in such list they shall make a separate description and assessment of each parcel of real estate. When the first day of November is Sunday, the list may be made out on the day following.

#### CT ST § 12-87

Additional report. Property, when taxable.

During any year for which a report is not required by subdivisions (7), (10) and (11) of section 12-81, a report shall be filed during the time prescribed by law for the filing of assessment lists next succeeding the acquiring of property not theretofore made exempt by said subdivisions. Property otherwise exempt under any of said subdivisions and this section shall be subject to taxation until the requirements of said subdivisions and of this section have been complied with.

#### CT ST § 12-109

Listing and valuation of tax-exempt property.

All property exempted from taxation except public highways, streets and bridges, shall be listed, valued and assessed annually by the assessor of each municipality and such valuation shall be added by the assessor to the grand list in such manner as to be separate from the valuation of property not exempted from taxation.

#### CT ST § 12-81

7. (b) In 1965, and quadrennially thereafter, a statement on forms prepared by the Secretary of the Office of Policy and Management shall be filed on or before the last day required by law for the filing of assessment returns with the local board of assessors of any town, consolidated town and city or consolidated town and borough, in which any of its property claimed to be exempt is situated.

Several other subsections of this part have similar quadrennial filing requirements.

#### **D. Obligation to File Copies of Lease or Agreements.**

CT ST § 47-19

This section requires that all leases be recorded.

#### **E. Notification Requirements After Change in Use or Ownership.**

No notification requirement was found.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

CT ST § 12-89

Assessors to determine exemptions.

The board of assessors of each town, consolidated town and city or consolidated town and borough shall inspect the statements filed with it and required by sections 12-81 and 12-87 from scientific, educational, literary, historical, charitable, agricultural and cemetery organizations, shall determine what part, if any, of the property claimed to be exempt by the organization shall be in fact exempt and shall place a valuation upon all such property, if any, as is found to be taxable, provided any property acquired between assessment dates by any tax-exempt organization shall first become exempt on the tax list next succeeding the date of acquisition. Any organization filing a tax-exempt statement, aggrieved at the action of the board of assessors, may appeal, within the time prescribed by law for such appeals, to the board of assessment appeals. Any such organization claiming to be aggrieved by the action of the board of assessment appeals may, within two months from the time of such action, make application in the nature of an appeal therefrom to the superior court for the judicial district of Hartford pursuant to section 12-39l.

#### **B. Removal of Exemptions.**

Exemptions are removed when they are discovered to be no longer exempt. This can be the result of a regularly scheduled assessment or due to a taxpayer complaint.

#### **C. Assessment of Omitted Property.**

No specific provision was found for omitted property.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

CT ST § 12-111

Appeals to board of assessment appeals.

Any person, including any lessee of real property whose lease has been recorded as provided in section 47-19 and who is bound under the terms of his lease to pay real property taxes and any person to whom title to such property has been transferred since the assessment date, claiming to be aggrieved by the doings of the assessors of such town may appeal therefrom to the board of assessment appeals. Such appeal shall be filed, in writing, on or before February twentieth. The written appeal shall include, but is not limited to, the property owner's name, name and position of the signer, description of the property which is the subject of the appeal, name and mailing address of the party to be sent all correspondence by the board of assessment appeals, reason for the appeal, appellant's estimate of value, signature of property owner, or duly authorized agent of the property owner, and date of signature. The board shall notify each aggrieved taxpayer who filed a written appeal in the proper form and in a timely manner, no later than March first immediately following the assessment date, of the date, time and place of the appeal hearing. Such notice shall be sent no later than seven calendar days preceding the hearing date except that the board may elect not to conduct an appeal hearing for any commercial, industrial, utility or apartment property with an assessed value greater than five hundred thousand dollars. The board shall, not later than March first, notify the appellant that the board has elected not to conduct an appeal hearing. The board shall determine all such appeals and send written notification of the final determination of such appeals to each such person within one week after such determination has been made. Such written notification shall include information describing the property owner's right to appeal the determination of such board. Such board may equalize and adjust the valuations and assessment lists of such town and may increase the items of taxable property in the list of any person, or the number, quantity or amount of any such item, or add to any such list any taxable property or interest therein omitted by the assessors which should be added thereto; and may add to the assessment list the name of any person omitted by the assessors and owning taxable property in such town, and make a list for him, putting therein all property liable to taxation which it has reason to believe is owned by him, at the percentage of its actual valuation, as determined by the assessors in accordance with the provisions of sections 12-64 and 12-71, from the best information that it can obtain, and add thereto twenty-five per cent of such assessment; but, before proceeding to increase the list of any person or to add to the assessment list the name of any person so omitted, it shall mail to him, postage paid, at least one week before making such increase or addition, a written or printed notice addressed to him at the town in which he resides, to appear before such board and show cause why such increase or addition should not be made.

## DELAWARE

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

DE CONST, Art. 10, s 3

No portion of any fund now existing, or which may hereafter be appropriated, or raised by tax, for educational purposes, shall be appropriated to, or used by, or in aid of any sectarian, church or denominational school; provided, that all real or personal property used for school purposes, where the tuition is free, shall be exempt from taxation and assessment for public purposes.

DE ST TI 9 s 8105

Property belonging to this State, or the United States, or any county of this State, or owned by any municipality of this State and held for public use, or any church or religious society, and not held by way of investment, or any college or school and used for educational or school purposes, except as otherwise provided, shall not be liable to taxation and assessment for public purposes by any county or other political subdivision of this State. Nothing in this section shall be construed to apply to ditch taxes, sewer taxes and/or utility fees. Corporations created for charitable purposes and not held by way of investment that are in existence on July 14, 1988, together with existing and future charitable affiliates of such corporations that are also not held by way of investment, shall not be liable to taxation and assessment for public purposes by any county, municipality or other political subdivision of this State.

DE ST TI 9 s 8106

(a) No real property owned and used by the organizations listed below or for the purposes stated below, except that which is held by way of investment, shall be liable to taxation and assessment for public purposes by any county or other political subdivision of this State.

Historical Society of Delaware.

New Castle Historical Society.

All incorporated relief associations for volunteer firefighters (limit, \$25,000 per association).

Nonsectarian Young Women's Christian Associations.

Nonsectarian Young Men's Christian Associations.

Salvation Army.

Burial lots and cemeteries.

Children's Home, Inc.

Layton Home for Aged Colored Persons, Incorporated.

Sunday Breakfast Mission.

The Family Society.

Woods Haven School for Girls.

Ferris Industrial School.

Florence Crittenton Home.

All incorporated homes of refuge for reformed women (limit, \$25,000 per home).

Charitable homes for incurables (limit, \$15,000 per home).  
Day nurseries or homes for babies owned by any corporation or association maintained by charity (limit, \$50,000 per nursery or home).  
Charitable incorporated homes or associations for deaconesses (limit, \$10,000 per home).  
Delaware Commission for the Blind.  
Charitable incorporated settlement houses.  
Soldiers' rest rooms.  
Incorporated college fraternities (limit, \$10,000 per fraternity).  
Wilmington Institute Free Library.  
Public parks in and near Wilmington.  
American Legion Posts.  
Veterans of Foreign Wars Posts.  
Delaware Anti-Tuberculosis Society.  
Delmar Lions Club.  
Polish Army Veterans of Delaware, Post 48, Inc.  
Lions Club of Smyrna.  
Pencader 4-H Club Center, Inc.  
Wilmington Drama League, Inc.  
Council of Churches of Wilmington and New Castle County, Inc.  
New Temple Corporation.  
Edgemoor Terrace Civic Association, Incorporated.  
Hyde Park Civic Association, Inc.  
Brookland Terrace Civic Club.  
Manor Community Center, Inc.  
Collins Park Community and Civic Association, Inc.  
Veteran Employees Association, Delaware Division, Pennsylvania Railroad.  
Pencader Grange # 60 P. of H., Inc.  
Taylor's Bridge Community Center, Incorporated.  
Blackbird Community Center, Inc.  
Oakhill Community Center, Inc.  
The Brookside Community, Inc.  
Women's Civic Club of Richardson Park.  
Hillside Civic Association.  
The Klair Estates Civic Association, Inc.  
The Castle Hills Civic Association.  
Westview Maintenance Corporation.  
Suburban Century Club.  
Sussex Chapter of Delaware Humane Association.  
Imperial Drive Civic Association.  
Fruitland Grange, No. 16, Camden, Delaware.  
Windy Hill Civic Association.  
Perth Community and Civic Association, Inc.  
Women's Club of Claymont.  
Swanwyck Estates Civic Association.  
The Eastern Shore Fox Hunters' Association.  
Delaware Society for Crippled Children and Adults, Inc.

Yorklyn Parent-Teacher Association, Inc.  
Wycliffe Civic Association, Inc.  
Blue Rock Community Club.  
Civic Association of Belvedere and Vicinity.  
Lamborn Library Association.  
Lutheran Senior Services, Inc.  
University Drama Group, Inc.  
Central Grange # 61.  
Penn Acres Swim Club, Inc.  
Viola-Canterbury-Felton Ruritan Club.  
Lewes Senior Citizens Center, Incorporated.  
Cannon Grange No. 65 P. of H.  
Broadcreek Grange No. 59 P. of H.  
Midland Grange No. 27 P. of H.  
B'nai B'rith Lodge 470.  
Jefferson Farms Swim Club, Inc.  
Disabled American Veterans, Inc.

**WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

**A. Full Exemptions.**

Since the early days of our history, it has been the public policy of this State to exempt from taxation any property belonging to a church or religious society which is not held for investment. *Saint Stanislaus Kostka Church v. Mayor of Wilmington, Del. Super. Ct.*, 105 A.2d 596, *aff'd*, Del. Supr., 108 A.2d 581 (1954).

Statutes exempting from taxation property devoted to educational purposes are in general construed more liberally than other tax-exempting statutes. *Burris v. Tower Hill School Ass'n*, Del. Super. Ct., 179 A. 397 (1935).

**B. Partial Exemptions.**

The test to determine the tax exempt status of property is whether the owner of the property is using the property with the intent to secure a profit. That a portion of that property is being devoted to a nonexempt use is a factor that certainly must be considered in determining intent. However, it is not the sole factor, and the weight to which it is entitled will depend upon the overall factual context. *New Castle County v. Historical Soc'y*, Del. Supr., 580 A.2d 578 (1990).

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

DE ST TI 9 s 1322

(d) Notwithstanding any provision of this title, for any fiscal year in which the County Council of New Castle County proposes to implement a general reassessment of property, the County Council may by ordinance establish appropriate and reasonable time periods for the filing of exemption applications; submission, inspection and certification of assessment rolls; notices of assessments; appeals from such assessments; and any other requirements relating to the implementation of the general reassessment. In no case, however, shall the County Council extend any such period more than 30 days beyond that otherwise established in this title. This authorization shall apply only to the fiscal year in which the general reassessment is implemented. In each fiscal year thereafter, the procedures specified in this title shall be followed.

### **B. Procedures for Retaining an Exemption.**

DE ST TI 9 s 1322

(a) In the performance of the functions relating to the assessment of property, the Department shall exercise the assessment functions assigned to the Board of Assessment prior to May 26, 1965. To this end, not later than February 15 of each year, the Department shall prepare and present to the Board of Assessment Review a copy of the assessment roll for the year. The Department shall determine the form of the assessment roll and shall not be bound by provisions of law in effect prior to May 26, 1965, as to form. The County Council of New Castle County shall by ordinance establish the dates during which appeals from assessments of the Department of Land Use to the Board of Assessment Review may be heard.

(b) Not later than April 30 of each year, the Department of Land Use shall certify to the Chief Financial Officer a true and correct assessment roll for the year. Not later than May 31 of each year, the general manager of the Department of Land Use shall certify to the County Council the total value of all property in the County and the total value of all property which has been assessed and is subject to taxation.

(c) The Department shall determine by rule, the form, number of copies and other details concerning the keeping of records relating to assessment of real property and improvements thereupon. The Department shall develop a suitable system for the identification of all real property within the County, both that which is subject to taxation and that which is exempt from taxation. Such system shall be in a form which readily permits the subdivision of property, or the reassembly of property, without loss of control thereof for purposes of assessment.

### **C. Annual Certification.**

There is an annual assessment as noted in the section on monitoring exemptions. No statute was found that regulates annual certification beyond the annual assessment statutes.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found that regulates an obligation to file copies of a lease or other agreements.

#### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found that regulates the notification of change in use or ownership.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

DE ST TI 29 s 8305

The Division of Revenue is established having powers, duties and functions as follows: (6) On or before November 1 of each odd-numbered year, the Division of Revenue, under the supervision of the Secretary of the Department of Finance, shall make a report to the Governor and the General Assembly concerning the effect of certain tax preferences on the revenues collected by the State. For the purposes of this section, "tax preferences" means any law of the United States or the State which exempts, in whole or in part, certain persons, income, goods, services or property from the impact of established taxes, including, but not limited because of failure of enumeration, to those devices known as tax deductions, tax exclusions, tax credits, tax deferrals and tax exemptions. "Tax preference" shall not include variations in the rate of income tax, s 1102 of Title 30; standard deductions, s 1108 of Title 30; or personal exemptions, s 1110 of Title 30.

a. Declaration of policy. -- State governmental policy objectives are sought to be achieved both by direct expenditure of governmental funds and by the granting of special and selective tax relief or tax preferences. Both direct expenditures of governmental funds and tax preferences have an effect on the ability of the state government to lower tax rates or to increase expenditures. As a result, tax preferences should receive a regular and comprehensive review by the Governor and the General Assembly as to: (1) Their total cost; (2) their effectiveness in achieving their objectives; (3) their effect on the fairness and equity of the distribution of the tax burden; and (4) the public and private cost of administering tax preference financed programs. The purpose of this section is to facilitate such review by providing for the generation of information concerning tax preferences and their effect upon state revenues.

b. Components of the report. -- The taxes to be reviewed in the report shall be tax preferences created under provisions of the Delaware Code, rather than tax preferences created by operation of the Internal Revenue Code of the United States, and shall include, but need not be limited to, the personal income tax, corporate income tax, motor fuel taxes and public utility taxes. The report shall include the following:

1. Each tax preference, its statutory basis, and its purpose.

2. An estimate of the revenue loss to the State, or 1 of its subdivisions, caused by each tax preference for the last fiscal year and the estimated revenue loss caused by each tax preference for the current fiscal year.
3. An assessment of whether each tax preference is the most fiscally effective means of achieving its purpose and whether or not each tax preference has been successful in meeting the purpose for which it was enacted, and, in particular, whether each tax preference benefits those originally intended to be benefited, and if not, those who do benefit.
4. A statement of any unintended or inadvertent effects, benefits or harm caused by each tax preference, including whether each tax preference conflicts with any other state laws or regulations.

DE ST TI 9 s 7004

(j) Assessment of property. -- In the performance of the functions relating to the assessment of property, the Department of Finance shall exercise the assessment functions heretofore assigned to the Board of Assessment. To this end, not later than February 15 of each year, the Department of Finance shall prepare and present to the Board of Assessment Review a copy of the assessment roll for the year. The Department shall determine the form of the assessment roll and shall not be bound by provisions of law heretofore in effect as to form. During the month of March, the Board of Assessment Review shall sit for not less than 15 days during which it shall review the assessment roll, hear appeals from property owners who believe that their property is improperly assessed, and make determinations of corrections or additions to the assessment roll that may be necessary.

Not later than April of each year, the Board of Assessment Review shall certify to the Department of Finance a true and correct assessment roll for the year. Not later than May of each year, the Director of Finance shall certify to the county government the total value of all property in the County and the total value of all property which has been assessed and is subject to taxation.

The Department of Finance shall determine by rule, the form, number of copies, and other details concerning the keeping of records relating to assessment of real property and improvements thereupon. The Department of Finance shall develop a suitable system for the identification of all real property within the County, both that which is subject to taxation and that which is exempt from taxation. Such system shall be in a form which readily permits the subdivision of property or the reassembly of property without loss of control thereof for purposes of assessment.

(k) Obligations and rights of property owners. -- The adoption of this chapter shall in no manner relieve any property owner of any obligation theretofore imposed upon him with respect to the rendition of assessment of any property or the payment of any tax, nor shall it in any manner increase the responsibilities of such property owner, nor deny him of any right heretofore possessed except to the extent specifically provided in this chapter.

## **B. Removal of Exemptions.**

Exemptions are removed when the Board of Assessors determines that the exemption no longer is deserved or when the tax payer alerts the tax board that the property is no longer exempt.

## **C. Assessment of Omitted Property.**

No statute was found that regulates the assessment of omitted property.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

DE ST TI 30 s 329

The Tax Appeal Board shall hear all appeals from determinations of the Director of all administrative protests including, but not necessarily limited to, determinations under ss 525, 544 and 561 of this title, and such other statutes granting jurisdiction to the Board as may be hereafter enacted, and the Board may affirm, modify or reverse any such determination.

DE ST TI 30 s 331

(a) From any decision of the Tax Appeal Board, the taxable shall have the right of appeal to the Superior Court of the State in the county in which the hearing has been held; provided, however, that no appeal from such decision shall be received or entertained in the Superior Court unless notice of appeal is duly filed in the office of the Prothonotary thereof within 30 days after the date of the order entered upon such decision. The Tax Appeal Board may, upon good cause shown, extend the foregoing time (1) for an additional 30 days or (2) until disposition of any motion for a rehearing or to revise its decision.

(b) Whenever, at any time prior to the Board's issuance of a final order, the parties (including the Director of Revenue) to any appeal so stipulate, the Board's order shall not be subject to appeal to the Superior Court, notwithstanding subsection (a) of this section.

DE ST TI 9 s 7004

(f) Duties of Board of Assessment Review. -- The Board shall:

- (1) Hear appeals from any property owner who alleges that his property has been improperly assessed for purposes of taxation;
- (2) Following the hearing of any property owner, and, in the light of the facts produced at such hearing, the Board shall determine whether the assessment is correct. Should the Board find that the assessment is incorrect, the Board shall order the Director of Finance to correct the assessment and the Director shall thereupon correct the assessment to the adjusted amount established by the Board;
- (3) Review the methods by which the Director of Finance has established the assessments and the results thereof as reflected by the assessment roll. Should the Board find that the procedures used by the Director of Finance require improvement in order to make more equitable and effective the

assessment procedure, the Board shall make such recommendations as it deems proper to the County Administrator and file a copy thereof with the Clerk of the county government.

(h) Judicial review. -- Nothing herein shall be construed as limiting the right of a property owner to appeal to the courts in connection with the assessment of his property for taxation as provided by law.

## FLORIDA

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

FL ST § 196.196

(1) In the determination of whether an applicant is actually using all or a portion of its property predominantly for a charitable, religious, scientific, or literary purpose, the following criteria shall be applied:

(a) The nature and extent of the charitable, religious, scientific, or literary activity of the applicant, a comparison of such activities with all other activities of the organization, and the utilization of the property for charitable, religious, scientific, or literary activities as compared with other uses.

(b) The extent to which the property has been made available to groups who perform exempt purposes at a charge that is equal to or less than the cost of providing the facilities for their use. Such rental or service shall be considered as part of the exempt purposes of the applicant.

(c) The extent to which the property is used to conduct activities which cause a corporation to qualify for a consumer certificate of exemption under s. 212.08(7)(o). Such activities shall be considered as part of the exempt purposes of the applicant.

(2) Only those portions of property used predominantly for charitable, religious, scientific, or literary purposes shall be exempt. In no event shall an incidental use of property either qualify such property for an exemption or impair the exemption of an otherwise exempt property.

(3) Except as otherwise provided herein, property claimed as exempt for literary, scientific, religious, or charitable purposes which is used for profit making purposes shall be subject to ad valorem taxation. Use of property for functions not requiring a business or occupational license conducted by the organization at its primary residence, the revenue of which is used wholly for exempt purposes, shall not be considered profit making. In this connection the playing of bingo on such property shall not be considered as using such property in such a manner as would impair its exempt status.

FL ST § 196.1961

(1) Pursuant to s. 3, Art. VII of the State Constitution, the board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to allow an ad valorem tax exemption of up to 50 percent of the assessed value of property which meets all of the following criteria:

(a) The property must be used for commercial purposes or used by a not-for-profit organization under s. 501(c)(3) or (6) of the Internal Revenue Code of 1986.

(b) The property must be listed in the National Register of Historic Places, as defined in s. 267.021; or must be a contributing property to a National Register Historic District; or must be designated as a historic property or as a contributing property to a historic district, under the terms of a local preservation ordinance.

(c) The property must be regularly open to the public.

(3) The board of county commissioners or municipal governing authority shall notify the property appraiser of the adoption of such ordinance no later than December 1 of the year prior to the year the exemption will take effect. If the exemption is granted only for a specified period or the ordinance is repealed, the board of county commissioners or municipal governing authority shall notify the property appraiser no later than December 1 of the year prior to the year the exemption expires. The ordinance must specify that the exemption shall apply only to taxes levied by the unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution.

#### FL ST § 196.197

In addition to criteria for granting exemptions for charitable use of property set forth in other sections of this chapter, hospitals, nursing homes, and homes for special services shall be exempt to the extent that they meet the following criteria:

(1) The applicant must be a Florida corporation not for profit that has been exempt as of January 1 of the year for which exemption from ad valorem property taxes is requested from federal income taxation by having qualified as an exempt organization under the provisions of s. 501(c) (3) of the Internal Revenue Code of 1954 or of the corresponding section of a subsequently enacted federal revenue act.

(2) In determining the extent of exemption to be granted to institutions licensed as hospitals, nursing homes, and homes for special services, portions of the property leased as parking lots or garages operated by private enterprise shall not be deemed to be serving an exempt purpose and shall not be exempt from taxation. Property or facilities which are leased to a nonprofit corporation which provides direct medical services to patients in a nonprofit or public hospital and qualifies under s. 196.196 of this chapter are excluded and shall be exempt from taxation.

#### FL ST § 154.2331

(1) The exercise of the powers granted by this part will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare, and prosperity, and for the improvement of their health and living conditions. Because the operation and maintenance of a project by a health facility will constitute the performance of an essential public function, neither the authority nor a hospital institution shall be required to pay any taxes or assessments upon or in respect of a project or any property acquired by the authority under the provisions of this part or upon the income therefrom, and any bonds issued under the provisions of this part, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state, the local agency, and municipalities and other political subdivisions in the state, except that such income shall be subject to the tax imposed pursuant to the provisions of chapter 220. Nothing in this section shall be construed as exempting from taxation or assessment the leasehold interest of any health facility organized for profit. If any project or any part thereof is occupied or operated by any health facility organized for profit pursuant to any contract or lease with the authority, the property interest created by such contract or lease shall be subject to taxation to the same extent as other privately owned property.

(2) Homes for the aged, or life care communities, however designated, which are financed through the sale of health facilities authority bonds, whether on a sale-leaseback arrangement, a sale-repurchase arrangement, or other financing arrangement, are exempt from ad valorem taxation only in accordance with the provisions of s. 196.1975.

#### FL ST § 196.1975

Nonprofit homes for the aged are exempt to the extent that they meet the following criteria:

(1) The applicant must be a corporation not for profit or a Florida limited partnership, the sole general partner of which is a corporation not for profit, and the corporation not for profit must have been exempt as of January 1 of the year for which exemption from ad valorem property taxes is requested from federal income taxation by having qualified as an exempt charitable organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954 or of the corresponding section of a subsequently enacted federal revenue act.

(2) A facility will not qualify as a "home for the aged" unless at least 75 percent of the occupants are over the age of 62 years or totally and permanently disabled. For homes for the aged which are exempt from paying income taxes to the United States as specified in subsection (1), licensing by the Agency for Health Care Administration is required for ad valorem tax exemption hereunder only if the home:

(a) Furnishes medical facilities or nursing services to its residents, or

(b) Qualifies as an assisted living facility under part III of chapter 400.

(3) Those portions of the home for the aged which are devoted exclusively to the conduct of religious services or the rendering of nursing or medical services are exempt from ad valorem taxation.

#### FL ST § 196.198

Educational institutions within this state and their property used by them or by any other exempt entity or educational institution exclusively for educational purposes shall be exempt from taxation.

#### FL ST § 196.199

(1) Property owned and used by the following governmental units shall be exempt from taxation under the following conditions:

(a) All property of the United States shall be exempt from ad valorem taxation, except such property as is subject to tax by this state or any political subdivision thereof or any municipality under any law of the United States.

(b) All property of this state which is used for governmental purposes shall be exempt from ad valorem taxation except as otherwise provided by law.

(c) All property of the several political subdivisions and municipalities of this state or of entities created by general or special law and composed entirely of governmental agencies, or property conveyed to a nonprofit corporation which would revert to the governmental agency, which is used for governmental, municipal, or public purposes shall be exempt from ad valorem taxation, except as otherwise provided by law.

(2) Property owned by the following governmental units but used by nongovernmental

lessees shall only be exempt from taxation under the following conditions:

(a) Leasehold interests in property of the United States, of the state or any of its several political subdivisions, or of municipalities, agencies, authorities, and other public bodies corporate of the state shall be exempt from ad valorem taxation only when the lessee serves or performs a governmental, municipal, or public purpose or function, as defined in s. 196.012(6). In all such cases, all other interests in the leased property shall also be exempt from ad valorem taxation. However, a leasehold interest in property of the state may not be exempted from ad valorem taxation when a nongovernmental lessee uses such property for the operation of a multipurpose hazardous waste treatment facility.

(b) Except as provided in paragraph (c), the exemption provided by this subsection shall not apply to those portions of a leasehold or other interest defined by s. 199.023(1)(d), subject to the provisions of subsection (7). Such leasehold or other interest shall be taxed only as intangible personal property pursuant to chapter 199 if rental payments are due in consideration of such leasehold or other interest. If no rental payments are due pursuant to the agreement creating such leasehold or other interest, the leasehold or other interest shall be taxed as real property. Nothing in this paragraph shall be deemed to exempt personal property, buildings, or other real property improvements owned by the lessee from ad valorem taxation.

(c) Any governmental property leased to an organization which uses the property exclusively for literary, scientific, religious, or charitable purposes shall be exempt from taxation.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Properties exempted from taxation must be held and used exclusively for some religious, scientific, municipal, education, literary or charitable purpose or purposes, and whether property falls within such category is largely a question of fact to be determined by the assessor of taxes or county board of tax equalization. 1966 Op.Atty.Gen., 066-17, March 11, 1966.

### **B. Partial Exemptions.**

FL ST § 196.196

(2) Only those portions of property used predominantly for charitable, religious, scientific, or literary purposes shall be exempt. In no event shall an incidental use of property either qualify such property for an exemption or impair the exemption of an otherwise exempt property.

FL ST § 196.1975

(11) Any portion of such property used for nonexempt purposes may be valued and placed upon the tax rolls separately from any portion entitled to exemption pursuant to

this chapter.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

FL ST § 196.195

(1) Applicants requesting exemption shall supply such fiscal and other records showing in reasonable detail the financial condition, record of operation, and exempt and nonexempt uses of the property, where appropriate, for the immediately preceding fiscal year as are requested by the property appraiser or the value adjustment board.

(2) In determining whether an applicant for a religious, literary, scientific, or charitable exemption under this chapter is a nonprofit or profit making venture or whether the property is used for a profit making purpose, the following criteria shall be applied:

(a) The reasonableness of any advances or payment directly or indirectly by way of salary, fee, loan, gift, bonus, gratuity, drawing account, commission, or otherwise (except for reimbursements of advances for reasonable out-of-pocket expenses incurred on behalf of the applicant) to any person, company, or other entity directly or indirectly controlled by the applicant or any officer, director, trustee, member, or stockholder of the applicant;

(b) The reasonableness of any guaranty of a loan to, or an obligation of, any officer, director, trustee, member, or stockholder of the applicant or any entity directly or indirectly controlled by such person, or which pays any compensation to its officers, directors, trustees, members, or stockholders for services rendered to or on behalf of the applicant;

(c) The reasonableness of any contractual arrangement by the applicant or any officer, director, trustee, member, or stockholder of the applicant regarding rendition of services, the provision of goods or supplies, the management of the applicant, the construction or renovation of the property of the applicant, the procurement of the real, personal, or intangible property of the applicant, or other similar financial interest in the affairs of the applicant;

(d) The reasonableness of payments made for salaries for the operation of the applicant or for services, supplies and materials used by the applicant, reserves for repair, replacement, and depreciation of the property of the applicant, payment of mortgages, liens, and encumbrances upon the property of the applicant, or other purposes; and

(e) The reasonableness of charges made by the applicant for any services rendered by it in relation to the value of those services, and, if such charges exceed the value of the services rendered, whether the excess is used to pay maintenance and operational expenses in furthering its exempt purpose or to provide services to persons unable to pay for the services.

(3) Each applicant must affirmatively show that no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose.

(5) No application for exemption may be granted for religious, literary, scientific, or

charitable use of property until the applicant has been found by the property appraiser or, upon appeal, by the value adjustment board to be nonprofit as defined in this section.

## **B. Procedures for Retaining an Exemption.**

FL ST § 195.022

The Department of Revenue shall prescribe and furnish all forms to be used by property appraisers, tax collectors, clerks of the circuit court, and value adjustment boards in administering and collecting ad valorem taxes. The department shall prescribe a form for each purpose. A county officer may use a form other than the form prescribed by the department, but only at the expense of his or her office and upon obtaining written permission from the executive director of the department; provided that no county officer shall use a form the substantive content of which is at variance with the form prescribed by the department for the same or a similar purpose. If the executive director finds good cause to grant such permission he or she may do so. The county officer may continue to use such approved form until the law which specifies the form is amended or repealed or until the officer receives written disapproval from the executive director. Otherwise, all such officers and their employees shall use the forms, and follow the instructions applicable to the forms, furnished to them by the department. The department, upon request of any property appraiser or, in any event, at least once every 3 years, shall prescribe and furnish such aerial photographs and nonproperty ownership maps to the property appraisers as are necessary to ensure that all real property within the state is properly listed on the roll. All forms and maps furnished by the department shall be paid for by the department as provided by law. All forms and maps and instructions relating to their use shall be substantially uniform throughout the state. An officer may employ supplemental forms and maps, at the expense of his or her office, which he or she deems expedient for the purpose of administering and collecting ad valorem taxes. The forms required in ss. 193.461(3)(a) and 196.011(1) for renewal purposes shall require sufficient information for the property appraiser to evaluate the changes in use since the prior year. If the property appraiser determines, in the case of a taxpayer, that he or she has insufficient current information upon which to approve the exemption, or if the information on the renewal form is inadequate for him or her to evaluate the taxable status of the property, he or she may require the resubmission of an original application.

## **C. Annual Certification.**

FL ST § 196.011

(1) Filing an application.

(a) Every person or organization who, on January 1, has the legal title to real or personal property, except inventory, which is entitled by law to exemption from taxation as a result of its ownership and use shall, on or before March 1 of each year, file an application for exemption with the county property appraiser, listing and describing the property for which exemption is claimed and certifying its ownership and use. The Department of Revenue shall prescribe the forms upon which the application is made. Failure to make application, when required, on or before March 1 of any year shall constitute a waiver of the exemption privilege

for that year, except as provided in subsection (7) or subsection (8).

(b) The form to apply for an exemption under s. 196.031, s. 196.081, s. 196.091, s. 196.101, or s. 196.202 must include a space for the applicant to list the social security number of the applicant and of the applicant's spouse, if any. If an applicant files a timely and otherwise complete application, and omits the required social security numbers, the application is incomplete. In that event, the property appraiser shall contact the applicant, who may refile a complete application by April 1. Failure to file a complete application by that date constitutes a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

(3) It shall not be necessary to make annual application for exemption on houses of public worship, the lots on which they are located, personal property located therein or thereon, parsonages, burial grounds and tombs owned by houses of public worship, individually owned burial rights not held for speculation, or other such property not rented or hired out for other than religious or educational purposes at any time; household goods and personal effects of permanent residents of this state; and property of the state or any county, any municipality, any school district, or community college district thereof.

(4) When any property has been determined to be fully exempt from taxation because of its exclusive use for religious, literary, scientific, or charitable purposes and the application for its exemption has met the criteria of s. 196.195, the property appraiser may accept, in lieu of the annual application for exemption, a statement certified under oath that there has been no change in the ownership and use of the property.

(5) The owner of property that received an exemption in the prior year, or a property owner who filed an original application that was denied in the prior year solely for not being timely filed, may reapply on a short form as provided by the department. The short form shall require the applicant to affirm that the use of the property and his or her status as a permanent resident have not changed since the initial application.

(6) Once an original application for tax exemption has been granted, in each succeeding year on or before February 1, the property appraiser shall mail a renewal application to the applicant, and the property appraiser shall accept from each such applicant a renewal application on a form to be prescribed by the Department of Revenue. Such renewal application shall be accepted as evidence of exemption by the property appraiser unless he or she denies the application. Upon denial, the property appraiser shall serve, on or before July 1 of each year, a notice setting forth the grounds for denial on the applicant by first-class mail. Any applicant objecting to such denial may file a petition as provided for in s. 194.011(3).

(7) The value adjustment board shall grant any exemption for an otherwise eligible applicant if the applicant can clearly document that failure to apply by March 1 was the result of postal error.

(8) Any applicant who is qualified to receive any exemption under subsection (1) and who fails to file an application by March 1, may file an application for the exemption and may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the exemption be granted. Such petition may be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser as provided in s. 194.011(1). Notwithstanding the provisions of s. 194.013,

such person must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the exemption and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the exemption, the property appraiser or the value adjustment board may grant the exemption.

FL ST § 196.193

(1) Property exempt from annual filing.

(a) All property exempted from the annual application requirement of s. 196.011 shall be returned, but shall be granted tax exemption by the property appraiser. However, no such property shall be exempt which is rented or hired out for other than religious, educational, or other exempt purposes at any time.

(b) The property appraiser may deny exemption to property claimed by religious organizations to be used for any of the purposes set out in s. 196.011 if the use is not clear or if the property appraiser determines that the property is being held for speculative purposes or that it is being rented or hired out for other than religious or educational purposes.

(c) If the property appraiser does deny such property a tax exemption, appeal of the determination to the value adjustment board may be made in the manner prescribed for appealed tax exemptions.

(2) Applications required by this chapter shall be filed on forms distributed to the property appraisers by the Department of Revenue. Such forms shall call for accurate description of the property, the value of such property, and the use of such property.

(3) Upon receipt of an application for exemption, the property appraiser shall determine:

(a) Whether the applicant falls within the definition of any one or several of the exempt classifications.

(b) Whether the applicant requesting exemption uses the property predominantly or exclusively for exempt purposes.

(c) The extent to which the property is used for exempt purposes.

In doing so, the property appraiser shall use the standards set forth in this chapter as applied by regulations of the Department of Revenue.

(4) The property appraiser shall find that the person or organization requesting exemption meets the requirements set forth in paragraphs (3)(a) and (b) before any exemption can be granted.

(5) In the event the property appraiser shall determine that any property claimed as wholly or partially exempt under this section is not entitled to any exemption or is entitled to an exemption to an extent other than that requested in the application, he or she shall notify the person or organization filing the application on such property of that determination in writing on or before July 1 of the year for which the application was filed. All notifications must specify the right to appeal to the value adjustment board and the procedures to follow in obtaining such an appeal. Thereafter, the person or organization filing such application, or a duly designated representative, may appeal that determination by the property appraiser to the board at the time of its regular hearing. In the event of an appeal, the property appraiser or the property appraiser's representative shall appear at the board hearing and present his or her findings of fact. If the applicant is not present or represented at the hearing, the board may make a determination on the

basis of information supplied by the property appraiser or such other information on file with the board.

#### **D. Obligation to File Copies of Lease or Agreements.**

FL ST § 196.199

(5) Leasehold interests in governmental property shall not be exempt pursuant to this subsection unless an application for exemption has been filed on or before March 1 with the property appraiser. The property appraiser shall review the application and make findings of fact which shall be presented to the value adjustment board at its convening, whereupon the board shall take appropriate action regarding the application. If the exemption in whole or in part is granted, or established by judicial proceeding, it shall remain valid for the duration of the lease unless the lessee changes its use, in which case the lessee shall again submit an application for exemption. The requirements set forth in s. 196.194 shall apply to all applications made under this subsection.

#### **E. Notification Requirements After Change in Use or Ownership.**

FL ST § 197.263

(1) In the event that there is a change in use of tax-deferred property such that the owner is no longer entitled to claim homestead exemption for such property pursuant to s. 196.031(1), or such person fails to maintain the required fire and extended insurance coverage, the total amount of deferred taxes and interest for all previous years shall be due and payable November 1 of the year in which the change in use occurs or on the date failure to maintain insurance occurs and shall be delinquent on April 1 of the year following the year in which the change in use or failure to maintain insurance occurs.

(2) In the event that there is a change in ownership of tax-deferred property, the total amount of deferred taxes and interest for all previous years shall be due and payable on the date the change in ownership takes place and shall be delinquent on April 1 following said date. When, however, the change in ownership is to a surviving spouse and such spouse is eligible to claim homestead exemption on such property pursuant to s. 196.031(1), such surviving spouse may continue the deferral of previously deferred taxes and interest pursuant to the provisions of this act.

(3) Whenever the property appraiser discovers that there has been a change in the ownership or use of property which has been granted a tax deferral, the property appraiser shall notify the tax collector in writing of the date such change occurs, and the tax collector shall collect any taxes and interest due or delinquent.

(4) During any year in which the total amount of deferred taxes, interest, and all other unsatisfied liens on the homestead exceeds 85 percent of the assessed value of the homestead, the tax collector shall immediately notify the owner of the property on which taxes and interest have been deferred that the portion of taxes and interest which exceeds 85 percent of the assessed value of the homestead shall be due and payable within 30 days of receipt of the notice. Failure to pay the amount due shall cause the total amount of deferred taxes and interest to become delinquent.

(5) Each year, upon notification, each owner of property on which taxes and interest have been deferred shall submit to the tax collector a list of, and the current value of, all

outstanding liens on the owner's homestead. Failure to respond to this notification within 30 days shall cause the total amount of deferred taxes and interest to become payable within 30 days.

(6) In the event deferred taxes become delinquent under this chapter, then on or before June 1 following the date the taxes become delinquent, the tax collector shall sell a tax certificate for the delinquent taxes and interest in the manner provided by s. 197.432.

FL ST § 196.011

(9)(a) A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for exemption of property within the county after an initial application is made and the exemption granted. The waiver under this subsection of the annual application or statement requirement applies to all exemptions under this chapter except the exemption under s. 196.1995. Notwithstanding such waiver, refiling of an application or statement shall be required when any property granted an exemption is sold or otherwise disposed of, when the ownership changes in any manner, when the applicant for homestead exemption ceases to use the property as his or her homestead, or when the status of the owner changes so as to change the exempt status of the property. In its deliberations on whether to waive the annual application or statement requirement, the governing body shall consider the possibility of fraudulent exemption claims which may occur due to the waiver of the annual application requirement. It is the duty of the owner of any property granted an exemption who is not required to file an annual application or statement to notify the property appraiser promptly whenever the use of the property or the status or condition of the owner changes so as to change the exempt status of the property. If any property owner fails to so notify the property appraiser and the property appraiser determines that for any year within the prior 10 years the owner was not entitled to receive such exemption, the owner of the property is subject to the taxes exempted as a result of such failure plus 15 percent interest per annum and a penalty of 50 percent of the taxes exempted. Except for homestead exemptions controlled by s. 196.161, it is the duty of the property appraiser making such determination to record in the public records of the county a notice of tax lien against any property owned by that person or entity in the county, and such property must be identified in the notice of tax lien. Such property is subject to the payment of all taxes and penalties. Such lien when filed shall attach to any property, identified in the notice of tax lien, owned by the person who illegally or improperly received the exemption. Should such person no longer own property in that county, but own property in some other county or counties in the state, it shall be the duty of the property appraiser to record a notice of tax lien in such other county or counties, identifying the property owned by such person or entity in such county or counties, and it shall become a lien against such property in such county or counties.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

FL ST § 195.099

- (1)(a) The department shall periodically review the assessments of new, rebuilt, and expanded business reported according to s. 193.077(3), to ensure parity of level of assessment with other classifications of property.
- (b) The provisions of this subsection shall expire and be void on June 30, 2005.
- (2) The department shall review the assessments of new and expanded businesses granted an exemption pursuant to s. 196.1995 to ensure parity of level of assessment with other classifications of property.

## **B. Removal of Exemptions.**

Exemptions are removed when either the taxpayer or the assessor determines that the property no longer qualifies for the exemption. An exemption will also be removed if a taxpayer fails to file or refile for the exemption.

## **C. Assessment of Omitted Property.**

FL ST § 193.092

- (1) When it shall appear that any ad valorem tax might have been lawfully assessed or collected upon any property in the state, but that such tax was not lawfully assessed or levied, and has not been collected for any year within a period of 3 years next preceding the year in which it is ascertained that such tax has not been assessed, or levied, or collected, then the officers authorized shall make the assessment of taxes upon such property in addition to the assessment of such property for the current year, and shall assess the same separately for such property as may have escaped taxation at and upon the basis of valuation applied to such property for the year or years in which it escaped taxation, noting distinctly the year when such property escaped taxation and such assessment shall have the same force and effect as it would have had if it had been made in the year in which the property shall have escaped taxation, and taxes shall be levied and collected thereon in like manner and together with taxes for the current year in which the assessment is made. But no property shall be assessed for more than 3 years' arrears of taxation, and all property so escaping taxation shall be subject to such taxation to be assessed in whomsoever's hands or possession the same may be found; provided, that the county property appraiser shall not assess any lot or parcel of land certified or sold to the state for any previous years unless such lot or parcel of lands so certified or sold shall be included in the list furnished by the Comptroller to the county property appraiser as provided by law; provided, if real or personal property be assessed for taxes, and because of litigation delay ensues and the assessment be held invalid the taxing authorities, may reassess such property within the time herein provided after the termination of such litigation; provided further, that personal property acquired in good faith by purchase shall not be subject to assessment for taxes for any time prior to the time of such purchase, but the individual or corporation liable for any such assessment shall continue personally liable for same.
- (2) The provisions of this section shall apply to property of every class and kind upon which ad valorem tax is assessable by any state or county authority under the laws of the state.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

FL ST § 194.036

Appeals of the decisions of the board shall be as follows:

- (1) If the property appraiser disagrees with the decision of the board, he or she may appeal the decision to the circuit court if one or more of the following criteria are met:
  - (a) The property appraiser determines and affirmatively asserts in any legal proceeding that there is a specific constitutional or statutory violation, or a specific violation of administrative rules, in the decision of the board, except that nothing herein shall authorize the property appraiser to institute any suit to challenge the validity of any portion of the constitution or of any duly enacted legislative act of this state;
  - (b) There is a variance from the property appraiser's assessed value in excess of the following: 15 percent variance from any assessment of \$50,000 or less; 10 percent variance from any assessment in excess of \$50,000 but not in excess of \$500,000; 7.5 percent variance from any assessment in excess of \$500,000 but not in excess of \$1 million; or 5 percent variance from any assessment in excess of \$1 million; or
  - (c) There is an assertion by the property appraiser to the Department of Revenue that there exists a consistent and continuous violation of the intent of the law or administrative rules by the value adjustment board in its decisions. The property appraiser shall notify the department of those portions of the tax roll for which the assertion is made. The department shall thereupon notify the clerk of the board who shall, within 15 days of the notification by the department, send the written decisions of the board to the department. Within 30 days of the receipt of the decisions by the department, the department shall notify the property appraiser of its decision relative to further judicial proceedings. If the department finds upon investigation that a consistent and continuous violation of the intent of the law or administrative rules by the board has occurred, it shall so inform the property appraiser, who may thereupon bring suit in circuit court against the value adjustment board for injunctive relief to prohibit continuation of the violation of the law or administrative rules and for a mandatory injunction to restore the tax roll to its just value in such amount as determined by judicial proceeding. However, when a final judicial decision is rendered as a result of an appeal filed pursuant to this paragraph which alters or changes an assessment of a parcel of property of any taxpayer not a party to such procedure, such taxpayer shall have 60 days from the date of the final judicial decision to file an action to contest such altered or changed assessment pursuant to s. 194.171(1), and the provisions of s. 194.171(2) shall not bar such action.
- (2) Any taxpayer may bring an action to contest a tax assessment pursuant to s. 194.171.
- (3) The circuit court proceeding shall be de novo, and the burden of proof shall be upon the party initiating the action.

# GEORGIA

## WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

GA ST 48-5-41

(a) The following property shall be exempt from all ad valorem property taxes in this state:

(1) Public Property

(A) Except as provided in this paragraph, all public property.

(B) No public real property which is owned by a political subdivision of this state and which is situated outside the territorial limits of the political subdivision shall be exempt from ad valorem taxation unless the property is:

- (i) Developed by grading or other improvements to the extent of at least 25 percent of the total land area and facilities are located on the property which are actively used for a public or governmental purpose;
- (ii) Three hundred acres or less in area;
- (iii) Located inside a county embracing all or part of a municipality owning such property; or

(iv) That portion of any real property which has been designated as a watershed by the United States Soil and Water Conservation Service and used as a watershed by the political subdivision owning the property.

(C) Property which is owned by and used exclusively as the general state headquarters of a nonprofit corporation organized for the primary purpose of encouraging cooperation between parents and teachers to promote the education and welfare of children and youth, notwithstanding the fact that such nonprofit corporation may derive income from fees or dues paid by persons, organizations, or associations to affiliate with such nonprofit corporation, shall be considered to be an extension of the public schools of this state and such property shall be considered to be public property within the meaning of this paragraph.

(D) Property which is held by a Georgia nonprofit corporation whose income is exempt from federal income tax pursuant to Section 115 of the Internal Revenue Code of 1986 and held exclusively for the benefit of a county, municipality, or school district shall be considered to be public property within the meaning of this paragraph.

(2) All places of burial;

(2.1) Religious Exemption.

(A) All places of religious worship; and

(B) All property owned by and operated exclusively as a church, an association or convention of churches, a convention mission agency, or as an integrated auxiliary of a church or convention or association of churches, when such entity is qualified as an exempt religious organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and such property is used in a manner consistent with such exemption under Section 501(c)(3) of the Internal Revenue Code of

1986, as amended;

- (3) All property owned by religious groups and used only for single-family residences when no income is derived from the property;
- (4) All institutions of purely public charity;
- (5) Hospitals.
  - (A) All property of nonprofit hospitals used in connection with their operation when the hospitals have no stockholders, have no income or profit which is distributed to or for the benefit of any private person, and are subject to the laws of this state regulating nonprofit or charitable corporations;
  - (B) Property exempted pursuant to this paragraph shall not include property of a nonprofit hospital held primarily for investment purposes or used for purposes unrelated to:
    - (i) Providing of patient care;
    - (ii) Providing and delivery of health care services; or
    - (iii) Training and education of physicians, nurses, and other health care personnel;
- (6) All buildings erected for and used as a college, incorporated academy, or other seminary of learning;
- (7) All funds or property held or used as endowment by colleges, nonprofit hospitals, incorporated academies, or other seminaries of learning when the funds or property are not invested in real estate;
- (8) When used by or connected with any public library, all the real and personal property of such library and all the real and personal property of any other literary association;
- (12) Home for the aged.
  - (A) Property of a nonprofit home for the aged used in connection with its operation when the home for the aged has no stockholders and no income or profit which is distributed to or for the benefit of any private person and when the home is qualified as an exempt organization under the United States Internal Revenue Code, Section 501(c)(3), as amended, and Code Section 48-7-25, and is subject to the laws of this state regulating nonprofit and charitable corporations;
- (13) Home for the mentally disabled.
  - (A) All property of any nonprofit home for the mentally disabled used in connection with its operation when the home for the mentally disabled has no stockholders and no income or profit which is distributed to or for the benefit of any private person and when the home is qualified as an exempt organization under the United States Internal Revenue Code of 1954, Section 501(c)(3), as amended, and Code Section 48-7-25, and is subject to the laws of this state regulating nonprofit and charitable corporations.
- (14) Property that is owned by and used exclusively as the headquarters, post home, or similar facility of a veteran's organization. As used in this paragraph, the term "veterans organization" means any organization or association chartered by the Congress of the United States which is exempt from federal income taxes but only if such organization is a post or organization of past or present members of the armed forces of the United States organized in the State of Georgia with at least 75

percent of the members of which are past or present members of the armed forces of the United States, and where no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(15) Property that is owned by an historical fraternal benefit association and which is used exclusively for charitable, fraternal, and benevolent purposes. As used in this paragraph "fraternal benefit association" means any organization qualified as an exempt organization under the United States Internal Revenue Code of 1954, Section 501(c)(10), as amended, where such organization has a representative form of government and a lodge system with a ritualistic form of work for the meeting of its chapters or other subordinate bodies and whose founding organization received its charter from the General Assembly of Georgia prior to January 1, 1880.

(b) The exemptions provided for in this Code section which refer to colleges, nonprofit hospitals, incorporated academies, or other seminaries of learning shall only apply to those colleges, nonprofit hospitals, incorporated academies, or other seminaries of learning which are open to the general public.

(c) The property exempted by this Code section, excluding property exempted by paragraph (1) of subsection (a) of this Code section, shall not be used for the purpose of producing private or corporate profit and income distributable to shareholders in corporations owning such property or to other owners of such property, and any income from such property shall be used exclusively for religious, educational, and charitable purposes or for either one or more of such purposes and for the purpose of maintaining and operating such religious, educational, and charitable institutions.

(d) This Code section, excluding paragraph (1) of subsection (a) of this Code section, shall not apply to real estate or buildings which are rented, leased, or otherwise used for the primary purpose of securing an income thereon and shall not apply to real estate or buildings which are not used for the operation of religious, educational, and charitable institutions. Donations of property to be exempted shall not be predicated upon an agreement, contract, or other instrument that the donor or donors shall receive or retain any part of the net or gross income of the property.

#### GA ST 2-10-7

It is found, determined, and declared that the creation of the building authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of this state and that the building authority is an institution of purely public charity and will be performing an essential governmental function in the exercise of the power conferred upon it by this article. This state covenants with the holders of the bonds that the building authority shall be required to pay no taxes or assessments upon any of the property acquired or leased by it under its jurisdiction, control, possession, or supervision or upon its activities in the operation or maintenance of the projects erected by it nor any fees, rentals, or other charges for the use of such projects or other income received by the building authority and that the bonds of the building authority, their transfer, and the income there from shall at all times be exempt from taxation from within the state.

#### GA ST 50-9-13

It is found, determined, and declared that the creation of the building authority and the carrying out of its corporate purpose are in all respects for the benefit of the people of this state and are a public purpose and the building authority will be performing an essential governmental function in the exercise of the power conferred upon it by this article and Article 2 of this chapter. This state covenants with the holders of the bonds that the building authority shall be required to pay no taxes or assessments upon any of the property acquired or leased by it or under its jurisdiction, control, possession, or supervision or upon its activities in the operation or maintenance of the buildings erected or acquired by it or any fees, rentals, or other charges for the use of such buildings or other income received by the building authority and that the bonds of the building authority, their transfer, and the income there from shall at all times be exempt from taxation within the state.

#### GA ST 20-2-571

The creation of the education authority and the carrying out of its corporate purpose shall be a public purpose and in all respects for the benefit of the people of this state. The education authority will be performing an essential governmental function in the exercise of the power conferred upon it by this part; and this state covenants with the holders of the bonds that the education authority shall be required to pay no taxes or assessments upon any of the property acquired or leased by it or under its jurisdiction, control, possession, or supervision or upon its activities in the operation or maintenance of the buildings erected or acquired by it or any fees, rentals, or other charges for the use of such buildings or other income received by the education authority and that the bonds of the education authority and the income there from shall at all times be exempt from taxation within the state.

#### GA ST 20-3-170

The creation of the university education authority and the carrying out of its corporate purpose is in all respects for the benefit of the people of this state and is a public purpose, and the university education authority will be performing an essential governmental function in the exercise of the power conferred upon it by this article; and this state covenants with the holders of the bonds that the university education authority shall be required to pay no taxes or assessments upon any of the property acquired or leased by it or under its jurisdiction, control, possession, or supervision or upon its activities in the operation or maintenance of the buildings erected or acquired by it or any fees, rentals, or other charges for the use of such buildings or other income received by the university education authority, and that the bonds of the university education authority, their transfer, and the income there from shall at all times be exempt from taxation within the state.

#### GA ST 20-3-209

The creation of the private colleges and universities authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of this state and is a public purpose, and the private colleges and universities authority will be performing an essential governmental function in the exercise of the power conferred upon it by this

article; the state covenants with the holders of the bonds and any interest coupons appertaining thereto that the private colleges and universities authority shall be required to pay no taxes or assessments imposed by the state or any of its counties, municipal corporations, political subdivisions, or taxing districts upon any of the property acquired or leased by it or under its jurisdiction, control, possession, or supervision or upon its activities in the operation or maintenance of the buildings erected or acquired by it or upon any fees, rentals, charges, or purchase price, received in installments or otherwise, pertaining to such buildings or upon other income received by the private colleges and universities authority; that the bonds of the private colleges and universities authority, their transfer, and the interest and income there from shall at all times be exempt from taxation within this state; and that the recording of any indenture or security deed by the private colleges and universities authority shall be exempt from recording taxes and fees and from intangibles tax. The tax exemption provided in this Code section shall not include any exemption from sales or use tax on property purchased by the private colleges and universities authority or for use by the private colleges and universities authority, except that the private colleges and universities authority shall be entitled to such exemption with respect to property for any particular project as is available to the participating institution for higher education pursuant to Article 1 of Chapter 8 of Title 48.

#### GA ST 31-7-34

It is found, determined, and declared that the creation of the hospital building authority and the carrying out of its corporate purpose are in all respects for the benefit of the people of this state and are public purposes and that the hospital building authority will be performing an essential governmental function in the exercise of the power conferred upon it by this article. This state covenants with the holders of the bonds that the hospital building authority shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession, or supervision or upon its activities in the operation or maintenance of the buildings erected or acquired by it or any fees, rentals, or other charges for the use of such buildings or other income received by the hospital building authority and that the bonds of the hospital building authority, their transfer, and the income there from shall at all times be exempt from taxation within the state.

#### GA ST 31-7-118

(a) Each residential elderly care facilities authority created under this article is created for nonprofit and public purposes, and it is found, determined, and declared that:

(1) The creation of each such residential elderly care facilities authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of this state;

(2) The residential elderly care facilities authority is an institution of purely public charity and will be performing an essential governmental function in the exercise of the powers conferred upon it by this article; and for such reasons, the state covenants with the holders of the bonds issued under this article that the residential elderly care facilities authority shall be required to pay no taxes or assessments imposed by the state or any of its counties, municipal corporations, political

subdivisions, or taxing districts upon any property acquired by the residential elderly care facilities authority or under its jurisdiction, control, possession, or supervision or leased by it to others or upon its activities in the operation or maintenance of any such property or on any income derived by the residential elderly care facilities authority in the form of fees, recording fees, rentals, charges, purchase price, installments, or otherwise; and

(3) The bonds of the residential elderly care facilities authority, their transfer, and the income derived there from shall at all times be exempt from taxation within the state.

(b) The tax exemption provided in this Code section shall not include any exemption from sales and use tax on property purchased by the residential elderly care facilities authority or for use by the residential elderly care facilities authority.

#### GA ST 33-15-83

Every fraternal benefit society organized or licensed under this chapter is declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal, and school taxes other than taxes on real estate and office equipment.

#### GA ST 36-61-14

(a) All property of a municipality or county, including funds owned or held by it for the purposes of this chapter, shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same, nor shall judgment against a municipality or county be a charge or lien upon such property; provided, however, that this Code urban redevelopment section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this chapter by a municipality or county on its rents, fees, grants, or revenues from urban redevelopment projects.

(b) The property of a municipality or county, acquired or held for the purpose of this chapter, is declared to be public property used for essential public and governmental purposes and such property shall be exempt from all taxes of the municipality, the county, the state, or any political subdivision thereof. Such tax exemption shall terminate when the municipality or county sells, leases, or otherwise disposes of property in an urban redevelopment area to a purchaser or lessee who or which is not a public body.

#### GA ST 36-62-3

This chapter is passed pursuant to authority granted the General Assembly by Article IX, Section VI, Paragraph III of the Constitution of this state. Each development authority created by this chapter is created for nonprofit and public purposes, and it is found, determined, and declared that the creation of each such development authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of this state and that the development authority is an institution of purely public charity and will be performing an essential governmental function in the exercise of the power conferred upon it by this chapter. For such reasons, the state covenants, from time to time, with the holders of the bonds issued under this chapter that such development authority shall be required to pay no taxes or assessments imposed by the state or any of its counties,

municipal corporations, political subdivisions, or taxing districts upon any property acquired by the development authority or under its jurisdiction, control, possession, or supervision or leased by it to others or upon its activities in the operation or maintenance of any such property or on any income derived by the development authority in the form of fees, recording fees, rentals, charges, purchase price, installments, or otherwise, and that the bonds of such development authority, their transfer, and the income there from shall at all times be exempt from taxation within this state. The tax exemption provided in this Code section shall not include any exemption from sales and use tax on property purchased by the development authority or for use by the development authority.

#### GA ST 50-10-6

It is found, determined, and declared that the creation of this development authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state and that the development authority is an institution of purely public charity and will be performing an essential governmental function in the exercise of the power conferred upon it by this chapter. For such reasons the state covenants with the holders from time to time of the bonds, notes, and other obligations issued under this chapter that the development authority shall not be required to pay any taxes or assessments imposed by the state or any of its counties, municipal corporations, political subdivisions, or taxing districts upon any property acquired by the development authority or under its jurisdiction, control, possession, or supervision or leased by it to others, or upon its activities in the operation or maintenance of any such property or on any income derived by the development authority in the form of fees, recording fees, rentals, charges, purchase price, installments, or otherwise, and that the bonds, notes, and other obligations of the development authority, their transfer, and the income there from shall at all times be exempt from taxation within the state. The tax exemption provided in this chapter shall not include any exemption from sales and use tax on property purchased by the development authority or for use by the development authority.

#### GA ST 36-63-3

This chapter is enacted pursuant to authority granted to the General Assembly by the Constitution of Georgia. Each resource recovery development authority created by this chapter is created for nonprofit and public purposes; and it is found, determined, and declared that the creation of each such resource recovery development authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of this state and that the resource recovery development authority is an institution of purely public charity and will be performing an essential governmental function in the exercise of the power conferred upon it by this chapter. For such reasons, the state covenants from time to time with the holders of the bonds issued under this chapter that such resource recovery development authority shall be required to pay no taxes or assessments imposed by the state or any of its counties, municipal corporations, political subdivisions, or taxing districts upon any property acquired by the resource recovery development authority or under its jurisdiction, control, possession, or supervision or leased by it to others; or upon its activities in the operation or maintenance of any such property or on any income derived by the resource recovery development authority in the form of fees, recording fees, rentals, charges, purchase price, installments, or otherwise; and that the

bonds of such resource recovery development authority, their transfer, and the income there from shall at all times be exempt from taxation within the state. The tax exemption provided in this Code section shall not include any exemption from sales and use tax on property purchased by the resource recovery development authority or for use by the resource recovery development authority.

#### GA ST 48-5-55

(a) Exemptions from ad valorem taxation granted by or pursuant to constitutional amendments other than general constitutional amendments of state-wide application, which exemptions were in effect on June 30, 1983, are continued in effect as statutory law until otherwise provided for by law.

(b) The provisions of this part shall not prohibit any otherwise lawful local Act from granting exemptions from ad valorem taxes other than state ad valorem taxes, which exemptions are in addition to or in place of the exemptions granted pursuant to this part.

#### GA ST 48-7-25

(a) The following organizations shall be exempt from taxation imposed by Code Section 48-7-21 unless the exemption is denied under subsection (b) or (c) of this Code section:

- (1) Those organizations described by Section 501(c), 501(d), 501(e), 664, or 401 of the Internal Revenue Code of 1986. Organizations described in this paragraph shall be exempt from taxation for state purposes in the same manner and to the same extent as for federal purposes; and
- (2) Insurance companies which pay to the state a tax upon premium income.

#### GA ST 48-13-71

The following are exempt from the payment of the tax imposed by this article:

- (1) Those organizations not organized for pecuniary gain or profit; and
- (2) Insurance companies which are separately taxed.

Property of a private firefighting service was exempt as a "purely public charity." *Chatham County Bd. of Tax Assessors v. Southside Communities Fire Protection, Inc.*, 217 Ga. App. 361, 457 S.E.2d 267 (1995).

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions.**

Exemptions strictly construed and must follow intent of General Assembly. -- Exemptions from taxation must be strictly construed, and an exemption will not be held to be conferred unless the terms under which it is granted clearly and distinctly show that such was the intention of the General Assembly. *Gold Kist, Inc. v. Jones*, 231 Ga. 881, 204 S.E.2d 584 (1974) (decided under former Code 1933, s 92-201); *Collins v. Mills*, 198 Ga. 18, 30 S.E.2d 866 (1944) (decided under former Code 1933, s 92-201); *Presbyterian Ctr., Inc. v. Henson*, 221 Ga. 750, 146 S.E.2d 903 (1966) (decided under former Code 1933, s 92-201); *Johnson v. Wormsloe Found., Inc.*, 228 Ga. 722, 187 S.E.2d 682 (1972)

(decided under former Code 1933, s 92-201); *Annandale of Suwanee, Inc. v. Gwinnett County Bd. of Tax Assessors*, 242 Ga. 241, 248 S.E.2d 640 (1978) (decided under former Code 1933, s 92-201).

Since taxation is the rule and exemption is the exception, tax exemptions are to be strictly construed. *Leggett v. Macon Baptist Ass'n*, 232 Ga. 27, 205 S.E.2d 197 (1974) (decided under former Code 1933, s 92-201).

What constitutes charitable institution generally. -- Hospitals, almshouses, asylums for the insane, for the deaf and dumb, or the blind, orphan asylums, homes of various kinds, soup houses, etc., permanently established and open, without charge, to the whole public, or to the whole of the classes for whose relief they are intended or adapted, are institutions of the exempt order, irrespective of their ownership, and without regard to whether they have behind them, or connected with them, any institution in the personal or ideal sense of the term, or not. *Trustees of Academy v. Bohler*, 80 Ga. 159, 161, 7 S.E. 633 (1887) (decided under former Code 1882, s 798).

In determining whether property qualifies for exemption as an institution of "purely public charity" as set forth in paragraph (a)(4), three factors must be considered and must coexist.

- (1) The owner must be an institution devoted entirely to charitable pursuits
- (2) The charitable pursuits of the owner must be for the benefit of the public
- (3) The use of the property must be exclusively devoted to those charitable pursuits.

*York Rite Bodies v. Board of Equalization*, 261 Ga. 558, 408 S.E.2d 699 (1991).

## **B. Partial Exemptions.**

GA ST 48-7-25

(c) Partial exemptions.

- (1) A tax is imposed on income of an organization exempted pursuant to paragraph (1) of subsection (a) of this Code section when the income is derived from trade or business which is not related to exempt purposes of organizations described in paragraph (1) of subsection (a) of this Code section. This income shall be referred to as unrelated business income and shall be the income which is defined in Section 512 of the Internal Revenue Code of 1986. The tax imposed on unrelated business income shall be at the rate provided in Code Section 48-7-21.
- (2) If an organization is exempt under Section 501(c)(4) of the United States Internal Revenue Code of 1986, if the organization makes payments of death benefits as a result of the death of a member of the organization, and if payments have been made by the organization for at least five years prior to January 1, 1977, the payments shall be deductible from the unrelated business income tax which might be owed by the organization. The payment of such death benefits shall not operate to generate a rebate or a refund. If the amount of death benefits paid within the taxable year exceeds the unrelated business income tax owed for the same taxable year, the excess may be carried forward for a period of five years.

Exemption of property used partly for income-producing purposes. -- Where the property of an institution of purely public charity is used partly for purposes of corporate income, the most that the corporation can claim is, that the comparative value of the part used for income, and the part not so used, may be distinguished in making its tax returns, and that the latter part by due apportionment of value, shall be spared from taxation, under this section. *Massenburg v. Grand Lodge, F. & A.M.*, 81 Ga. 212, 7 S.E. 636 (1888) (decided under former Code 1882, s 798); *Hurlbutt Farm v. Medders*, 157 Ga. 258, 121 S.E. 321 (1924) (decided under former Civil Code 1910, s 998).

Where an institution is a purely public charity and meets the requirements of this section, the portion of its property which is being used as a home for the aged is tax exempt. However, where part of the building consists of two retail stores which are leased, that part would not be tax exempt, since the area where the stores are located is being used to gain rental and not for the primary purpose of operating the inn. *Peachtree on Peachtree Inn, Inc. v. Camp*, 120 Ga. App. 403, 170 S.E.2d 709 (1969) (decided under former Code 1933, s 92-201).

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

GA ST 48-7-25

(b) Procedures.

(1) An organization requesting exemption under paragraph (1) of subsection (a) of this Code section shall file a written application with the commissioner. The commissioner shall issue a determination letter or ruling to an organization requesting the exemption and shall either grant or disallow the requested exempt status. Until a determination letter granting exempt status is issued by the commissioner, no exempt status shall exist. Those organizations which have an exempt status in effect under Section 501(c), 501(d), 501(e), 664, or 401 of the Internal Revenue Code of 1986 on January 1, 1987, shall retain the exempt status unless revoked as provided by law. The commissioner may issue rules governing the filing of written applications and the issuance of determination letters.

### **B. Procedures for Retaining an Exemption.**

GA ST 48-5-45

(a) Homestead exemption procedures.

(1) An applicant seeking a homestead exemption as provided in Code Section 48-5-44 shall file a written application and schedule with the tax receiver or tax commissioner charged with the duty of receiving returns of property for taxation:

(A) On or before June 1; or

(B) In all counties providing for the collection and payment of ad valorem taxes in installments, on or before May 1, or such different date as may be established by local Act.

(2) The failure to file properly the application and schedule shall constitute a

waiver of the homestead exemption on the part of the applicant failing to make the application for such exemption for that year.

(b) In all counties having a population of not less than 81,300 nor more than 89,000 according to the United States decennial census of 1990 or any future such census, the written application and schedule required in subsection (a) of this Code section shall be filed on or before March 1 of the year in which exemption from taxation is sought.

(d) The owner of a homestead which is actually occupied by the owner as a residence and homestead shall not have to apply for the exemption more than once so long as the owner remains in continuous occupation of the residence as a homestead. The exemption shall automatically be renewed from year to year so long as the owner continuously occupies the residence as a homestead.

#### GA ST 48-5-48.1

(a) Any person, firm, or corporation seeking an exemption from ad valorem taxation of certain tangible personal property inventory when such exemption has been authorized by the governing authority of any county or municipality after approval of the electors of such county or municipality pursuant to the authority of the Constitution of Georgia or Code Section 48-5-48.2 shall file a written application and schedule of property with the county board of tax assessors on forms furnished by such board. Such application shall be filed in the year in which exemption from taxation is sought no later than the date on which the tax receiver or tax commissioner of the county in which the property is located closes his books for the return of taxes.

(b) The application for the tangible personal property inventory exemption shall provide for:

(1) A schedule of the inventory of goods in the process of manufacture or production which shall include all partly finished goods and raw materials held for direct use or consumption in the ordinary course of the taxpayer's manufacturing or production business in the State of Georgia;

(2) A schedule of the inventory of finished goods manufactured or produced within the State of Georgia in the ordinary course of the taxpayer's manufacturing or production business when held by the original manufacturer or producer of such finished goods; and

(3) A schedule of the inventory of finished goods which on January 1 are stored in a warehouse, dock, or wharf, whether public or private, and which are destined for shipment outside the State of Georgia and the inventory of finished goods which are shipped into the State of Georgia from outside this state and which are stored for transshipment to a final destination outside this state. The information required by Code Section 48-5-48.2 to be contained in the official books and records of the warehouse, dock, or wharf where such property is being stored, which official books and records are required to be open to the inspection of taxing authorities of this state and political subdivisions thereof, shall not be required to be included as a part of or to accompany the application for such exemption.

(c) Filing procedures.

(1) For purposes of this subsection, the term "file properly" shall mean and include the timely filing of the application and complete schedule of the inventory for which exemption is sought on or before the due date specified in subsection (a) of

this Code section.

(2) The failure to file properly the application and schedule shall constitute a waiver of the exemption on the part of the person, firm, or corporation failing to make the application for such exemption for that year as follows:

(A) The failure to report any inventory for which such exemption is sought in the schedule provided for in the application shall constitute a waiver of the exemption on the part of the person, firm, or corporation failing to so report for that taxable year in an amount equal to the difference between fair market value of the inventory as reported and the fair market value finally determined to be applicable to the inventory for which the exemption is sought; and

(B) The failure to file timely such application and schedule shall constitute a waiver of the exemption until the first day of the month following the month such application and schedule are filed properly with the county tax assessor; provided, however, that unless the application and schedule are filed on or before June 1 of such year, the exemption shall be waived for that entire year.

(d) Upon receiving the application required by this Code section, the county board of tax assessors shall determine the eligibility of all types of tangible personal property listed on the application. If any property has been listed which the board believes is not eligible for the exemption, the board shall issue a letter notifying the applicant that all or a portion of the application has been denied. The denial letter shall list the type and total fair market value of all property listed on the application for which the exemption has been approved and the type and total fair market value of all property listed on the application for which the exemption has been denied. The applicant shall have the right to appeal from the denial of the exemption for any property listed and such appeal shall proceed as provided in Code Section 48-5-311. Except as otherwise provided in subparagraph (c)(2)(A) of this Code section, the county board of assessors shall not send a second letter of notification denying the exemption of all or a portion of such property listed on the application on new grounds that could and should have been discerned at the time the initial denial letter was issued.

### **C. Annual Certification.**

See Procedures for Retaining an Exemption section.

### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found requiring that agreements and/or leases be filed.

### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found that requires any notification after use or ownership changes.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

GA ST 48-5-299

(a) It shall be the duty of the county board of tax assessors to investigate diligently and to inquire into the property owned in the county for the purpose of ascertaining what real and personal property is subject to taxation in the county and to require the proper return of the property for taxation. The board shall make such investigation as may be necessary to determine the value of any property upon which for any reason all taxes due the state or the county have not been paid in full as required by law. In all cases where the full amount of taxes due the state or county has not been paid, the board shall assess against the owner, if known, and against the property, if the owner is not known, the full amount of taxes which has accrued and which may not have been paid at any time within the statute of limitations. In all cases where taxes are assessed against the owner of property, the board may proceed to assess the taxes against the owner of the property according to the best information obtainable; and such assessment, if otherwise lawful, shall constitute a valid lien against the property so assessed.

### **B. Removal of Exemptions.**

GA ST 48-7-25

(b) Procedures.

(2) Keeping the exemption.

(A) The commissioner may revoke the exempt status of any organization described in paragraph (1) of subsection (a) of this Code section when:

(i) The Internal Revenue Service revokes the exempt status of the organization;

(ii) The organization ceases to be organized or operated in the manner in which it was organized or operated at the time the exempt status was granted;

(iii) The organization engages in any prohibited transaction as set forth in the Internal Revenue Code of 1986; or

(iv) There is any material change in the character or purpose of the organization or in the mode of operation of the organization.

(B) Revocation of an exempt status shall revoke the exempt status retroactively to the time of the occurrence of the disqualifying event or events. All exempt organizations shall immediately notify the commissioner in writing of the occurrence of any of the disqualifying events described in subparagraph (A) of this paragraph or of receipt by the organization of a notice of intent to terminate its exempt status by the Internal Revenue Service. The statute of limitations governing the assessment of any taxes determined to be due this state due to the revocation of exempt status shall be tolled as of the date of the occurrence of the disqualifying event or events

described in subparagraph (A) of this paragraph. The commissioner at any time may require an organization that is exempt from taxation to file an information return stating the organization's gross income, receipts, disbursements, accumulation of income, and other data deemed necessary for the proper administration of this Code section.

### **C. Assessment of Omitted Property.**

GA ST 48-1-6

- (a) It shall be unlawful for any person, willfully and with intent to defraud the state, to:
- (1) File any return, report, protest, or claim for refund containing any false or fraudulent statement known by the person to be false;
  - (2) Omit knowingly and intentionally any fact, circumstance, condition, or thing in any written document, the omission of which constitutes a material misstatement or misrepresentation of fact; or
  - (3) By any trick, device, scheme, or plan, evade or attempt to evade any tax, license, penalty, interest, or other amount due the state.
- (b) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

GA ST 48-2-46

Any taxpayer may contest any proposed assessment or license fee made or determined by the commissioner by filing with the commissioner a written protest at any time within 30 days from the date of notice of the proposed assessment or license fee or within such other time limit as may be specified within the notice of proposed assessment or license fee, if a different time limit is specified. All protests shall be prepared in the form and contain such information as the commissioner shall reasonably require and shall include a summary statement of the grounds upon which the taxpayer relies and his reasons for disputing the finding of the commissioner. The filing of a written protest, a petition for redetermination of a deficiency, or a written request by the taxpayer for additional time for filing such a petition shall toll the period of limitations for making an assessment until the commissioner denies the petition or the request is withdrawn in writing by the taxpayer. In the event the taxpayer desires a conference or hearing, the fact of such desire must be set out in the protest. The commissioner shall grant a conference before his officers or agents as he may designate at a time he shall specify and shall make such reasonable rules governing the conduct of conferences as he may deem proper. The discretion given in this Code section to the commissioner shall be reasonably exercised on all occasions.

GA ST 48-5-49

- (a) The official receiving an application for homestead exemption shall determine the eligibility of the applicant to claim the exemption and, whether the application is approved or disapproved, he shall then transfer the application to the county board of tax

assessors for final determination by the board as to eligibility and value as provided by law.

(b) The applicant shall have the right of appeal from the decision of the board of assessors to the county board of equalization as provided in Code Section 48-5-311.

#### GA ST 48-5-274

(e) Complaint on valuation of school property.

(1) Each county governing authority, each governing authority of a municipality having an independent school system, and each local board of education, when aggrieved or when having an aggrieved constituent, shall have a right, upon written request made within 30 days after receipt of the digest information, to refer the question of correctness of the current equalized adjusted school property tax digest of the local school system to the state auditor. The state auditor shall take any steps necessary to make a determination of the correctness of the digest and to notify all interested parties of the determination within 45 days after receiving the request questioning the correctness of the digest.

(2) Second level of appeals.

(A) If any party questioning the correctness of the digest is dissatisfied with the determination made by the state auditor pursuant to paragraph (1) of this subsection, the party shall have the right, which must be exercised within 15 days after being notified of the determination made by the state auditor, to refer in writing the question of the correctness of the digest to a board of arbitrators.

(B) Each board of arbitrators shall consist of three members, one to be chosen by the state auditor within 15 days after receipt of a written complaint, one to be chosen by the complaining party at the time of requesting the arbitration, and one to be chosen within 15 days after selection of the first two members by the first two members of the board. In the event the two arbitrators cannot agree on a third member, the Chief Justice of the Supreme Court of Georgia shall appoint the third member upon petition of either party with notice to the opposing party.

(C) The board of arbitrators or a majority of the board within 30 days after appointment of the full board shall render its decision regarding the correctness of the digest in question and, if correction of the digest is required, regarding the extent and manner in which the digest should be corrected. The decision of the board shall be final.

(D) The state auditor shall correct the digest in question in accordance with the decision of the board of arbitrators and shall report the corrections to the parties entitled to receive such information under this Code section.

(E) Each member of the board of arbitrators shall take and subscribe to an oath before the state auditor to perform faithfully and impartially the duties required in connection with the controversy concerning the correctness of the digest in question and to render a decision within the time required. Each member of the board of arbitrators shall be paid a sum not to exceed \$250.00 per day for services rendered. All costs of arbitration of matters arising under this Code section shall be shared and paid equally by the Department of

Audits and Accounts and by the governing authority of the local board of education requesting the arbitration.

(3) Upon receiving notice that the current equalized adjusted school property tax digest of any local school system is being questioned pursuant to paragraph (1) of this subsection, the state auditor shall notify the State Board of Education that the digest is being questioned. No computations shall be made on the basis of a questioned digest under Article 6 of Chapter 2 of Title 20, the "Quality Basic Education Act," until the digest has been corrected, if necessary, pursuant to this subsection.

## HAWAII

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

HI ST s 246-32

(a) There shall be exempt from real property taxes real property designated in subsection (b) or (c) and meeting the requirements stated therein, actually and (except as otherwise specifically provided) exclusively used for nonprofit purposes. If an exemption is claimed under one of these subsections (b) or (c), an exemption for the same property may not also be claimed under the other of these subsections.

(b) This subsection applies to property owned in fee simple, leased, or rented for a period of one year or more, by the person using the property for the exempt purposes, hereinafter referred to as the person claiming the exemption. If the property for which exemption is claimed is leased or rented, the lease or rental agreement shall be in force and recorded in the bureau of conveyances.

Exemption is allowed by this subsection to the following property:

(1) Property used for school purposes including:

(A) Kindergartens, grade schools, junior high schools, and high schools, which carry on a program of instruction meeting the requirements of the compulsory school attendance law, section 302A-1132, or which are for preschool children who have attained or will attain the age of five years before January 1 of the school year; provided that any claim for exemption based on any of the foregoing uses shall be accompanied by a certificate issued by or under the authority of the department of education stating that the foregoing requirements are met;

(B) Junior colleges or colleges carrying on a general program of instruction of college level. The property exempt from taxation under this paragraph is limited to buildings used for educational purposes (including dormitories), housing owned by the school or college and used as residence for personnel employed at the school or college, campus and athletic grounds, and realty used for vocational purposes incident to the school or college.

(2) Property used for hospital and nursing home purposes, including housing for personnel employed at the hospital. In order to qualify under this paragraph the person claiming the exemption shall present with the claim a certificate issued by or under the authority of the department of health that the property for which the exemption is claimed consists of, or is a part of, hospital or nursing home facilities that are properly constituted under the law and maintained to serve, and that do serve the public.

(3) Property used for church purposes, including incidental activities, parsonages, and church grounds, the property exempt from taxation being limited to realty exclusive of burying grounds (exemption for which may be claimed under paragraph (4)).

(4) Property used as cemeteries (excluding property used for cremation purposes) maintained by a religious society, or by a corporation, association, or trust

organized for this purpose.

(5) Property dedicated to public use by the owner, which dedication has been accepted by the State or any county, reduced to writing, and recorded in the bureau of conveyances; and property which has been set aside for public use and actually used therefore for a period not less than five years after enactment of this section.

(6) Property owned by any nonprofit corporation, admission to membership of which is restricted by the corporate charter to members of a labor union; property owned by any government employees' association or organization, one of the primary purposes of which is to improve employment conditions of its members; property owned by any trust, the beneficiaries of which are restricted to members of a labor union; and property owned by any association or league of federal credit unions chartered by the United States, the sole purpose of which is to promote the development of federal credit unions in the State. Notwithstanding any provision in this section to the contrary, the exemption shall apply to property or any portion thereof that is leased, rented, or otherwise let to another, if the leasing, renting, or letting is to a nonprofit association, organization, or corporation.

(c) This subsection shall apply to property owned in fee simple or leased or rented for a period of one year or more, the lease or rental agreement being in force and recorded in the bureau of conveyances at the time the exemption is claimed, by either:

(1) A corporation, society, association, or trust having a charter or other enabling act or governing instrument which contains a provision or has been construed by a court of competent jurisdiction as providing that in the event of dissolution or termination of the corporation, society, association, or trust, or other cessation of use of the property for the exempt purpose, the real property shall be applied for another charitable purpose or shall be dedicated to the public, or

(2) A corporation chartered by the United States under Title 36, United States Code, as a patriotic society. Exemption is allowed by this subsection for property used for charitable purposes which are of a community, character building, social service, or educational nature, including museums, libraries, art academies, and senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by Section 202 of the Housing Act of 1959 as amended by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964, and the Housing and Urban Development Act of 1965.

(e) The term "for nonprofit purposes", as used in this section requires that no monetary gain or economic benefit inure to the person claiming the exemption, or any private shareholder, member, or trust beneficiary. "Monetary gain" includes without limitation any gain in the form of money or money's worth. "Economic benefit" includes without limitation any benefit to a person in the course of the person's business, trade, occupation, or employment.

HI ST s 246-36

The following real property shall be exempt from taxation:

(1) Real property belonging to the United States, to the State, or to any county; provided that real property belonging to the United States shall be taxed upon the use or occupancy

thereof as provided in section 246-37, and there shall be a tax upon the property itself if and when the Congress of the United States so permits, to the extent so permitted and in accordance with any conditions or provisions prescribed in such act of Congress; provided further that real property belonging to the State or any county, or belonging to the United States and in the possession, use, and control of the State, shall be taxed on the fee simple value thereof, and private persons shall pay the taxes thereon and shall be deemed the "owners" thereof for the purposes of this chapter, in the following cases:

(A) Property held on January 1 preceding the tax year under an agreement for its conveyance by the government to private persons shall be deemed fully taxable, the same as if the conveyance had been made;

(B) Property held on January 1 preceding the tax year under a government lease shall be entered in the assessment lists and such tax rolls for that year as fully taxable for the entire tax year, but adjustments of the taxes so assessed may be made as provided in section 246-53, so that such tenants are required to pay only so much of the taxes as is proportionate to the portion of the tax year during which the real property is held or controlled by them;

(C) Property held under a government lease commencing after January 1 preceding the tax year or under an agreement for its conveyance or a conveyance by the government, made after January 1 preceding the tax year, shall be assessed as omitted property as provided in section 246-51, but the taxes thereon shall be prorated so as to require the payment of only so much of the taxes as is proportionate to the remainder of the tax year;

(D) Property where the occupancy by the tenant for commercial purposes has continued for a period of one year or more, whether the occupancy has been on a permit, license, month-to-month tenancy, or otherwise, shall be fully taxable to the tenant after the first year of occupancy, and the property shall be assessed in the manner provided in subdivisions (B) and (C) of this paragraph for the assessment of properties held under a government lease; provided that the property occupied by the tenant solely for residential purposes on a month-to-month tenancy shall be excluded from this paragraph;

(E) In any case of occupancy of a building or structure by two or more tenants, or by the government and a tenant, under a lease for a term of one year or more, the tax shall be assessed to the tenant upon so much of the value of the entire real property as the floor space occupied by the tenant proportionately bears to the total floor space of the structure or building.

For the purposes of subdivisions (B) and (C) of this subsection: "Lease" means any lease for a term of one year or more, or which is renewable for such period as to constitute a total term of one year or more. A lease having a stated term shall, if it otherwise comes within the meaning of the term "lease," be deemed a lease notwithstanding any right of revocation, cancellation, or termination reserved therein or provided for thereby. Whenever a lease is such that the highest and best use cannot be made of the property by the lessee, the measure of the tax imposed on such property pursuant to subdivisions (B) and (C) shall be its fee simple value upon consideration of the highest and best use which can be made of the property by the lessee.

Provided further that real property belonging to the United States, even though not in the possession, use, and control of the State, shall be taxed on the fee simple value thereof; and private persons shall pay the taxes thereon and shall be deemed the "owners" thereof for the purposes of this chapter, in the following cases:

- (i) Property held on January 1 preceding the tax year under an agreement for the conveyance of the same by the government to private persons shall be deemed fully taxable, the same as if the conveyance had been made, but the assessment thereof shall not impair and shall be so made as to not impair, any right, title, lien, or interest of the United States;
  - (ii) Property held under an agreement for the conveyance of the same or a conveyance of the same by the government, made after January 1 preceding the tax year, shall be assessed as omitted property as provided in section 246-51, but the taxes thereon shall be prorated so as to require the payment of only so much of such taxes as is proportionate to the remainder of the tax year, and in the case of property held under an agreement for the conveyance of the same but not yet conveyed, the assessment thereof shall not impair, and shall be so made as to not impair, any right, title, lien, or interest of the United States;
- (2) Real property under lease to the State or any county under which lease the lessee is required to pay the taxes upon such property;
  - (3) Subject to section 101-39(B), any real property in the possession of the State or any county which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land by the State or such county; provided the fact of such possession has been certified to the department of taxation as provided by section 101-36 or 101-38, or is certified not later than December 31 preceding the tax year for which such exemption is claimed;
  - (4) Real property with respect to which the owner has granted to the State or any county thereof a right of entry and upon which the State or county has entered and taken possession under the authority of the right of entry with intention to acquire the fee simple estate therein and to devote the real property to public use; provided the State or county shall have, prior to December 31 preceding the tax year for which the exemption is claimed, certified to the appropriate tax official the date upon which it took possession;
  - (5) Any portion of real property within the area upon which construction of buildings is restricted or prohibited and which is actually rendered useless and of no value to the owners thereof by virtue of any ordinance of any county, establishing setback lines thereon; provided that in order to secure the exemption the person claiming it shall annually file between December 15 and December 31 preceding the applicable tax year a sworn written statement with the tax assessor describing the real property in detail and setting forth the facts upon which exemption is claimed, together with a written agreement that in consideration of the exemption from taxes the person will not make use of the land in any way whatsoever during the ensuing year. Any person who has secured such exemption who violates the terms of the agreement shall be fined twice the amount of the tax which would be assessed upon the land but for such exemption;
  - (6) Real property exempted by any laws of the United States which exemption is not subject to repeal by the legislature;
  - (7) Any other real property exempt by law.

HI ST s 432:2-503

Every society organized and operating or licensed under this article shall be, from the time of such organization, exempt from every state, county, and municipal tax, except real property taxes and unemployment compensation taxes; provided that nothing in this section shall be deemed to exempt the association or society from liability to withhold such taxes payable by its employees and pay the same to the proper collection officers, and to keep such records and make such returns and reports, as may be required in the case of other corporations, associations, or societies similarly exempt from the taxes hereinabove first mentioned; provided further, that the exemption hereby granted as to general excise taxes under chapter 237 shall not apply to any activity the primary purpose of which is to produce income.

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions.**

Exemption from taxation under legislative authority is to be strictly construed against the granting of the exemption. In re Taxes, Johnson, 44 Haw. 519, 356 P.2d 1028 (1960).

#### **B. Partial Exemptions.**

HI ST s 246-32

(d) If any portion of the property which might otherwise be exempted under this section is used for commercial or other purposes not within the conditions necessary for exemption (including any use the primary purpose of which is to produce income even though such income is to be used for or in furtherance of the exempt purposes) that portion of the premises shall not be exempt but the remaining portion of the premises shall not be deprived of the exemption if the remaining portion is used exclusively for purposes within the conditions necessary for exemption. In the event of an exemption of a portion of a building, the tax shall be assessed upon so much of the value of the building (including the land thereunder and the appurtenant premises) as the proportion of the floor space of the nonexempt portion bears to the total floor space of the building.

### **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

#### **A. Creation of Exemptions.**

An exemption is created when a taxpayer applies for an exemption under one of the statutes noted above. The tax assessment board grants exemptions on the basis of the criteria indicated in the first section of this report.

## **B. Procedures for Retaining an Exemption.**

HI ST s 246-39.1

(a) Notwithstanding any provision in this chapter to the contrary, any real property exempt from property taxes under section 246-39 shall be exempt from property taxes from the date the property is qualified for the exemption; provided that a claim for exemption is filed with the assessor within sixty days of the qualification. As used herein, the date of the qualification shall be the date when the mortgage made by a nonprofit or limited distribution mortgagor and insured under sections 202, 221(d)(3), or 236 of the National Housing Act is filed for recording with the registrar of the bureau of conveyances or the assistant registrar of the land court of the State, whichever is applicable; provided that in the case of a mortgage made by a nonprofit or limited distribution mortgagor and filed or recorded with the registrar of the bureau of conveyances or the assistant registrar of the land court of the State prior to July 1, 1972, the date of qualification shall be July 1, 1972.

(b) After the initial year of the qualification, the claim for exemption shall be filed in the manner provided by applicable law or rule or regulation.

(c) In the event property taxes have been paid to the State in advance for real property subsequently becoming qualified for the exemption, the director of taxation shall refund to the nonprofit or limited distribution mortgagor owning the property that portion of the taxes attributable to and paid for the period after the qualification.

## **C. Annual Certification.**

HI ST s 246-23

(a) None of the exemptions from taxation granted in sections 246-26 and 246-29 to 246-33 shall be allowed in any case, unless the claimant shall have filed with the department of taxation, on or before December 31 preceding the tax year for which such exemption is claimed, a claim for exemption in such form as shall be prescribed by the department.

(b) A claim for exemption once allowed shall have continuing effect until:

(1) The exemption is disallowed;

(2) The assessor voids the claim after first giving notice (either to the claimant or to all claimants in the manner provided by either section 246-43 or section 246-40, as the case may be) that the claim or claims on file will be voided on a certain date, not less than thirty days after such notice;

(3) The five-year period for exemption, as allowed in section 246-33, expires; or

(4) The claimant makes the report required by subsection (d).

(c) A claimant may file a claim for exemption even though there is on file and in effect a claim covering the same premises, or a claim previously filed and disallowed or otherwise voided. However, no such claim shall be filed if it is identical with one already on file and having continuing effect. The report required by subsection (d) may be accompanied by or combined with a new claim.

(d) Any person who has been allowed an exemption under sections 246-26 or 246-29 to 246-33 has a duty to report to the assessor within thirty days after he ceases to qualify for such an exemption for one of, but not limited to, the following reasons:

- (1) He ceases to be the owner, lessee, or purchaser of the exempt premise;
  - (2) A change in the facts previously reported has occurred concerning the occupation, use, or renting of the premises, buildings or other improvements thereon; or
  - (3) Some other change in status has occurred which affects his exemption.
- Such report shall have the effect of voiding the claim for exemption previously filed, as provided in subsection (b)(4). The report shall be sufficient if it identifies the property involved, states the change in facts or status, and requests that the claim for exemption previously filed be voided.

In the event the property comes into the hands of a fiduciary who is answerable under sections 246-7 and 246-41, the fiduciary shall make the report required by this subsection within thirty days after his assumption of his fiduciary duties or within the time otherwise required, whichever is later.

Any person who has a duty of making a report as required by this subsection, who within the time required fails to make a report, shall be liable for a civil penalty. The amount of the penalty shall be \$100 or the amount of the taxes on the property computed without the claim for exemption as of January 1 of the year in which the report was due, whichever is lesser. The penalty shall be recovered in accordance with section 231-33. In addition to this penalty, the taxes due on the property plus any additional penalties and interest thereon shall be collected as property taxes and shall be a lien on the property in accordance with section 246-55.

(e) If the assessor is of the view that, for any year, the exemption should not be allowed, in whole or in part, he may at any time within five years of January 1 of that year disallow the exemption for that year, in whole or in part, and may add to the assessment list for that year the amount of value involved, in the manner provided by section 246-51 for the assessment of omitted property; provided that if an assessment or addition under this subsection is made after April 9 preceding the tax year, the taxes on the amount of value involved in the assessment or addition so made shall not be a lien under section 246-55 but may be made a lien as provided for in section 231-33 by recording a certificate setting forth the amount of tax involved, penalties, and interest.

(f) In any case of recordation of a certificate for the amount of the civil penalty under subsection (d), or for the amount of tax, penalties, and interest assessed or added under subsection (e), a person shall be deemed to have an interest arising before the recordation of the certificate only if and to the extent that he acquired his interest in good faith and for a valuable consideration without notice of a violation of the requirements of subsection (d) having occurred.

#### **D. Obligation to File Copies of Lease or Agreements.**

HI ST s 246-32

(a) There shall be exempt from real property taxes real property designated in subsection (b) or (c) and meeting the requirements stated therein, actually and (except as otherwise specifically provided) exclusively used for nonprofit purposes. If an exemption is claimed under one of these subsections (b) or (c), an exemption for the same property may not also be claimed under the other of these subsections.

(b) This subsection applies to property owned in fee simple, leased, or rented for a period of one year or more, by the person using the property for the exempt purposes, hereinafter referred to as the person claiming the exemption. If the property for which exemption is claimed is leased or rented, the lease or rental agreement shall be in force and recorded in the bureau of conveyances.

(c) This subsection shall apply to property owned in fee simple or leased or rented for a period of one year or more, the lease or rental agreement being in force and recorded in the bureau of conveyances at the time the exemption is claimed.

#### **E. Notification Requirements After Change in Use or Ownership.**

Taxpayers must notify the tax assessment board when there is a change in use or ownership when there is an existing exemption.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

HI ST s 246-44

On or before April 19 preceding the tax year the director of taxation shall have prepared from the records of taxable properties maintained in each district a list in triplicate of all assessments made for each district, which list shall be signed and sworn to by the person preparing it. The assessment list shall identify the property assessed by its tax key and shall set forth the general class of the property established in accordance with section 246-10(d), the valuation of buildings and the valuation of all other real property, exclusive of buildings, the amount of exemption, if any, and the net assessed value of the property. The assessment list shall be the lists in accordance with which taxes shall be collected, subject only to change made by any court or other tribunal having jurisdiction, where appeals from assessments have been duly taken and prosecuted to final determination, and subject to section 231-22. There shall be noted upon such lists all appeals taken for the year and the amounts involved in each case. The original of the assessment lists shall be retained by the assessor and a duplicate of the information contained in the list shall be retained by the director. The lists may be made up of a separate sheet or card for each property. The director shall furnish a duplicate list to the county in such form and at such time as will not interfere with the preparation of those records needed for tax collection purposes.

#### **B. Removal of Exemptions.**

An exemption is removed when there is no longer a valid exemption. The tax assessor or the taxpayer can petition to have the exemption removed. The taxpayer can also fail to refile for the exemption.

### **C. Assessment of Omitted Property.**

No statute was found that discusses omitted property.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

#### **HI ST s 232-3**

In the case of a real property tax appeal, no taxpayer or county shall be deemed aggrieved by an assessment, nor shall an assessment be lowered or an exemption allowed, unless there is shown:

- (1) Assessment of the property exceeds by more than twenty per cent the ratio of assessment to market value used by the director of taxation as the real property tax base, or
- (2) Lack of uniformity or inequality, brought about by illegality of the methods used or error in the application of the methods to the property involved, or
- (3) Denial of an exemption to which the taxpayer is entitled and for which the taxpayer has qualified, or
- (4) Illegality, on any ground arising under the Constitution or laws of the United States or the laws of the State (in addition to the ground of illegality of the methods used, mentioned in clause (2)).

#### **HI ST s 246A-4**

The right of appeal from administrative actions or determinations as now provided by law shall not be impaired by this chapter.

Each of the counties shall by ordinance provide for appeals from assessments, denial of an exemption, or the denial of a dedication.

For purposes of this transfer, all appeals from the assessment of real property taxes made to the various boards of taxation review, all appeals from the denial of an exemption made to such boards, and every other appeal made to such boards prior to July 1, 1981, shall continue to be heard and decided by the board of taxation review for the taxation district in which the appeals have been made. The jurisdiction of all such boards to hear and decide the appeal shall extend and continue over such matters until decision is filed with the assessor as provided in section 232-7. Any such decision made by the board may be appealed to the tax appeal court as provided in chapter 232.

#### **HI ST s 246-46**

Any taxpayer who may deem oneself aggrieved by an assessment made by the assessor or by the assessor's refusal to allow any exemption, may appeal from the assessment or from such refusal to a board of review or the tax appeal court, on or before April 9 preceding the tax year, as provided in chapter 232. Where such an appeal is based upon the ground that the assessed value of the real property for tax purposes is excessive, the valuation claimed by the taxpayer in the appeal shall be admissible in evidence, in any subsequent condemnation action involving the property, as an admission that the fair market value of the real property as of the date of assessment is no more than the value arrived at when the assessed value from which the taxpayer appealed is adjusted to one hundred per cent

fair market value; provided that such evidence shall not in any way affect the right of the taxpayer to any severance damages to which the taxpayer may be entitled.

The mayor or the county council of any county or the mayor or the city council of the city and county of Honolulu may appeal any assessment of real property located within the respective county which, in the mayor's or its judgment, does not fairly represent the fair market value of the property assessed when compared with other property in the same county of similar character and value, and may likewise appeal from the allowance of an exemption of any property when the exemption is not authorized by law. The appeal shall be taken to a board of review or the tax appeal court on or before April 9 preceding the tax year. In any appeal taken by a county, the county shall be a party in interest with the same right of appeal from the decision of the board of review and tax appeal court as is allowed a taxpayer under chapter 232.

Any taxpayer who has an interest in an appeal taken by the county may intervene.

## IDAHO

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

#### ID CONST Art. VII, § 4

The property of the United States, except when taxation thereof is authorized by the United States, the state, counties, towns, cities, villages, school districts, and other municipal corporations and public libraries shall be exempt from taxation; provided, however, that unimproved real property owned or held by the department of fish and game may be subject to a fee in lieu of taxes if the fees are authorized by statute but not to exceed the property tax for the property at the time of acquisition by the department of fish and game, unless the tax for that class of property shall have been increased.

#### ID CONST Art. VII, § 5

All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: provided, that the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just, and all existing exemptions provided by the laws of the territory, shall continue until changed by the legislature of the state: provided further, that duplicate taxation of property for the same purpose during the same year, is hereby prohibited.

#### ID ST § 63-602

(1) Property shall be exempt from taxation as provided in this chapter; provided, that no deduction shall be made in assessment of shares of capital stock of any corporation or association for exemptions claimed under this section, and provided further, that the term "full cash value" wherever used in this act shall mean the actual assessed value of the property as to which an exemption is claimed.

(2) The use of the words "exclusive" or "exclusively" in this chapter shall mean used exclusively for any one (1) or more, or any combination of, the exempt purposes provided hereunder and property used for more than one (1) exempt purpose, pursuant to the provisions of sections 63-602A through 63-602Z, Idaho Code, shall be exempt from taxation hereunder so long as the property is used exclusively for one (1) or more or any combination of the exempt purposes provided hereunder.

#### ID ST § 63-602A

(1) The following property is exempt from taxation: property belonging to the United States, except when taxation thereof is authorized by the congress of the United States, this state, or to any county or municipal corporation or school district within this state.

#### ID ST § 63-602B

The following property is exempt from taxation: property belonging to any religious corporation or society of this state, used exclusively for and in connection with public worship, and any parsonage belonging to such corporation or society and occupied as

such, and any recreational hall belonging to and used in connection with the activities of such corporation or society; and this exemption shall extend to property owned by any religious corporation or society which is used for any combination of religious worship, educational purposes and recreational activities, not designed for profit.

#### ID ST § 63-602C

The following property is exempt from taxation: property belonging to any fraternal, benevolent, or charitable corporation or society, the World War veteran organization buildings and memorials of this state, used exclusively for the purposes for which such corporation or society is organized; provided, that if any building or property belonging to any such corporation or society is leased by such owner or if such corporation or society uses such property for business purposes from which a revenue is derived which, in the case of a charitable organization, is not directly related to the charitable purposes for which such charitable organization exists, then the same shall be assessed and taxed as any other property, and if any such property is leased in part or used in part by such corporation or society for such purposes the assessor shall determine the value of the entire building and the value of the part used or leased for commercial purposes. If the value of the part used for commercial purposes is determined to be three percent (3% ) or less than the value of the entirety, the whole of said property shall remain exempt. If the value of the part used for commercial purposes is determined to be more than three percent (3% ) of the value of the entirety, the assessor shall assess such proportionate part of such building including the value of the real estate as is so leased or used for such purposes, and shall assess all merchandise kept for sale, and the trade fixtures used in connection with the sale of such merchandise; provided however, that the lease or use of any property by any such corporation or society for athletic or recreational facilities, residence halls or dormitories, meeting rooms or halls, auditoriums or club rooms within the purposes for which such corporation or society is organized, shall not be deemed a business or commercial purpose, even though fees or charges be imposed and revenue derived therefrom.

#### ID ST § 63-602D

- (1) For the purposes of this section, "hospital" means a hospital as defined by chapter 13, title 39, Idaho Code, and includes one (1) or more acute care, outreach, satellite, outpatient, ancillary or support facilities of such hospital whether or not any such individual facility would independently satisfy the definition of hospital.
- (2) The following property is exempt from taxation: the real property owned and personal property, including medical equipment, owned or leased by a hospital corporation which is operated as a hospital and the necessary grounds used therewith.
- (3) If real property, not currently exempt from taxation, is being prepared for use as a hospital, the value of the bare land only shall be taxed while the property is being prepared for use as a hospital. All improvements to and construction on the real property, while it is being prepared for use as a hospital, shall be exempt from taxation. For purposes of this section, property is being "prepared for use as a hospital" if the corporation has begun construction of a hospital project as evidenced by obtaining a building permit that will, on completion, qualify such property for an exemption and, as of the assessment date, has not abandoned the construction. Construction shall not be

considered abandoned if it has been delayed by causes and circumstances beyond the corporation's control or when delay is caused by an event that has occurred in the absence of the corporation's willful neglect or intentional acts, omissions or practices engaged in by the corporation for the purpose of impeding progress. Notwithstanding the foregoing, in no event shall improvements to property that is being prepared for use as a hospital qualify for an exemption from ad valorem property tax under this subsection for more than three (3) consecutive tax years; upon completion of construction and obtaining a certificate of occupancy, the entire real property shall be exempt from taxation if the corporation meets the requirements of subsection (4) of this section; provided, property already exempt or eligible for exemption shall not be affected by the provisions of this subsection.

(4) The corporation must show that the hospital:

(a) Is organized as a nonprofit corporation pursuant to chapter 3, title 30, Idaho Code, or pursuant to equivalent laws in its state of incorporation;

(b) Has received an exemption from taxation from the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code.

(5) The board of equalization shall grant an exemption to the property of any hospital corporation meeting the criteria provided in subsection (4) of this section.

ID ST § 63-602E

The following property is exempt from taxation: all property used exclusively for nonprofit school or educational purposes, and all property from which no profit is derived and which is held or used exclusively for endowment, building or maintenance purposes of schools or educational institutions.

ID ST § 63-602F

The following property is exempt from taxation:

(3) All public cemeteries;

(4) All public libraries.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Taxpayer must satisfy its burden and clearly establish a right to the exemption before an exemption will be granted. In re Evangelical Lutheran Good Samaritan Soc'y (Good Samaritan Village) v. Board of Equalization, 119 Idaho 126, 804 P.2d 299 (1990).

Statutes granting tax exemptions must be strictly construed against the taxpayer and cannot be extended by judicial construction so as to create an exemption not specifically authorized. Bogus Basin Recreational Ass'n v. Boise County Bd. of Equalization, 118 Idaho 686, 799 P.2d 974 (1990).

In determining charitable status of a nonprofit corporation under this section, a number of factors must be considered:

- (1) the stated purposes of its undertaking,
- (2) whether its functions are charitable,
- (3) whether it is supported by donations,
- (4) whether the recipients of its services are required to pay for the assistance they receive,
- (5) whether there is general public benefit,
- (6) whether the income received produces a profit,
- (7) to whom the assets would go upon dissolution of the corporation, and
- (8) whether the "charity" provided is based on need.

To be classed as charitable, an organization need not provide monetary aid to the needy but may provide any of a number of services of public benefit; the word "charitable," in a legal sense, includes every gift for general public use, whether it be for educational, religious, physical or social benefit. *Canyon County v. Sunny Ridge Manor, Inc.*, 106 Idaho 98, 675 P.2d 813 (1984).

An institution may be entitled to an exemption where it performs a function which might otherwise be an obligation of government and, thus, a nonprofit corporation may benefit only a limited group of people and still be considered "charitable" if that group of people possess a need which government might be required to fill; however, where there is no assistance to individuals which might normally require governmental funds, the institution must meet a stricter test: it must provide benefits to the community at large. *Canyon County v. Sunny Ridge Manor, Inc.*, 106 Idaho 98, 675 P.2d 813 (1984). *Coeur D'Alene Pub. Golf Club, Inc. v. Kootenai Bd. of Equalization*, 106 Idaho 104, 675 P.2d 819 (1984).

## **B. Partial Exemptions.**

### **ID ST § 63-602C**

If any such property is leased in part or used in part by such corporation or society for such purposes the assessor shall determine the value of the entire building and the value of the part used or leased for commercial purposes. If the value of the part used for commercial purposes is determined to be three percent (3% ) or less than the value of the entirety, the whole of said property shall remain exempt. If the value of the part used for commercial purposes is determined to be more than three percent (3% ) of the value of the entirety, the assessor shall assess such proportionate part of such building including the value of the real estate as is so leased or used for such purposes.

### **ID ST § 63-602D**

(6) If a hospital corporation uses property for business purposes from which a revenue is derived which is not directly related to the hospital corporation's exempt purposes, then the property shall be assessed and taxed as any other property. If property is used in part by a hospital corporation for such purposes, then the assessor shall determine the value of the entire property and the value of the part used that is not directly related to the hospital corporation's exempt purposes. If the value of the part which is not directly related to the hospital corporation's exempt purposes is determined to be three percent (3% ) or less than the value of the entire property, then the property shall remain exempt. If the value

of the part which is not directly related to the hospital corporation's exempt purposes is determined to be more than three percent (3% ) of the value of the entire property, then the assessor shall assess the proportionate part of the property, including the value of the real estate used for such purposes.

The provision of this section which expressly authorizes "such exemptions from taxation as from time to time shall seem necessary and just" does not mean that property may be wholly, but not partially, exempt; therefore, the partial exemption under § 63-105DD of owner-occupied residential improvements does not violate this section or Const. art. VII, § 2. *Simmons v. Idaho State Tax Comm'n*, 111 Idaho 343, 723 P.2d 887 (1986).

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when one of the statutes noted in the first section of this report is fulfilled. Filing procedures are based on the type of property involved.

### **B. Procedures for Retaining an Exemption.**

To retain an exemption annual filings are required as noted in the annual certification section below.

### **C. Annual Certification.**

ID ST § 63-602

(3) All exemptions from property taxation claimed under this chapter shall be approved annually by the county board of equalization.

ID ST § 63-602D

(7) A hospital corporation issued an exemption from property taxation pursuant to this section and operating a hospital having one hundred fifty (150) or more patient beds shall prepare a community benefits report to be filed with the board of equalization by December 31 of each year. The report shall itemize the hospital's amount of unreimbursed services for the prior year (including charity care, bad debt, and underreimbursed care covered through government programs); special services and programs the hospital provides below its actual cost; donated time, funds, subsidies and in-kind services; additions to capital such as physical plant and equipment; and indication of the process the hospital has used to determine general community needs which coincide with the hospital's mission. The report shall be provided as a matter of community information. Neither the submission of the report nor the contents shall be a basis for the approval or denial of a corporation's property tax exemption.

#### **D. Obligation to File Copies of Lease or Agreements.**

See notification requirements below for the only statute found that discusses an obligation to file copies of leases or agreements.

#### **E. Notification Requirements After Change in Use or Ownership.**

ID ST § 63-602Y

(1) If any property, real or personal, which is exempted from taxation on the first day of January shall thereafter have a changed status during the year, either by change in ownership or otherwise, in a manner that if the changed status had existed on the first day of January the property would have been taxable at that time, then the property shall be assessed in the following manner: If the status changed before the first day of April, then for its full market value for assessment purposes; if on the first day of April and before the first day of July, then for three-fourths (3/4) of its full market value for assessment purposes; if on the first day of July and before the first day of October, then for one-half (1/2) of its full market value for assessment purposes; and if the status changed on or after the first day of October, then for one-fourth (1/4) of its full market value for assessment purposes. However, if the changed status results from the leasing or rental of property normally constituting business inventory, the same shall be subject to property tax only for the period it is so leased or rented and upon its return to business inventory shall again be exempt. Each owner of such property shall, on the first Monday of November of each year, file with the assessor for the home county of the owner with a copy for every other county involved, a statement listing and sufficiently identifying such property, the counties where it was situated and the periods of the preceding twelve (12) calendar months during which the property was leased or rented within each county.

(2) At the time of filing such statement with the assessor of his home county, the owner of such leased or rented property shall provide such assessor with a copy for every other county involved.

(3) The assessor of such home county shall ascertain the portion of said preceding twelve (12) calendar months during which such property was leased or rented in the home county and shall enter such property upon the subsequent or missed property roll and the tax collector of the home county shall compute and collect the property tax thereon. The assessor shall indorse the full market value for assessment purposes of each item of such property upon copies of the statement and the owner of the property shall, within five (5) days, furnish an indorsed copy of the owner's statement to the assessor of each county of the state wherein such property was located during the lease or rental period, and each such other county assessor shall likewise assess and the tax collector shall collect the property taxes due for the portion of the preceding twelve (12) calendar months the leased or rented property was situate in their county.

(4) The property taxes due thereon shall be a first and prior lien upon such property and all real and personal property of the owner thereof within the state until all property taxes due have been paid

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

ID ST § 63-105A

The state tax commission shall be the state board of equalization. In addition to other powers and duties vested in it, the state tax commission shall have the power and duty:

(4) To require all assessments of property in this state to be made according to law; and for that purpose to correct, when it finds the same to be erroneous, any assessments made in any county, and require correction of the county assessment records accordingly.

(5) To prescribe forms and to specify and require information with relation to any duty or power of the state tax commission except as provided in section 63-219, Idaho Code.

(6) To instruct, guide, direct and assist the county assessors and county boards of equalization as to the methods best calculated to secure uniformity in the assessment and equalization of property taxes, to the end that all property shall be assessed and taxed as required by law.

(10) To visit, as a state tax commission or by individual members or agents thereof, whenever the state tax commission shall deem it necessary, each county of the state, for the investigation and direction of the work and methods of assessment and equalization, and to ascertain whether or not the provisions of law requiring the assessment of all property, not exempt from taxation, and just equalization of the same have been or are being properly administered and enforced.

(11) To carefully examine all cases where evasion or violation of the laws of assessment and taxation of property is alleged, complained of, or discovered, and to ascertain wherein existing laws are defective or are improperly or negligently administered.

(12) To correct its own errors in property assessment at any time before the first Monday in November, and report such correction to the county auditor and county tax collector, who shall thereupon enter the correction upon the operating property roll.

(16) To analyze the work of county assessors at any time and to have and possess all rights and powers of such assessors for the examination of persons and property, and for the discovery of property subject to taxation; and if it shall ascertain that any taxable property is omitted from the property rolls or is not assessed or valued according to law, it shall bring the same to the attention of the assessor of the proper county in writing, and if such assessor shall neglect or refuse to comply with the request of the state tax commission to place such property on the property rolls, or correct such incorrect assessment or valuation, the tax commission shall have the power to prepare a supplemental roll, which supplemental roll shall include all property required by the tax commission to be placed on the property roll and all corrections to be made. Such supplement shall be filed with the assessor's property roll, and shall thereafter constitute an integral part thereof to the exclusion of all portions of the original property rolls inconsistent therewith, and shall be submitted therewith to the county board of equalization.

## **B. Removal of Exemptions.**

Exemptions are removed when either the tax assessor or taxpayer alerts the other that the property no longer qualifies for the exemption. Exemptions are reviewed regularly by the board of assessors to determine if the exemptions granted are still applicable.

## **C. Assessment of Omitted Property.**

ID ST § 63-301

(1) The assessor shall complete an assessment of all real and personal property in his county which is subject to assessment by him on or before the fourth Monday of June. In making such assessment, the assessor shall determine, according to recognized appraisal methods and techniques, the market value for assessment purposes of real and personal property. Said assessments shall be entered on the property roll. After the aforesaid date, any property which has been omitted from the property roll shall be entered on the subsequent property roll and submitted to the county commissioners meeting as a board of equalization, from the fourth Monday of November through the first Monday of December of the current year, or entered on the missed property roll and submitted during the county board of equalization's monthly meeting in January of the following year.

(2) The market value for assessment purposes of each parcel of property subject to assessment shall be listed on the appropriate roll, as defined in subsection (1) of this section, by category of property established and defined pursuant to section 63-109, Idaho Code.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

ID ST § 63-501A

(1) Taxpayers may file an appeal of an assessment with the county board of equalization. An appeal shall be made in writing on a form provided by the county board of equalization or assessor and must identify the taxpayer, the property which is the subject of the appeal and the reason for the appeal. An appeal of an assessment listed on the property roll must be filed on or before the end of the county's normal business hours on the fourth Monday of June. An appeal of an assessment listed on the subsequent property roll must be filed on or before the end of the county's normal business hours on the fourth Monday of November. An appeal of an assessment listed on the missed property roll must be filed on or before the board of equalization adjourns on the day of its January meeting. The board of equalization may consider an appeal only if it is timely filed.

(2) Appeals from the county board of equalization shall be made pursuant to section 63-511, Idaho Code.

ID ST § 63-3045

(2) Following a protest, the taxpayer has the right to a hearing. The purpose of the hearing is to discuss the deficiency determination and the taxpayer's protest with a commissioner or duly authorized representative of the commission. The meeting shall be

held informally and evidence shall be freely admitted regardless of the rules of evidence.

(3) Any hearing conducted under the provisions of this section may be conducted, in whole or in part, by telephone, television, or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

(4) A taxpayer has the right to be represented by, or be accompanied by, any person of his choice in any proceeding before the tax commission. If the taxpayer is not present at a proceeding, the representative of that taxpayer must be designated in writing by the taxpayer as shall be prescribed in administrative rules or in any manner acceptable to the tax commission.

(5) If the taxpayer does not file a protest with the state tax commission within the time prescribed in subsection (1)(a) of this section, the deficiency shall be assessed and shall become due and payable upon notice and demand from the state tax commission.

## ***ILLINOIS***

### **WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?**

§35 ILCS 200/15-65.

Charitable Purposes. All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (1) Institutions of Public Charity.
- (2) Beneficent and charitable organizations incorporated in any state. Includes organizations whose owner uses the property exclusively for distribution, sale, or resale of donated goods and related activities and uses all the income from those activities to support the charitable, religious or beneficent activities of the owner, whether or not these activities occur on the property.
- (3) Old people's homes, facilities for people with a developmental disability, and not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development, if the applicant provides affirmative evidence that the home or facility is an exempt organization under paragraph (3) of §501 (c) of the Internal Revenue Service Code and either:
  - (a) The bylaws of the home or facility or not-for-profit organization provide for a waiver or reduction, based on an individual's ability to pay, of any entrance fee, assignment of assets, or fee for services, or
  - (b) The home or facility is qualified, built, or financed under Section 202 of the National Housing Act of 1959, as amended [12 U.S.C. Section 1708]
- (4) Not-for-profit health maintenance organizations certified by the Director of the Illinois Department of Insurance under the Health Maintenance Organization Act [215 ILCS 125/1-1 et seq.]. This includes any health maintenance organization providing services to members at prepaid rates approved by the Illinois Department of Insurance if the membership of the organization is sufficiently large or of indeterminate classes so that the community is benefited by its operation. No exemptions are allowed to any hospital or HMO that discriminates on the basis of race, color, creed, sex or national origin.
- (5) All free public libraries.
- (6) Historical societies. But only if all taxing districts within which the property is located have adopted a resolution finding that the society is a charitable organization using the property exclusively for charitable purposes.

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions**

Statutes granting exemptions are strictly construed in favor of taxation. Parties claiming exemption have the burden to prove by clear and convincing evidence that the exemption applies.

There is a six-part test which is used as a guide to determine whether an organization to be considered a charitable organization for purpose of tax exemption:

- (1) The organization's benefits which in some way reduce the burdens of government are for an indefinite number of persons.
- (2) The organization has no capital, capital stock or shareholders and does not earn profits or dividends.
- (3) The organization derives its funds primarily from private and public charity and the funds are held for the objection and purposes expressed in its charter.
- (4) Charity is dispensed to all who need and apply for it.
- (5) No obstacles seem to be placed in the way of those seeking benefits.
- (6) The primary use of its property is for charitable purposes.

*See Methodist Old People's Home v. Korzen, 39 Ill. 2d 149; 233 N.E. 2d 537 (1968); Evangelical Hospitals Corporation v. Department of Revenue, 223 Ill. App. 3d 225, 584 N.E.2d 1004 (2 Dist. 1991).*

#### Primary Use of Property

In determining whether the primary use of property makes it tax exempt, the courts have recognized two different situations:

- (1) Where the property as a whole, or in unidentifiable portions, is used for both an exempt purpose and a nonexempt purpose, the property will be wholly exempt only if the exempt use is primary and the nonexempt use is incidental. See *IIT v Skinner*, 49 Ill. 2d 59; 273 N.E. 2d 371 (1971).
- (2) Where distinct portions of the property are use for exempt purposes and the remainder is used for nonexempt purposes, the remainder alone is taxable if it is a substantial portion of the property. See *Girl Scouts of DuPage County Council, Inc. v. Department of Revenue*, 1879 Ill. App. 3d 858, 137 Ill. Dec. 131, 545 N.E.2d 784 (2 Dist. 1989).

#### Partial Exemptions

- (1) Where property is used for two purposes, the exempt portion may be taxed while the remainder may be tax exempt. See *Girl Scouts of DuPage County Council, Inc. v. Department of Revenue*, 1879 Ill. App. 3d 858, 137 Ill. Dec. 131, 545 N.E.2d 784 (2 Dist. 1989) and *IIT v Skinner*, 49 Ill. 2d 59; 273 N.E. 2d 371 (1971).
- (2) Where plaintiffs claim portions of property are exempt from taxation because of use for charitable purposes, they are entitled to a proportionate exemption for any distinct portions of property which meet the test for exemption. (*Highland Park Hospital v. Department of Revenue*, 155 Ill. App. 3d 272, 107 Ill. Dec. 962, 507 N.E.2d 1331 (2 Dist. 1987).

### WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?

#### A. Creation of Exemptions

§35 ILCS 200/15-5, 16-70.

(1) Initially, applicant must file an application with the county board of review following procedures of Section 16-70 or Section 16-130.

(2) Upon the filing of any application for an exemption which if granted would reduce the assessed valuation of a property would be reduced by more than \$100,000, notice must be given to any municipality, school district and community college district in which the property is located. The taxing districts and the taxpayer shall then be given the opportunity to be heard.

(3) Next, the file is forwarded to the Department of Revenue, which then determines whether the property shall be exempt.

(4) The Department then notifies the Board of Review of its decision, and, if necessary, the Board corrects the assessment.

## **B. Procedures for Retaining an Exemption**

See Annual Certification

## **C. Annual Certification.**

§35 ILCS 200/15-10.

It is the duty of the titleholder or the owner of the beneficial interest of any property that is exempt to file with the chief county assessment officer on or before January 31 of each year an affidavit stating whether there has been any change in the ownership or use of the property. Failure to file an affidavit, shall, in the discretion of the assessment officer, constitute cause to terminate the exemption of that property.

## **D. Obligation to File Copies of Leases or Agreements.**

§35 ILCS 200/15-15.

If any property listed as exempt by the chief county assessment officer is leased, loaned or otherwise made available for profit, the titleholder or the owner the beneficial interest must file with the assessment officer a copy of all such leases or agreements and a complete description of the premises in order to create a new tax parcel. Failure to do so shall constitute cause to terminate the exemption.

## **Notification Requirements After Change in Use or Ownership.**

§35 ILCS 200/15-20.

If any property listed as exempt by the chief county assessment officer has a change in use, a change in leasehold estate, or a change in titleholder of record by purchase, grant, taking or transfer, it is the obligation of the transferee to notify the chief county assessment officer in writing within 30 days of the change.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTIONS?**

### **A. Monitoring Exemptions.**

Failure to file annual certifications. See Notification requirements above.

**B. Removal of Exemptions.**

§35 ILCS 200/15-25.

If the Department of Revenue determines that any property has been unlawfully exempted from taxation, or is no longer entitled to exemption, it shall, before January 1 of any year, direct the chief county assessment officer to assesses the property and return it to the assessment roll for the next assessment year. The Department shall give notice of its decision to the property owner by certified mail. The decision is subject to review and hearing under Section 8-35, upon application of the owner filed within 10 days after the notice of decision is mailed.

**C. Assessment of Omitted Property**

§35 ILCS 200/9-260.

Assessment of Omitted Property in Counties of 3,000,000 or More. In Cook County, the Assessor has the power, on his or her own initiative, to assess properties which may have been omitted from assessments for the current year or during any year or years for which the property was liable to be taxed, and for which the tax has not been paid, but only on notice and opportunity to be heard in the manner and form required by law, and to enter an assessment upon the assessment books. No charge may be made for a tax of previous years may be made if: a) the property was last assessed as unimproved; b) the owner of such property gave notice of subsequent improvements and requested a reassessment as required by Section 9-180; ad c) reassessment of the property was not made within a 16 month period immediately following receipt of that notice.

§35 ILCS 200/9-265.

Omitted Property; interest; change in exempt use or ownership. If any property is omitted in the assessment of any year or years, so that the taxes, for which the property was liable, have not been pad, or if by reason of defective description or assessment, taxes on any property for any year or years have not been paid, or if the taxes are refunded under subsection (b) of Section 14-5 because the taxes were assessed in the wrong person's name, the property, when discovered, shall be listed, and assessed by the board of review or, in counties with 3,000,000 or more inhabitants, by the county assessor either on his or her own initiative or when so directed by the Board of Review. (See parallel provisions in §35 ILCS 200/16-40, for authority of the Board of Review).

Interest. When property or acreage omitted by either incorrect survey or other ministerial assessor error is discovered and the owner has paid its tax bills as received for the year or years of omission of the parcel, then the interest authorized by this Section shall not be chargeable to the owner. However, nothing in this section shall prevent the collection of the principal amount of back teas due and owing.

Change in Use: If any property listed as exempt by the chief county assessment officer has a change in use, a change in leasehold estate, or a change in titleholder or record by purchase, grant, taking or transfer, it shall be the obligation of the transferee to notify the chief county assessment officer in writing within 30 days of the change.

**HOW DO TAXPAYERS OR TAXING BODIES CHALLENGE EXISTING EXEMPTIONS?**

*(1) Undervaluation Complaint. Taxpayers and taxing bodies can file undervaluation complaints at the Board of Review.*

*(2) Informal Complaint to Assessor's Office. Taxpayers and taxing bodies can make informal complaints to the Assessor's Office or to the Department of Revenue.*

# INDIANA

## WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

Indiana Constitution

Art. 10 § 1 Property assessment and taxation

(a) The General Assembly shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal. The General Assembly may exempt from property taxation any property in any of the following classes:

(1) Property being used for municipal, educational, literary, scientific, religious or charitable purposes;

(2) Tangible personal property other than property being held for sale in the ordinary course of a trade or business, property being held, used or consumed in connection with the production of income, or property being held as an investment;

(3) Intangible personal property.

(b) The General Assembly may exempt any motor vehicles, mobile homes, airplanes, boats, trailers or similar property, provided that an excise tax in lieu of the property tax is substituted therefor.

IC 6-1.1-10

Indiana Code, Title 6, Article 1.1 Property Taxes, Chapter 10

The following sections of the above code provide for property tax exemptions in the categories noted:

1 United States property

2 State Property

3 Bridges and tangible appurtenant property

4 Political subdivision property

5 Municipal property

5.5 Urban homesteading property

6 Municipally owned water company property

7 Nonprofit water companies

8 Nonprofit sewage disposal company

9 Industrial waste control facilities

10 Industrial waste control facilities; claiming exemptions; investigations; determinations of department

11 Industrial waste control facilities; appeal of exemption claims

12 Stationary or unlicensed mobile air pollution control system

13 Stationary or unlicensed mobile air pollution control system; claim for exemption

14 Industrial waste control facility; stationary air purification system; review of assessments

15 Public airports

16 Buildings and land used for educational, literary, scientific, religious, or charitable purposes

(a) All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes.

(b) A building is exempt from property taxation if it is owned, occupied, and used by a town, city, township, or county for educational, literary, scientific, fraternal, or charitable purposes.

(c) A tract of land, including the campus and athletic grounds of an educational institution, is exempt from property taxation if it meets several qualifications of use and size of property (see statute for full text.)

(d) A tract of land is exempt from property taxation if it meets several qualifications of use and size of property (see statute for full text.)

(e) Personal property is exempt from property taxation if it is owned and used in such a manner that it would be exempt under subsection (a) or (b) if it were a building.

(f) A hospital's property which is exempt from property taxation under subsection (a), (b), or (e) shall remain exempt from property taxation even if the property is used in part to furnish goods or services to another hospital whose property qualifies for exemption under this section.

(g) Property owned by a shared hospital services organization which is exempt from federal income taxation under Section 501(c)(3) or 501(e) of the Internal Revenue Code is exempt from property taxation if it is owned, occupied, and used exclusively to furnish goods or services to a hospital whose property is exempt from property taxation under subsection (a), (b), or (e).

26 U.S.C.A. § 501. Exemption from tax on corporations, certain trusts, etc.

(a) Exemption from taxation.--An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(c) List of exempt organizations.--The following organizations are referred to in subsection (a):

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(e) Cooperative hospital service organizations.--For purposes of this title, an organization shall be treated as an organization organized and operated exclusively for charitable purposes (see statute for full text).

(h) This section does not exempt from property tax an office or a practice of a physician or group of physicians that is owned by a hospital licensed under IC 16-21-1 or other property that is not substantially related to or supportive of the inpatient facility of the hospital unless the office, practice, or other property provided that it meets several qualifications of use and size of property (see statute for full text.)

(i) A tract of land or a tract of land plus all or part of a structure on the land is exempt from property taxation if it meets several qualifications of use and size of property (see statute for full text.)

(k) If property is granted an exemption in any year under subsection (i) and the owner fails to follow the provision of the rest of this section the exemption can be removed. (see statute for full text.)

(l) If subsection (k)(1), (k)(2), or (k)(3) applies, the owner shall pay, not later than the date that the next installment of property taxes is due, an amount equal to the sum of the following...(see statute for full text.)

(m) The liability imposed by subsection (l) is a lien upon the property receiving the exemption under subsection (i). An amount collected under subsection (l) shall be collected as an excess levy. If the amount is not paid, it shall be collected in the same manner that delinquent taxes on real property are collected.

[16.5 Nonprofit corporation property located under or adjacent to lake or reservoir](#)

[17 Memorial corporation property](#) (used for the purpose of perpetuating the memory of soldiers and sailors.)

[18 Nonprofit corporations supporting fine arts](#)

(a) Tangible property is exempt from property taxation if it is owned by an Indiana not-for-profit corporation which is organized and operated for the primary purpose of coordinating, promoting, encouraging, housing, or providing financial support to activities in the field of fine arts.

18.5 Nonprofit corporation property used in operation of health facility, home for the aged.

[19 Public libraries](#)

[20 Manual labor, technical or trade schools; colleges](#)

[21 Churches or religious societies](#)

[22 Dormitories of church colleges and universities](#)

[23 Fraternal benefit associations](#)

24 College fraternities or sororities.

[25 Miscellaneous organizations](#)

(a) Subject to the limitations contained in subsection (b) of this section, tangible property is exempt from property taxation if it is owned by any of the following organizations:

- (1) The Young Men's Christian Association.
- (2) The Salvation Army, Inc.
- (3) The Knights of Columbus.
- (4) The Young Men's Hebrew Association.

- (5) The Young Women's Christian Association.
- (6) A chapter or post of Disabled American Veterans of World War I or II.
- (7) A chapter or post of the Veterans of Foreign Wars.
- (8) A post of the American Legion.
- (9) A post of the American War Veterans.
- (10) A camp of United States Spanish War Veterans.
- (11) The Boy Scouts of America, one (1) or more of its incorporated local councils, or a bank or trust company in trust for the benefit of one (1) or more of its local councils.

(12) The Girl Scouts of the U.S.A., one or more of its incorporated local councils, or a bank or trust company in trust for the benefit of one (1) or more of its local councils.

(b) This exemption does not apply unless the property is exclusively used, and in the case of real property actually occupied, for the purposes and objectives of the organization.

[26 County or district agricultural associations](#)

[27 Cemetery corporations](#) provided that the strict requirements of the statute are met. (see statute for full text.)

[28 Free medical clinics](#)

[29 Manufacturer's or processor's property stored in instate warehouse for shipment to out-of-state destination \(revised: later effective date\)](#)

[29.3 Personal property shipped into state for transshipment out of state](#)

[29.5 Property in original package in public warehouse for transshipment owned by nonresident or transported by carrier](#)

[30 Property in original package in warehouse for transshipment \(revised: later effective date\)](#)

[30.5 Property held in foreign trade zone](#)

[31.1 Nonresidents; personal property shipped into state for transshipment out; claiming exemptions](#)

[31.4 Truck chassis](#); not for resale

[31.5 Passenger motor vehicles; exemption](#) not for resale

[31.6 School bus bodies and chassis](#)

[32 Certain exempt property under control of executor](#) that is to be passed to an exempt organization.

[33 Certain exempt property under control of executor or trustee](#) that is to be used for some charitable purpose that is exempt.

[35 School lands; when deemed to have been sold](#)

[38 Property tax exemption provisions; enumeration](#)

[39 Intangible personal property exemptions](#)

[40 Commodity stored in warehouse; exemption](#)

[41 Exempt property purchased under contract of sale by person not qualifying for exemption](#)

Educational, scientific, religious, or charitable purposes listed in statute exempting buildings used for such purposes from property tax are to be construed broadly and in accordance with their constitutional meaning. Proper focus of any inquiry into the propriety of a property tax exemption is whether the use of the property furthers exempt purposes. *Trinity Episcopal Church v. State Bd. of Tax Com'rs*, 1998, 694 N.E.2d 816.

To qualify for charitable purpose exemption, organization must show relief of human want manifested by obviously charitable acts different from everyday purposes and activities of man in general. *National Ass'n of Miniature Enthusiasts v. State Bd. of Tax Com'rs*, 1996, 671 N.E.2d 218.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

IC 6-1.1-11

1 Waiver of exemption

An exemption is a privilege which may be waived by a person who owns tangible property that would qualify for the exemption. If the owner does not comply with the statutory procedures for obtaining an exemption, he waives the exemption. If the exemption is waived, the property is subject to taxation.

Tax exemptions are strictly construed against the taxpayer, who bears the burden of showing entitlement to the exemption. *White River Environmental Partnership v. Department of State Revenue*, 1998, 694 N.E.2d 1248.

Although exemptions are strictly construed in favor of taxation and against tax exemption, exempt purposes listed in statute providing property tax exemption for certain buildings are to be construed broadly and in accordance with their constitutional meaning. *Alte Salems Kirche, Inc. v. State Bd. of Tax Com'rs*, 1998, 694 N.E.2d 810.

See also Creation of Exemptions.

### **B. Partial Exemptions.**

IC 6-1.1-10

36.3 Property used or occupied for one or more stated purposes; applicability of exemption; limitations

(a) For purposes of this section, property is predominantly used or occupied for one (1) or more stated purposes if it is used or occupied for one (1) or more of those purposes during more than fifty percent (50%) of the time that it is used or occupied in the year that ends on the assessment date of the property.

(b) If a section of this chapter states one (1) or more purposes for which property must be used or occupied in order to qualify for an exemption, then the exemption applies as follows:

(1) Property that is exclusively used or occupied for one (1) or more of the stated purposes is totally exempt under that section.

(2) Property that is predominantly used or occupied for one (1) or more of the stated purposes by a church, religious society, or not-for-profit school is totally exempt under that section.

(3) Property that is predominantly used or occupied for one (1) or more of the stated purposes by a person other than a church, religious society, or not-for-profit school is exempt under that section from property tax on the part of the assessment of the property that bears the same proportion to the total assessment of the property as the amount of time that the property was used or occupied for one (1) or more of the stated purposes during the year that ends on the assessment date of the property bears to the amount of time that the property was used or occupied for any purpose during that year.

(4) Property that is predominantly used or occupied for a purpose other than one (1) of the stated purposes is not exempt from any part of the property tax.

(c) Property is not used or occupied for one (1) or more of the stated purposes during the time that a predominant part of the property is used or occupied in connection with a trade or business that is not substantially related to the exercise or performance of one (1) or more of the stated purposes.

#### IC 6-1.1-10

36.5 Property of exempt organization used in non-exempt trade or business:

Tangible property is not exempt from property taxation under sections 16 through 28 of this chapter or under section 33 of this chapter if it is used by the exempt organization in a trade or business, not substantially related to the exercise or performance of the organization's exempt purpose.

### **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

#### **A. Creation of Exemptions.**

#### IC 6-1.1-11

3 Application for exemption

(a) The owner of tangible property who wishes to obtain an exemption from property taxation shall file a certified application in duplicate with the auditor of the county in which the property is located. The application must be filed annually on or before May 15 on forms prescribed by the state board of tax commissioners. Except as provided in sections 1, 3.5, and 4 of this chapter, the application applies only for the taxes imposed for the year for which the application is filed.

(b) The authority for signing an exemption application may not be delegated by the owner of the property to any other person except by an executed power of attorney.

(c) An exemption application which is required under this chapter shall contain the following information:

(1) A description of the property claimed to be exempt in sufficient detail to afford identification.

(2) A statement showing the ownership, possession, and use of the property.

(3) The grounds for claiming the exemption.

(4) The full name and address of the applicant.

(5) Any additional information which the state board of tax commissioners may require.

#### IC 6-1.1-11

### 3.5 Not-for-profit corporation property; eligibility; application; review

(a) A not-for-profit corporation that seeks an exemption provided by IC 6-1.1-10 for 1988 or for a year that follows 1988 by a multiple of four (4) years must file an application for the exemption in that year. However, if a not-for-profit corporation seeks an exemption provided by IC 6-1.1-10 for a year not specified in this subsection and the corporation did not receive the exemption for the preceding year, the corporation must file an application for the exemption in the year for which the exemption is sought. The not-for-profit corporation must file each exemption application in the manner (other than the requirement for filing annually) prescribed in section 3 of this chapter.

(b) A not-for-profit corporation that receives an exemption provided under IC 6-1.1-10 for a particular year that remains eligible for the exemption for the following year is only required to file a statement to apply for the exemption in the years specified in subsection (a), if the use of the not-for-profit corporation's property remains unchanged.

(c) A not-for-profit corporation that receives an exemption provided under IC 6-1.1-10 for a particular year which becomes ineligible for the exemption for the following year shall notify the auditor of the county in which the tangible property for which it claims the exemption is located of its ineligibility on or before May 15 of the year for which it becomes ineligible.

(d) For each year that is not a year specified in subsection (a), the auditor of each county shall apply an exemption provided under IC 6-1.1-10 to the tangible property owned by a not-for-profit corporation that received the exemption in the preceding year unless the auditor determines that the not-for-profit corporation is no longer eligible for the exemption.

(e) The state board of tax commissioners may at any time review an exemption provided under this section and determine whether or not the not-for-profit corporation is eligible for the exemption.

## **B. Procedures for Retaining an Exemption.**

### IC 6-1.1-11

#### 6 Submission of applications for examination

Before the convening of the county property tax assessment board of appeals, the county auditor shall submit the exemption applications to the county property tax assessment board of appeals for examination.

### IC 6-1.1-11

#### 7 Approval or disapproval of application

(a) The county property tax assessment board of appeals, after careful examination, shall approve or disapprove each exemption application and shall note its action on the application.

(b) If the county property tax assessment board of appeals approves the exemption, in whole or part, the county auditor shall note the board's action on the tax duplicate. The county auditor's notation is notice to the county treasurer that the exempt property shall not be taxed for the current year unless otherwise ordered by the state board of tax commissioners.

(c) If the exemption application is disapproved by the county property tax assessment board of appeals, the county auditor shall notify the applicant by mail. Within thirty (30) days after the notice is mailed, the owner may, in the manner prescribed in IC 6-1.1-15-3, petition the state board of tax commissioners to review the county property tax assessment board of appeals' determination.

### **C. Annual Certification.**

IC 6-1.1-11

8 Review of approved application by state board

On or before August 1st of each year, the county auditor of each county shall forward to the state board of tax commissioners the duplicate copies of all approved exemption applications. The state board of tax commissioners shall review the approved applications. The state board of tax commissioners may deny an exemption if the board determines that the property is not tax exempt under the laws of this state. However, before denying an exemption, the board must give notice to the applicant and hold a hearing on the exemption application. The board shall hold such a hearing in the same manner prescribed for assessment hearings under IC 1971, 6-1.1-15-4(a).

### **D. Obligation to File Copies of Lease or Agreements.**

IC 6-1.1-10

37 Leases of exempt property; effect

(a) This section does not apply to the lease of a dwelling unit within a public housing project by the tenant of that dwelling unit.

(b) If real property that is exempt from taxation is leased to another whose property is not exempt and the leasing of the real property does not make it taxable, the leasehold estate and the appurtenances to the leasehold estate shall be assessed and taxed as if they were real property owned by the lessee or his assignee.

(c) If personal property that is exempt from taxation is leased to another whose property is not exempt and the leasing of the personal property does not make it taxable, the leased personal property shall be assessed and taxed as if it were personal property owned by the lessee or his assignee.

### **E. Notification Requirements After Change in Use or Ownership.**

IC 6-1.1-11

3.5 Not-for-profit corporation property; eligibility; application; review

(b) A not-for-profit corporation that receives an exemption provided under IC 6-1.1-10 for a particular year that remains eligible for the exemption for the following year is only required to file a statement to apply for the exemption in the years specified in subsection (a), if the use of the not-for-profit corporation's property remains unchanged.

(c) A not-for-profit corporation that receives an exemption provided under IC 6-1.1-10 for a particular year which becomes ineligible for the exemption for the following year shall notify the auditor of the county in which the tangible property for

which it claims the exemption is located of its ineligibility on or before May 15 of the year for which it becomes ineligible.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

IC 6-1.1-11

3.5 Not-for-profit corporation property; eligibility; application; review

(d) For each year that is not a year specified in subsection (a), the auditor of each county shall apply an exemption provided under IC 6-1.1-10 to the tangible property owned by a not-for-profit corporation that received the exemption in the preceding year

### **B. Removal of Exemptions.**

IC 6-1.1-11

3.5 Not-for-profit corporation property; eligibility; application; review

(e) The state board of tax commissioners may at any time review an exemption provided under this section and determine whether or not the not-for-profit corporation is eligible for the exemption.

### **C. Assessment of Omitted Property.**

IC 6-1.1-9

1 Notice to taxpayers

If a township assessor, county assessor, or county property tax assessment board of appeals believes that any taxable tangible property has been omitted from or undervalued on the assessment rolls or the tax duplicate for any year or years, the official or board shall give written notice under IC 6-1.1-3-20 or IC 6-1.1-4-22 of the assessment or increase in assessment. The notice shall contain a general description of the property and a statement describing the taxpayer's right to file a petition for review with the county property tax assessment board of appeals under IC 6-1.1-15-1.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

A taxpayer can file a complaint with the County and/or State Board of Tax Commissioners challenging the exemption. (or the denial of an exemption.)

State Board of Tax Commissioners, upon request by individual taxpayer, must review assessment of property contained in land order to ensure compliance with constitutional provision requiring uniform and equal property assessment. *Zakutansky v. State Bd. of Tax Com'rs*, 1998, 691 N.E.2d 1365.

Landowners' petition alleging that scores of errors in the general reassessment affected landowners and class they sought to represent and that those errors led to gross violations of State Constitutional article governing property assessment and taxation triggered State Board of Tax Commissioners' authority and duty to act. *Bielski v. Zorn*, 1994, 627 N.E.2d 880.

# IOWA

## **WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?**

IA ST s 427.1 (including recent updates affecting only part 2)

Exemptions

The following classes of property shall not be taxed:

1. Federal and state property. The property of the United States and this state, including state university, university of science and technology, and school lands.
2. Municipal and military property. The property of a county, township, city, school corporation, levee district, drainage district or military company of the state of Iowa, when devoted to public use and not held for pecuniary profit, except property of a municipally owned electric utility held under joint ownership. The exemption for property owned by a city or county also applies to property which is operated by a city or county as a library, art gallery or museum, conservatory, botanical garden or display, observatory or science museum, or as a location for holding athletic contests, sports or entertainment events, expositions, meetings or conventions, or leased from the city or county for any such purposes.
3. Public grounds and cemeteries, so long as no dividends or profits are derived there from.
4. Publicly owned fire company buildings and grounds.
5. Property of associations of war veterans when such property is not held for pecuniary profit.
6. Property of cemetery associations. The exemption granted by this subsection shall not apply to any property used for the practice of mortuary science.
7. All grounds and buildings used for public libraries, public art galleries, and libraries and art galleries owned and kept by private individuals, associations, or corporations, for public use and not for private profit.
8. Property of religious, literary, and charitable societies. All grounds and buildings used or under construction by literary, scientific, charitable, benevolent, agricultural, and religious institutions and societies solely for their appropriate objects. There are limits on the amount of land available for exemption and must be a not for profit organization.
9. Property of educational institutions.
10. Homes for soldiers when not operated for pecuniary profit.

11. Agricultural produce except commercial orchards and vineyards.
12. Government lands.
13. Public airports.
17. The real property of a nonprofit corporation engaged in the distribution and sale of water to rural areas when devoted to public use and not held for pecuniary profit.
19. Pollution control and recycling. (This exemption is severely restricted in the full text of the statute.)
20. Impoundment structures. Provided all restrictions are met.
21. The property owned and operated by a nonprofit organization providing low-rent housing for persons who are elderly and persons with physical and mental disabilities.
22. Natural conservation or wildlife areas. Provided all qualifications are met.
23. Native prairie and wetland. Provided all qualifications are met.
24. Land certified as a wildlife habitat. Provided all qualifications are met.
25. Railroad right-of-way.
26. Public television station provided it is not used for pecuniary profit.
28. Joint water utilities.
29. Methane gas conversion.

IA ST 29A.60

Property exempt from taxation.

All personal and real property held and used for armory or military purposes shall be exempt from taxation; and it shall be lawful for any county or city which owns public utilities to grant to any organization or unit of the national guard, which is stationed in such place, the free use of such public utilities.

**WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

**A. Full Exemptions.**

This section exempting from taxation property used by charitable and benevolent institution for its objects without view to pecuniary profit must be strictly construed with any doubt upon question of exemption resolved in favor of taxation. Dow City Sr.

Citizens Housing, Inc. v. Board of Review of Crawford County, 1975, 230 N.W.2d 497.

## **B. Partial Exemptions.**

IA ST 347.32

Tax status.

This chapter does not deprive any hospital of its tax exempt or nonprofit status except that portion of hospital property which is used for other than nonprofit, health-related purposes shall be subject to property tax as provided for in section 427.1, subsection 14.

IA ST s 427.1

14. The assessor, in arriving at the valuation of any property of the society or organization, shall take into consideration any uses of the property not for the appropriate objects of the organization and shall assess in the same manner as other property, all or any portion of the property involved which is leased or rented and is used regularly for commercial purposes for a profit to a party or individual. If a portion of the property is used regularly for commercial purposes an exemption shall not be allowed upon property so used and the exemption granted shall be in the proportion of the value of the property used solely for the appropriate objects of the organization, to the entire value of the property. However, the board of trustees or the board of directors of a hospital, as defined in section 135B.1, subsection 1, may permit use of a portion of the hospital for commercial purposes, and the hospital is entitled to full exemption for that portion used for nonprofit health-related purposes, upon compliance with the filing requirements of this subsection.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

IA ST s 427.1

14. Statement of objects and uses filed. A society or organization claiming an exemption under subsection 5 or subsection 8 of this section shall file with the assessor not later than July 1 a statement upon forms to be prescribed by the director of revenue and finance, describing the nature of the property upon which the exemption is claimed and setting out in detail any uses and income from the property derived from the rentals, leases, or other uses of the property not solely for the appropriate objects of the society or organization.

IA ST 427.19

Exemptions eligibility, prorating.

All credits for and exemptions from property taxes for which an application is required shall be granted on the basis of eligibility in the fiscal year for which the application is filed. If the property which has received a credit or exemption becomes ineligible for the credit or exemption during the fiscal year for which it was granted, the property is subject to the taxes in a prorated amount for that part of the fiscal year for which the property was ineligible for the credit or exemption.

## **B. Procedures for Retaining an Exemption.**

IA ST s 427.1

14. Upon the filing and allowance of the claim, the claim shall be allowed on the property for successive years without further filing as long as the property is used for the purposes specified in the original claim for exemption.

## **C. Annual Certification.**

IA ST s 427.1

9. All the property shall be listed on the assessment rolls in the district in which the property is located and an actual fair market value and an assessed or taxable value be ascribed to it, as contemplated by section 441.21, irrespective of whether an exemption under this subsection may be or is affirmed, and the information shall be open to public inspection; it being the intent of this section that the property be valued whether or not it be subject to a levy. Every educational institution claiming an exemption under this subsection shall file with the assessor not later than February 1 of the year for which the exemption is requested, a statement upon forms to be prescribed by the director of revenue and finance, describing and locating the property upon which exemption is claimed.

IA ST 441.46

Assessment date.

The assessment date of January 1 is the first date of an assessment year period which constitutes a calendar year commencing January 1 and ending December 31. All property tax statutes providing for tax exemptions or credits and requiring that a claim be filed, shall be construed to require the claims to be filed by July 1 of the assessment year. If no claim is required to be filed to procure an exemption or credit, the status of the property as exempt or taxable on July 1 of the fiscal year which commences during the assessment year determines its eligibility for exemption or credit. Any statute requiring proration of property taxes for any purpose shall be for the fiscal year, and the proration shall be based on the status of the property during the fiscal year.

The assessment date is January 1 for taxes for the fiscal year which commences six months after the assessment date and which become delinquent during the fiscal year commencing eighteen months after the assessment date.

## **D. Obligation to File Copies of Lease or Agreements.**

IA ST s 427.1

8. All deeds or leases by which such property is held shall be filed for record before the property herein described shall be omitted from the assessment. All such property shall be listed upon the tax rolls of the district or districts in which it is located and shall have ascribed to it an actual fair market value and an assessed or taxable value, as contemplated by section 441.21, whether such property be subject to a levy or be exempted as herein provided and such information shall be open to public inspection.

## **E. Notification Requirements After Change in Use or Ownership.**

IA ST s 427.1

14. A society or organization which ceases to use the property for the purposes stated in the claim shall provide written notice to the assessor of the change in use...When the property is sold or transferred, the county recorder shall provide notice of the transfer to the assessor. The notice shall describe the property transferred and the name of the person to whom title to the property is transferred.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

IA ST s 427.1

18. Assessed value of exempt property. Each county and city assessor shall determine the assessment value that would be assigned to the property if it were taxable and value all tax exempt property within the assessor's jurisdiction. A summary report of tax exempt property shall be filed with the director of revenue and finance and the local board of review on or before April 16 of each year on forms prescribed by the director of revenue and finance.

CT ST 441.35

Powers of review board.

The board of review shall have the power:

1. To equalize assessments by raising or lowering the individual assessments of real property, including new buildings, made by the assessor.
2. To add to the assessment rolls any taxable property which has been omitted by the assessor.
3. To add to the assessment rolls for taxation property which the board believes has been erroneously exempted from taxation. Revocation of a property tax exemption shall commence with the assessment for the current assessment year, and shall not be applied to prior assessment years.

In any year after the year in which an assessment has been made of all of the real estate in any taxing district, it shall be the duty of the board of review to meet as provided in section 441.33, and where it finds the same has changed in value, to revalue and reassess any part or all of the real estate contained in such taxing district, and in such case, it shall determine the actual value as of January 1 of the year of the revaluation and reassessment and compute the taxable value thereof, and any aggrieved taxpayer may petition for a revaluation of the taxpayer's property, but no reduction or increase shall be made for prior years. If the assessment of any such property is raised, or any property is added to the tax list by the board, the clerk shall give notice in the manner provided in section 441.36, provided, however, that if the assessment of all property in any taxing district is raised the board may instruct the clerk to give immediate notice by one publication in one of the official newspapers located in the taxing district, and such published notice shall take the place of the mailed notice provided for in section 441.36, but all other provisions of said

section shall apply. The decision of the board as to the foregoing matters shall be subject to appeal to the district court within the same time and in the same manner as provided in section 441.38.

Exemptions are monitored by the public as well as by officers of the public. It is the responsibility of these two groups of individuals to appeal tax decisions by the board of assessors. In addition, the board of assessors will review the tax exempt status of all property on a regular basis. (See section on taxpayer challenges below.)

### **B. Removal of Exemptions.**

Exemptions are removed when an appeal of tax exempt status is reviewed and accepted by the tax review board. Tax exempt status is also removed when the board of tax assessors reviews all property exemptions every other year and determines that the property is no longer eligible. Finally, tax exempt status is removed when ownership or use of the property changes and this change is properly reported.

### **C. Assessment of Omitted Property.**

IA ST 440.1

Assessment of omitted property.

When the director of revenue and finance is vested with the power and duty to assess property and an assessment has, for any reason, been omitted, the director shall proceed to assess the property for each of the omitted years. The omitted assessment shall only apply to the assessment year in which the omitted assessment is made and the four prior assessment years. Chapter 429 shall apply to assessments of omitted property.

CT ST 443.6

Corrections by auditor.

The auditor may correct any error in the assessment or tax list, and the assessor or auditor may assess and list for taxation any omitted property.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

IA ST s 427.1

16. Revoking exemption. Any taxpayer or any taxing district may make application to the director of revenue and finance for revocation for any exemption, based upon alleged violations of this chapter. The director of revenue and finance may also on the director's own motion set aside any exemption which has been granted upon property for which exemption is claimed under this chapter. The director of revenue and finance shall give notice by mail to the taxpayer or taxing district applicant and to the societies or organizations claiming an exemption upon property, exemption of which is questioned before or by the director of revenue and finance and shall hold a hearing prior to issuing any order for revocation. An order made by the director of revenue and finance revoking or modifying an exemption is subject to judicial review in accordance with chapter 17A,

the Iowa administrative procedure Act. Notwithstanding the terms of that Act, petitions for judicial review may be filed in the district court having jurisdiction in the county in which the property is located, and must be filed within thirty days after any order revoking an exemption is made by the director of revenue and finance.

#### IA ST 441.37

Protest of assessment, grounds.

1. Any property owner or aggrieved taxpayer who is dissatisfied with the owner's or taxpayer's assessment may file a protest against such assessment with the board of review on or after April 16, to and including May 5, of the year of the assessment. In any county which has been declared to be a disaster area by proper federal authorities after March 1 and prior to May 20 of said year of assessment, the board of review shall be authorized to remain in session until June 15 and the time for filing a protest shall be extended to and include the period from May 25 to June 5 of such year. Said protest shall be in writing and signed by the one protesting or by the protester's duly authorized agent. The taxpayer may have an oral hearing thereon if request therefor in writing is made at the time of filing the protest. Said protest must be confined to one or more of the following grounds:

- a. That said assessment is not equitable as compared with assessments of other like property in the taxing district. When this ground is relied upon as the basis of a protest the legal description and assessments of a representative number of comparable properties, as described by the aggrieved taxpayer shall be listed on the protest, otherwise said protest shall not be considered on this ground.
- b. That the property is assessed for more than the value authorized by law, stating the specific amount which the protesting party believes the property to be overassessed, and the amount which the party considers to be its actual value and the amount the party considers a fair assessment.
- c. That the property is not assessable, is exempt from taxes, or is misclassified and stating the reasons for the protest.
- d. That there is an error in the assessment and state the specific alleged error.
- e. That there is fraud in the assessment which shall be specifically stated.

In addition to the above, the property owner may protest annually to the board of review under the provisions of section 441.35, but such protest shall be in the same manner and upon the same terms as heretofore prescribed in this section.

2. A property owner or aggrieved taxpayer who finds that a clerical or mathematical error has been made in the assessment of the owner's or taxpayer's property may file a protest against that assessment in the same manner as provided in this section, except that the protest may be filed for previous years. The board may correct clerical or mathematical errors for any assessment year in which the taxes have not been fully paid or otherwise legally discharged.

Upon the determination of the board that a clerical or mathematical error has been made the board shall take appropriate action to correct the error and notify the county auditor of the change in the assessment as a result of the error and the county auditor shall make the correction in the assessment and the tax list in the same manner as provided in section 443.6.

The board shall not correct an error resulting from a property owner's or taxpayer's inaccuracy in reporting or failure to comply with section 441.19.

3. After the board of review has considered any protest filed by a property owner or aggrieved taxpayer and made final disposition of the protest, the board shall give written notice to the property owner or aggrieved taxpayer who filed the protest of the action taken by the board of review on the protest. The written notice to the property owner or aggrieved taxpayer shall also specify the reasons for the action taken by the board of review on the protest.

Taxpayers substantially complied with statutory requirements of tax protest procedures where taxpayers alleged that assessment was not equitable as compared with assessments of other like property in city and taxpayers provided legal description of other comparable property. I.C.A. §§ 441.37, subd. 1, 441.38, subd. 1. *Metropolitan Jacobson Development Venture v. Board of Review of Des Moines*, App.1991, 476 N.W.2d 726.

Person whose property was sought to be affected by illegal tax might complain, even though person against whom tax was assessed did not complain, if tax was in fact illegal and not merely irregular. *Woodbine Sav. Bank v. Tyler*, 1917, 162 N.W. 590, 181 Iowa 1389.

#### IA ST 441.42

Appeal on behalf of public.

Any officer of a county, city, township, drainage district, levee district, or school district interested or a taxpayer thereof may in like manner make complaint before said board of review in respect to the assessment of any property in the township, drainage district, levee district or city and an appeal from the action of the board of review in fixing the amount of assessment on any property concerning which such complaint is made, may be taken by any of such aforementioned officers.

Such appeal is in addition to the appeal allowed to the person whose property is assessed and shall be taken in the name of the county, city, township, drainage district, levee district, or school district interested, and tried in the same manner, except that the notice of appeal shall also be served upon the owner of the property concerning which the complaint is made and affected thereby or person required to return said property for assessment.

It being incumbent upon individuals to appeal from assessments that they may question as being inequitable, it is likewise incumbent upon taxing bodies and interested officials to take the same action. *Read v. Hamilton County*, 1942, 3 N.W.2d 597, 231 Iowa 1255.

# KANSAS

## WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

KS CONST Art 11, § 1

(a) The provisions of this subsection shall govern the assessment and taxation of property on and after January 1, 1993, and each year thereafter. Except as otherwise hereinafter specifically provided, the legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. The legislature may provide for the classification and the taxation uniformly as to class of recreational vehicles, as defined by the legislature, or may exempt such class from property taxation and impose taxes upon another basis in lieu thereof. The provisions of this subsection shall not be applicable to the taxation of motor vehicles, except as otherwise hereinafter specifically provided, mineral products, money, mortgages, notes and other evidence of debt and grain.

(b) All property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, farm machinery and equipment, merchants' and manufacturers' inventories, other than public utility inventories included in subclass (3) of class 2, livestock, and all household goods and personal effects not used for the production of income, shall be exempted from property taxation.

KS ST § 79-201

The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

- 1) All buildings used exclusively as places of public worship and all buildings used exclusively by school districts and school district interlocal cooperatives organized under the laws of this state, with the furniture and books therein contained and used exclusively for the accommodation of religious meetings or for school district or school district interlocal cooperative purposes, whichever is applicable, together with the grounds owned thereby if not leased or otherwise used for the realization of profit.
- 2) All real property, and all tangible personal property, actually and regularly used exclusively for literary, educational, scientific, religious, benevolent or charitable purposes, including property used exclusively for such purposes by more than one agency or organization for one or more of such exempt purposes.
- 3) All moneys and credits belonging exclusively to universities, colleges, academies or other public schools of any kind, or to religious, literary, scientific or benevolent and charitable institutions or associations, appropriated solely to sustain such institutions or associations, not exceeding in amount or in income arising therefrom the limit prescribed by the charter of such institution or association.
- 4) The reserve or emergency funds of fraternal benefit societies authorized to do business under the laws of the state of Kansas.
- 5) All buildings of private nonprofit universities or colleges which are owned and operated by such universities and colleges as student union buildings, presidents' homes and student dormitories.

6) All real and tangible personal property actually and regularly used exclusively by the alumni association associated by its articles of incorporation with any public or nonprofit Kansas college or university approved by the Kansas board of regents to confer academic degrees or with any community college approved by its board of trustees to grant certificates of completion of courses or curriculum, to provide accommodations and services to such college or university or to the alumni, staff or faculty thereof.

7) All parsonages owned by a church society and actually and regularly occupied and used predominantly as a residence by a minister or other clergyman of such church society who is actually and regularly engaged in conducting the services and religious ministrations of such society, and the land upon which such parsonage is located to the extent necessary for the accommodation of such parsonage.

8) All real property, all buildings located on such property and all personal property contained therein, actually and regularly used exclusively by any individually chartered organization of honorably discharged military veterans of the United States armed forces or auxiliary of any such organization, which is exempt from federal income taxation pursuant to section 501(c)(19) of the federal internal revenue code of 1986, for clubhouse, place of meeting or memorial hall purposes, and real property to the extent of not more than two acres, and all buildings located on such property, actually and regularly used exclusively by any such veterans' organization or its auxiliary as a memorial park.

9) All real property and tangible personal property actually and regularly used by a community service organization for the predominant purpose of providing humanitarian services, which is owned and operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign not-for-profit corporation.

10) For all taxable years commencing after December 31, 1986, any building, and the land upon which such building is located to the extent necessary for the accommodation of such building, owned by a church or nonprofit religious society or order which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and actually and regularly occupied and used exclusively for residential and religious purposes by a community of persons who are bound by vows to a religious life and who conduct or assist in the conduct of religious services and actually and regularly engage in religious, benevolent, charitable or educational ministrations or the performance of health care services.

#### KS ST § 79-201a

The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

1) All property belonging exclusively to the United States, except property which congress has expressly declared to be subject to state and local taxation.

2) All property used exclusively by the state or any municipality or political subdivision of the state.

18) Any building used primarily as an industrial training center for academic or vocational education programs designed for and operated under contract with private industry, and located upon a site owned, leased or being acquired by or for an area

vocational school, an area vocational-technical school, a technical college, or a community college, as defined by K.S.A. 72-4412, and amendments thereto, and the site upon which any such building is located.

**KS ST § 79-201b**

The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

- 1) All real property, and tangible personal property, actually and regularly used exclusively for hospital purposes by a hospital as the same is defined by K.S.A. 65-425, and amendments thereto, or a psychiatric hospital as the same was defined by K.S.A. 59-2902, and amendments thereto, as in effect on January 1, 1976, which hospital or psychiatric hospital is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, or a public hospital authority; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such a corporation and used exclusively for hospital, psychiatric hospital or public hospital authority purposes.
- 2) All real property, and tangible personal property, actually and regularly used exclusively for adult care home purposes by an adult care home as the same is defined by K.S.A. 39-923, and amendments thereto.
- 3) All real property, and tangible personal property, actually and regularly used exclusively for private children's home purposes by a private children's home as the same is defined by K.S.A. 75-3329, and amendments thereto.
- 4) All real property and tangible personal property, actually and regularly used exclusively for housing for elderly and handicapped persons having a limited or lower income, or used exclusively for cooperative housing for persons having a limited or low income, assistance for the financing of which was received under 12 U.S.C.A. 1701 et seq., or under 42 U.S.C.A. 1437 et seq.
- 5) All real property and tangible personal property, actually and regularly used exclusively for housing for elderly persons, which is operated by a corporation organized not for profit under the laws of the state of Kansas.
- 6) All real property and tangible personal property actually and regularly used exclusively for the purpose of group housing of mentally ill or retarded and other handicapped persons which is operated by a corporation organized not for profit under the laws of the state of Kansas.

**WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

**A. Full Exemptions.**

Only property used exclusively for benevolent and charitable purposes exempt. Exclusive use, not mere ownership, is test of exemption. Washburn College v. County of Shawnee, 8 K. 344; Vail v. Beach, 10 K. 214; St. Mary's College v. Crowl, Treasurer,

etc., 10 K. 442; Stahl v. Educational Assoc'n, 54 K. 542, 548, 38 P. 796. Mason v. Zimmerman, 81 K. 799, 807, 106 P. 1005.

Basis for exemption is benefit to state from property exempted. State, ex rel., v. Joslin, 116 K. 615, 227 P. 543. Nuns of St. Dominic v. Younkin, 118 K. 554, 557, 235 P. 869.

Maintenance for gain or profit is test for determining whether hospital charitable. Nuns of St. Dominic v. Younkin, 118 K. 554, 235 P. 869.

Exemption provisions strictly construed; burden of establishing exemption on claimant; exemption depends on exclusive use, not ownership. Topeka Presbyterian Manor v. Board of County Commissioners, 195 K. 90, 93, 402 P.2d 802.

## **B. Partial Exemptions.**

Partial exemption from ad valorem taxes for building used partially for charitable purposes not allowed. Defenders of the Christian Faith v. Board of County Commissioners, 219 K. 181, 183, 547 P.2d 706.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

KS ST § 79-213

- (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.
- (b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.
- (c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.
- (d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.
- (e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.
- (f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.
- (g) After examination of the request for exemption, and the county appraiser's recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the Kansas constitution; or (2)

K.S.A. 79-201a Second, and amendments thereto, for property constructed or purchased, in whole or in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce and housing, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the board shall have the authority to order a refund of taxes for a period not to exceed three years.

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

(n) The provisions of subsection (j) and (k) as amended by this act shall be applicable to all taxable years commencing after December 31, 1995.

## **B. Procedures for Retaining an Exemption.**

An exemption is retained by filing the required annual reports as noted in the section on annual certification section following.

## **C. Annual Certification.**

KS ST § 79-210

The owner or owners of all property which is exempt from the payment of property taxes under the laws of the state of Kansas for a specified period of years, other than property exempt under K.S.A. 79-201g and 79-201d Second, and amendments thereto, shall in each year after approval thereof by the board of tax appeals claim such exemption on or before March 1 of each year in which such exemption is claimed in the manner hereinafter provided. All claims for exemption from the payment of property taxes shall be made upon forms prescribed by the director of property valuation and shall identify the property sought to be exempt, state the basis for the exemption claimed and shall be filed in the office of the assessing officer of the county in which such property is located. The assessing officers of the several counties shall list and value for assessment, all property located within the county for which no claim for exemption has been filed in the manner hereinbefore provided. The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this section. The provisions of this section shall apply to property exempted pursuant to the provisions of section 13 of article 11 of the Kansas constitution. The claim for exemption annually filed by the owner of such property with the assessing officer shall include a written statement, signed by the clerk of the city or county granting the exemption, that the property continues to meet all the terms and conditions established as a condition of granting the exemption.

## **D. Obligation to File Copies of Lease or Agreements.**

No statute was found to require any leases or agreements to be filed.

## **E. Notification Requirements After Change in Use or Ownership.**

KS ST § 79-214

Within 30 days after any property exempted from property taxation ceases to be used exclusively for an exempt purpose, the owner thereof shall file with the county appraiser of the county where such property is located a statement that the property has ceased to be used for an exempt purpose. Any person required to file a statement pursuant to this section who fails to timely file such statement shall be subject to the same penalties prescribed by K.S.A. 79-1422, and amendments thereto, for the late filing of statements listing property for taxation purposes.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

Exemptions are monitored by the tax assessment board who reviews the annual filings for an exemption and reviews the validity of any exemptions granted.

### **B. Removal of Exemptions.**

Exemptions are removed when either the assessor or the taxpayer determine that the property is no longer exempt from taxation. In addition, if the taxpayer does not file annually as prescribed then the exemption shall be removed.

### **C. Assessment of Omitted Property.**

#### **KS ST § 79-213a**

Any group, association, corporation or individual who has not been assessed or levied a tax on its personal or real property prior to July 1, 1985, and who has applied for exemption from ad valorem taxation on such property premised upon use for purposes described in K.S.A. 79-201 Second between July 1, 1986, and January 1, 1990, shall not be liable for any taxes prior to January 1, 1987, if such group, association, corporation or individual had a reasonable basis to believe that it would not be assessed or taxed under the laws of the state of Kansas, and did not deceive or otherwise mislead, by affirmative misrepresentation, the county appraiser or other taxing authority in relationship to the use or ownership of such property. The burden of proof shall rest with the party claiming exemption. Relief may be granted under this section by a court in any pending tax appeal, by remand to the state board of tax appeals or upon the filing of an initial application pursuant to K.S.A. 79-213, and amendments thereto.

#### **KS ST § 79-1475**

Whenever the county appraiser discovers that any real property subject to taxation has been omitted from the tax rolls, such property shall immediately be listed and valued by the appraiser, and returned to the county clerk. The county clerk, upon receipt of the valuation for such property, shall place such property on the tax rolls and compute the amount of tax due based upon the mill levy for the year or years, not to exceed two calendar years preceding January 1 of the calendar year in which the property is discovered, in which such tax should have been levied, and shall certify such amount to the county treasurer as an added or escaped appraisal. The amount of such tax shall be due immediately and payable within 45 days after the issuance of an added or escaped property tax bill by the county treasurer. No interest shall be imposed unless the tax remains unpaid after such 45-day period. Taxes levied pursuant to this section which remain unpaid after such 45 day period shall be deemed delinquent and the county treasurer shall proceed to collect and distribute such tax in the same manner as prescribed by law for the collection and distribution of other taxes levied on property which are delinquent. No property tax levied pursuant to this section shall be payable by any person

other than the current owner of the property unless such property was acquired by will, inheritance or gift. Notwithstanding the foregoing, if the current owner of any such property purchased in the tax year in which such property was discovered to have been omitted from the tax rolls pays the property tax which would have been levied upon such property for such year within 45 days after the issuance of an added or escaped property tax bill by the county treasurer, such owner shall not be liable for any property tax which would have been levied upon such property for any prior taxable year.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

KS ST § 74-2426

(a) Orders of the board of tax appeals on any appeal, in any proceeding under the tax protest, tax grievance or tax exemption statutes or in any other original proceeding before the board shall be rendered and served in accordance with the provisions of the Kansas administrative procedure act. Notwithstanding the provisions of subsection (g) of K.S.A. 77-526 and amendments thereto, a final order of the board shall be rendered in writing and served within 120 days after the matter was fully submitted to the board unless this period is waived or extended with the written consent of all parties or for good cause shown.

(b) No final order of the board shall be subject to review pursuant to subsection (c) unless the aggrieved party first files a petition for reconsideration of that order with the board in accordance with the provisions of K.S.A. 77-529 and amendments thereto.

(c) Any action of the board pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions, except that:

(1) The parties to the action for judicial review shall be the same parties as appeared before the board in the administrative proceedings before the board. The board shall not be a party to any action for judicial review of an action of the board.

(2) There is no right to review of any order issued by the board in a no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 et seq., 19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and statutes of a similar character.

(3) The court of appeals has jurisdiction of any action for review pertaining to property appraised and assessed by the director of property valuation, excise, income or inheritance taxes assessed by the director of taxation and the exemption of any property from property taxation. The district court of the proper county has jurisdiction in all other cases.

(4) Review of orders issued by the board of tax appeals relating to the valuation or assessment of property for ad valorem tax purposes or relating to the tax protest shall be conducted by the district court of the county in which the property is located or, if located in more than one county, the district court of any county in which any portion of the property is located.

(5) In addition to the cost of the preparation of the transcript, the appellant shall pay to the board the other costs of certifying the record to the reviewing court. Such payment shall be made prior to the transmission of

the agency record to the reviewing court.

(d) If review of an order of the board relating to excise, income or inheritance taxes, is sought by a person other than the director of taxation, such person shall give bond for costs at the time the petition is filed. The bond shall be in the amount of 125% of the amount of taxes assessed or a lesser amount approved by the court of appeals and shall be conditioned on the petitioner's prosecution of the review without delay and payment of all costs assessed against the petitioner.

(e) If review of an order is sought by a party other than the director of property valuation or a taxing subdivision and the order determines, approves, modifies or equalizes the amount of valuation which is assessable and for which the tax has not been paid, a bond shall be given in the amount of 125% of the amount of the taxes assessed or a lesser amount approved by the reviewing court. The bond shall be conditioned on the petitioner's prosecution of the review without delay and payment of all costs assessed against the petitioner.

## KENTUCKY

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

KY Const s 170

There shall be exempt from taxation public property used for public purposes; places of burial not held for private or corporate profit; real property owned and occupied by, and personal property both tangible and intangible owned by, institutions of religion; institutions of purely public charity, and institutions of education not used or employed for gain by any person or corporation, and the income of which is devoted solely to the cause of education, public libraries, their endowments, and the income of such property as is used exclusively for their maintenance; household goods of a person used in his home; crops grown in the year in which the assessment is made, and in the hands of the producer; and real property maintained as the permanent residence of the owner, who is sixty-five years of age or older, or is classified as totally disabled under a program authorized or administered by an agency of the United States government or by any retirement system either within or without the Commonwealth of Kentucky, provided the property owner received disability payments pursuant to such disability classification, has maintained such disability classification for the entirety of the particular taxation period, and has filed with the appropriate local assessor by December 31 of the taxation period, on forms provided therefore, a signed statement indicating continuing disability as provided herein made under penalty of perjury, up to the assessed valuation of sixty-five hundred dollars on said residence and contiguous real property, except for assessment for special benefits. The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemptions shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property. The General Assembly may authorize any incorporated city or town to exempt manufacturing establishments from municipal taxation, for a period not exceeding five years, as an inducement to their location. Notwithstanding the provisions of Sections 3, 172, and 174 of this Constitution to the contrary, the General Assembly may provide by law an exemption for all or any portion of the property tax for any class of personal property.

KY ST s 164.758

- (1) All property and income of the Kentucky Higher Education Assistance Authority shall be exempt from all taxes and assessment of any nature whatsoever.
- (2) Notwithstanding the provisions of any general or special law or the provisions of any certificate of incorporation, charter, or other articles of organization, all domestic corporations or associations organized for the purpose of carrying on business in this state and any person or group is hereby authorized to make contributions to the Kentucky Higher Education Assistance Authority, and such contributions shall be allowed as deductions in computing the net taxable income of any such person, corporation, or

association for the purposes of any income, franchise, or other tax of any nature whatsoever imposed by the state or any political subdivision thereof.

#### KY ST s 136.070

(1) Every corporation organized under the laws of this state, every corporation having its commercial domicile in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation in this state, except financial institutions as defined in KRS 136.500, savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only, open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940, production credit associations, insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters, public service companies subject to taxation under KRS 136.120, those corporations exempted by Section 501 of the Internal Revenue Code, any property or facility which has been certified as an alcohol production facility as defined in KRS 247.910, any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390, and any other religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit, shall pay to the state an annual license tax of two dollars and ten cents (\$2.10) on each one thousand dollars (\$1,000) of the capital employed in the business as computed under the provisions of subsections (2) and (3) of this section, subject to the credit provided in subsection (6) of this section.

#### KY ST s 142.060

It is declared to be the public policy of the Commonwealth of Kentucky that institutions of purely public charity as referred to in Section 170 of the Constitution of the Commonwealth of Kentucky include nonprofit corporations, societies, and organizations that own or maintain properties which are or become listed by the United States Department of Interior in the National Register as authorized by title 16, United States Code, section 470(f).

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions.**

See Constitutional provisions noted above.

#### **B. Partial Exemptions.**

A partial exemption can be granted for the portion of the property that meets the requirements for an exemption.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

KY ST s 142.060

It is declared to be the public policy of the Commonwealth of Kentucky that institutions of purely public charity as referred to in Section 170 of the Constitution of the Commonwealth of Kentucky include nonprofit corporations, societies, and organizations that own or maintain properties which are or become listed by the United States Department of Interior in the National Register as authorized by title 16, United States Code, section 470(f).

### **B. Procedures for Retaining an Exemption.**

An exemption can only be obtained by following the annual assessment requirements noted below, meeting the requirements explained in the creating an exemption section, and by fitting into one of the categories enumerated in the KY Constitution.

### **C. Annual Certification.**

KY ST s 132.220

(1) Deposits belonging to a resident of Kentucky in any financial institution, as defined in KRS 136.500, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed, and valued as of January 1 of each year. Money in hand shall be listed, assessed, and valued as of January 1 of each year. Shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in the property, unless otherwise provided by law, shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1 of each year. It shall be the duty of all persons owning or having any interest in any real property taxable in this state to list or have listed the property with the property valuation administrator of the county where it is located between January 1 and March 1 in each year, except as otherwise provided by law. It shall be the duty of all persons owning or having any interest in any intangible personal property or tangible personal property taxable in this state to list or have listed the property with the property valuation administrator of the county of taxable situs or with the cabinet between January 1 and May 15 in each year, except as otherwise prescribed by law. The filing date for an individual's intangible property tax return may be extended to the extended federal income filing date approved by the Internal Revenue Service for that individual. If an individual extends the filing date for the intangible return, no discount shall be allowed upon the payment of the intangible tax. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer may list his property in person before the property valuation administrator or his deputy, or may file a property tax return by first class mail. Any real

property correctly and completely described in the assessment record for the previous year, or purchased during the preceding year and for which a value was stated in the deed according to the provisions of KRS 382.135, may be considered by the owner to be listed for the current year if no changes that could potentially affect the assessed value have been made to the property. However, if requested in writing by the property valuation administrator or by the cabinet, any real property owner shall submit a property tax return to verify existing information or to provide additional information for assessment purposes. Any real property which has been underassessed as a result of the owner intentionally failing to provide information, or intentionally providing erroneous information, shall be subject to revaluation, and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290.

(3) If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list. The property valuation administrator, his employee, or employees of the cabinet may physically inspect and revalue land and buildings in the absence of the property owner or resident. The exterior dimensions of buildings may be measured and building photographs may be taken; however, with the exception of buildings under construction or not yet occupied, an interior inspection of residential and farm buildings, and of the nonpublic portions of commercial buildings shall not be conducted in the absence or without the permission of the owner or resident.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of the person without designating them by name.

(5) Real property tax roll entries for which tax bills have not been collected at the expiration of the one (1) year tolling period provided for in KRS 134.470, and for which the property valuation administrator cannot physically locate and identify the real property, shall be deleted from the tax roll and the assessment shall be exonerated. The property valuation administrator shall keep a record of these exonerations, which shall be open under the provisions of KRS 61.870 to 61.884. If, at any time, one of these entries is determined to represent a valid parcel of property it shall be assessed as omitted property under the provisions of KRS 132.290. Notwithstanding other provisions of the Kentucky Revised Statutes to the contrary, any loss of ad valorem tax revenue suffered by a taxing district due to the exoneration of these uncollectable tax bills may be recovered through an adjustment in the tax rate for the following year.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found to require that copies of leases or agreements be filed.

#### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found that obligates the property owner to alert the tax board of any change in use or ownership.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

KY ST s 132.220

(6) All real property exempt from taxation by Section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of the tax-exempt property, but the property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the cabinet within thirty (30) days of the close of the listing period. This inventory shall be in the form prescribed by the cabinet. The cabinet shall make an annual report itemizing all exempt properties to the Governor and the Legislative Research Commission within sixty (60) days of the close of the listing period.

### **B. Removal of Exemptions.**

KY ST s 132.220

(7) Each property valuation administrator, under the direction of the cabinet, shall review annually all real property listed with him under subsection (6) of this section and claimed to be exempt from taxation by Section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2).

### **C. Assessment of Omitted Property.**

KY ST s 132.330

The field agents, accountants and attorneys of the Revenue Cabinet shall cause to be listed for taxation all property omitted by the property valuation administrators, county board of assessment appeals, cabinet or any other assessing authority, for any year omitted. The agent, accountant or attorney proposing to have the property assessed shall file in the office of the county clerk of the county in which the property may be liable to assessment a statement containing a description and value of the property or corporate franchise proposed to be assessed, the name and place of residence of the owner, his agent or attorney, or person in possession of the property, if known, and the year the property was unassessed. The county clerk shall thereupon issue a summons against the owner, or person in possession of the property if the owner is unknown, to show cause within ten (10) days after the service of the summons, why the property or corporate franchise shall not be assessed at the value named in the statement filed. No decision shall be rendered against the alleged owner unless the statement filed contains a description of the property sought to be assessed that will enable the county judge/executive to identify it. The summons shall be executed by the sheriff by delivering a copy thereof to the owner, or if he is not in the county to his agent, attorney or person in possession of the property. If the property is real property, and the owner is known but is

absent from the state and has no attorney or agent in this state and no one is in possession of the property, the summons shall be served by posting it in a conspicuous place upon the property; if the property consists of tangible personal property the summons shall be placed in a conspicuous place where the property is located. In the case of tangible and intangible personal property, where the owner and his place of residence are unknown and no one (1) has possession of the property, an action for assessment shall be instituted by filing the petition above mentioned and procuring constructive service against the owner under the provisions of rules 4.05, 4.06, 4.07 and 4.08 of the Rules of Civil Procedure. In all of the above cases an attachment of the property omitted from assessment may be procured from the District Court against the owner, at the time of the institution of the action or thereafter, and without the execution of a bond by the Commonwealth or its relator, by the representative of the Revenue Cabinet making an affidavit that the property described in the petition is subject to state, county, school or other taxing district tax, and is unassessed for any taxable year.

#### KY ST s 132.290

(1) Any real property which has not been listed for taxation, for any year in which it is taxable, by the time the board of assessment appeals completes its work for that year shall be deemed omitted property. Any personal property which has not been listed for taxation, for any year in which it is taxable, by April 15 of that year shall be deemed omitted property.

(2) All omitted property shall be assessed retroactively in the manner provided by law at any time within five (5) years from the date when it became omitted, but the lien thereby accruing on any such property, except real property, shall not prejudice the rights of bona fide purchasers acquired in the meantime.

(3) All omitted property voluntarily listed shall be subject to a penalty of ten percent (10%) of the amount of taxes, and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent had the property been listed as required by law, until the date the tax bill is prepared in accordance with KRS 133.230.

(4) All omitted property not voluntarily listed shall be subject to a penalty of twenty percent (20%) of the amount of taxes, and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent had the property been listed as required by law, until the date the tax bill is prepared in accordance with KRS 133.230.

(5) When the property is assessed retroactively by action prosecuted in the manner provided by KRS 132.330 and 132.340, an additional penalty of twenty percent (20%) of the amount of the original tax, interest and penalty may be collected for the purpose provided in KRS 134.400 and paid into the State Treasury. All other penalties and interest shall be distributed in the same manner as the tax.

#### KY ST s 132.310

(1) Any person who has failed to list for taxation any property omitted from assessment, except such as is subject to assessment by the Revenue Cabinet, may at any time list such property with the property valuation administrator. The property valuation administrator shall proceed to assess any omitted real property and shall within ten (10) days from the

date the real property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). The Revenue Cabinet shall assess any omitted personal property and provide notice to the taxpayer in the manner provided in KRS 131.110.

(2) The property valuation administrator may at any time list and assess any real property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). If the property valuation administrator fails to assess any omitted real property, the Revenue Cabinet may initiate assessment and collection procedures under the same provisions it uses for omitted personal property.

(3) The notice to the taxpayer required by subsections (1) and (2) of this section shall specify a date and time at which the county board of assessment appeals will hear the taxpayer's protest of the omitted assessment. For purposes of hearing appeals from omitted assessments the county judge/executive shall notify the chairman of the board of assessment appeals of the date set for hearing and may authorize one (1) member of the board to hear the appeal and issue a ruling of his decision on the assessment, which shall be appealable, to the Kentucky Board of Tax Appeals as provided by KRS 131.340(2).

(4) Any property voluntarily listed as omitted property for taxation under this section shall be subject to penalties provided in KRS 132.290(3). Omitted property listed for taxation under this section by the property valuation administrator shall be subject to the penalties provided in KRS 132.290(4).

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

### **KY ST s 131.110**

(1) The Revenue Cabinet shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be due and payable if not protested in writing to the cabinet within forty-five (45) days from the date of notice. Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under KRS 131.340. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the cabinet may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of the extension may be reviewed in the same manner as a protested assessment.

(2) After a timely protest has been filed, the taxpayer may request a conference with the cabinet. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.

(3) After considering the taxpayer's protest, including any matters presented at the final conference, the cabinet shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the cabinet, generally state the issues in controversy, the cabinet's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky Board of Tax Appeals.

(4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the cabinet shall issue

such ruling within thirty (30) days from the date the request is received by the cabinet.  
(5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.340.

616 SW(2d) 501 (Ky 1981), *Parrent v Fannin*. Taxpayers challenging their property assessments were required to exhaust administrative remedies before resorting to courts where their assessments did not reveal a prima facie constitutional violation, the cases involved nothing but factual questions as to whether taxpayers' respective properties were assessed in excess of their fair cash value, and where notice given to taxpayers gave them ample information of procedure they could have pursued to correct any mistake in their assessments.

300 Ky 224, 188 SW(2d) 325 (Ky 1945), *Todd County v Bond Bros*. One claiming exemption from local taxation with respect to certain personal property has the burden of affirmatively showing such property to be within class to which statutory exemption applies.

# LOUISIANA

## WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

LA CONST Art. 7, s 21

In addition to the homestead exemption provided for in Section 20 of this Article, the following property and no other shall be exempt from ad valorem taxation:

(A) Public lands; other public property used for public purposes.

(B) Organization exemptions.

(1) Nonprofit exemption.

(a) Property owned by a nonprofit corporation or association organized and operated exclusively for religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or member thereof and which is declared to be exempt from federal or state income tax; and

(b) property leased to such a nonprofit corporation or association for use solely as housing for homeless persons, as defined by regulation adopted by the tax commission or its successor provided that the term of such lease shall be for at least five years, that as a condition of entering into the lease the property be in compliance with all applicable health and sanitation codes for use as housing for homeless persons, that the lease shall provide that compensation to be paid the lessor shall not exceed one dollar per year, and that such contract of lease shall recite that the property shall be used exclusively for the purpose of housing the homeless, and further provided that at such time as the property is no longer used solely as housing for homeless persons, the property shall no longer be exempt from taxation;

(2) property of a bona fide labor organization representing its members or affiliates in collective bargaining efforts; and

(3) property of an organization such as a lodge or club organized for charitable and fraternal purposes and practicing the same, and property of a nonprofit corporation devoted to promoting trade, travel, and commerce, and also property of a trade, business, industry or professional society or association, if that property is owned by a nonprofit corporation or association organized under the laws of this state for such purposes.

None of the property listed in Paragraph (B) shall be exempt if owned, operated, leased, or used for commercial purposes unrelated to the exempt purposes of the corporation or association.

LA R.S. 12:202.1

A. Notwithstanding any other provisions of this Chapter or of any other law, no state board, commission or department, nor any other persons, acting on behalf of such state board, commission or department, shall incorporate or cause to be incorporated any nonprofit corporation which has for its purpose any public or quasi-public function or any

function for the benefit of or in connection with any public agency, purpose or function, if in the exercise of any part of the functions of the corporation any bonds or other evidences of indebtedness of the corporation are or may be issued, unless the purpose for which the corporation is to be created; the amount of bonds to be issued; the method of financing said bonds, including but not restricted to the term of the bonds, the interest and other charges to be paid with respect to the bonds, and the purposes for which the bonds are to be issued shall have been first submitted to and approved by the legislature.

B. The provisions of this section shall not apply to or affect the validity of such entities formed and approved or ratified prior to July 31, 1968, and shall not affect R.S. 44:8.

C. The prohibition of this Section 202.1 pertaining to the state boards, commissions and departments will have no application in respect to local political subdivision or no application in respect to the city of Baton Rouge and the parish of East Baton Rouge. Said city and parish, or either of them, are empowered and fully authorized to enter into an operating contract or contracts with and to grant permits or franchises to a quasi nonprofit public corporation in order to provide for efficient and economic acquisition, operation and maintenance of a complete public transportation system for said city of Baton Rouge and/or the parish of East Baton Rouge; any other provision of this Section 202.1 or other provision of law notwithstanding, such quasi- public nonprofit corporation may be created under the general nonprofit corporation law of Louisiana with all powers pertaining thereto, including the right to issue negotiable bonds and other obligations not to exceed one million dollars with interest thereon not to exceed eight per cent per annum which shall be exempt from taxation and which bonds or other obligations shall constitute negotiable instruments within the meaning of the negotiable instruments law of the State of Louisiana; all properties and assets of whatever nature and description owned or operated by said nonprofit corporation shall be exempt from state and local taxation, including ad valorem taxation; the governing authority of the said public transportation corporation shall be subject to requirements and provisions of the public contract law, the public meeting law, and the public records law of the State of Louisiana.

D. The prohibition of this Section will have no application to local political subdivisions of the state with a population in excess of one hundred fifty thousand, nor to their respective boards, commissions and departments. Any provision of this Section or other provision of law notwithstanding, a quasi- public nonprofit corporation may be created by any such political subdivision of the state under the general nonprofit corporation law of Louisiana with all powers pertaining thereto, including the right to issue negotiable revenue bonds not to exceed fifteen million dollars with interest thereon not to exceed eight per cent per annum which shall be exempted from taxation and which bonds shall constitute negotiable instruments within the meaning of the negotiable instruments law of the state of Louisiana; all properties and assets of whatever nature and description owned or operated by said nonprofit corporation shall be exempted from state and local taxation, including ad valorem taxation; and the governing authority of such quasi-public nonprofit corporation shall be subject to the requirements and provisions of the public contract law, the public meeting law, and the public records law of the state of Louisiana.

LA R.S. 51:1160

The corporation is hereby declared to be performing a public function on behalf of the municipality or parish with respect to which the corporation is organized and to be a

public instrumentality of such municipality or parish. Accordingly, the corporation and all properties at any time owned by it and the income therefrom and all bonds issued by it and the income therefrom shall be exempt from all taxation in the state of Louisiana; provided, however, that the corporation may require the lessee of each of the projects of the corporation to pay annually to parish or municipal taxing authorities, through the normal collecting agency, a sum in lieu of ad valorem taxes to compensate such authorities for any services rendered by them to such projects which sum shall not be in excess of the ad valorem taxes such lessee would have been obligated to pay to such authorities had it been the owner of such project during the period for which such payment is made. Also for the purposes of R.S. 51:704(2) and any amendment thereto or substitution therefore, bonds issued by the corporation shall be determined to be securities issued by a public instrumentality of a political subdivision of the state of Louisiana.

LA R.S. 8:317

Property dedicated for cemetery purposes, including cemetery spaces and the land on which they stand, shall be exempt from all taxation to the fullest extent permitted by the constitution and laws of this state.

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions.**

An exemption from taxation is strictly construed and must be clearly and unequivocally and affirmatively established. *State ex rel. Kemp v. City of Baton Rouge*, 1949, 215 La. 315, 40 So.2d 477; *Meyers v. Flournoy*, 1946, 209 La. 812, 25 So.2d 601; *Hibernia Nat. Bank in New Orleans v. Louisiana Tax Commission*, 1940, 195 La. 43, 196 So. 15; *State v. Louisiana Baking Corporation*, App.1934, 153 So. 41; *Pearce v. Couvillon*, 1927, 164 La. 155, 113 So. 801; *Louisiana & A. Ry. Co. v. State Board of Appraisers*, 1914, 135 La. 69, 64 So. 985; *J. M. Guffey Petroleum Co. v. Murrel*, 1910, 127 La. 466, 53 So. 705; *State v. New Orleans Ry. & Light Co.*, 1906, 116 La. 144, 40 So. 597, 7 Ann.Cas. 724.

Exemptions from taxation are to be strictly construed against the person claiming the exemption and any plausible doubt is fatal. *Mattingly v. Vial*, Sup.1939, 193 La. 1, 190 So. 313; *Ruston Hospital, Inc. v. Riser*, App. 2 Cir.1966, 191 So.2d 665; *Beta Xi Chapter of Beta Theta Pi v. City of New Orleans*, App.1931, 137 So. 204, 18 La.App. 130.

Those claiming tax exemption must bring themselves clearly within provisions of law, since tax exemptions are strictly construed. *Penick & Ford v. Ehret*, Sup.1928, 166 La. 1, 116 So. 572; *Op.Atty.Gen.*, 1934-36, p. 1173.

Const.1921, Art. 10, § 4, setting forth exemptions from taxation must be strictly construed, and under such construction the property of the construction and general

laborers of New Orleans, Inc., was not exempt. Op.Atty.Gen., 1944-46, p. 1042.

## **B. Partial Exemptions.**

Where property was used partly for school purposes and partly for purposes of residence by the owner and his family, the most that could be claimed in such a case was a proportionate reduction of the assessment to correspond with the rating of the part of the property used for the school purposes compared with the value of the whole. *Ferrell v. Penrose*, Sup.1900, 52 La. Ann. 1481, 27 So. 945.

A portion of a college building occupied by priests, such occupation not being incidental to the college, will be assessed at a value proportioned to that of the whole building, although a partial use of such college building by the teachers employed in the college will not defect the right of such college to exemption from taxation under Const. 1879, Art. 207, exempting from taxation all buildings and property used exclusively for colleges, or other school purposes, provided the property so exempted be not used or leased for the purpose of private or corporate profit or income. *State ex rel. Cunningham v. Board of Assessors of Parish of Orleans*, Sup. 1898, 52 La. Ann. 223, 26 So. 872.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

Traditional test of exemption from taxation is based upon use of property for tax-exempt purpose, rather than upon whether title to the property is vested in a tax-exempt institution. *State ex rel. Givens v. Anderson*, App. 1 Cir. 1959, 116 So.2d 80; Op.Atty.Gen., No. 92-408, Oct. 8, 1992.

### **B. Procedures for Retaining an Exemption.**

General tax exemption provided by this section exempts all property owned by a nonprofit corporation organized and operated exclusively for specified benevolent purposes, including health purposes, subject only to exception which denies the exemption only to property owned, operated, leased or used for commercial purposes unrelated to the exempt purposes of the corporation. *Hotel Dieu v. Williams*, App. 4 Cir. 1981, 403 So.2d 1255, writ granted 409 So.2d 646, affirmed 410 So.2d 1111.

Providing medical office spaces and parking spaces, in immediate vicinity of a nonprofit hospital, by the hospital, either directly or through a related nonprofit corporation created for that purpose, was not "commercial purpose" unrelated to the exempt purposes of a hospital, and therefore general tax exemption provided by this section, which exempts all property owned by a nonprofit corporation, applied to such property. *Hotel Dieu v. Williams*, App. 4 Cir. 1981, 403 So.2d 1255, writ granted 409 So.2d 646, affirmed 410 So.2d 1111.

Const. 1921, Art. 10, § 4, which exempts places devoted to charitable undertakings from

taxation is limited to portion of property of an organization which was actually devoted to charitable undertakings and does not include all property of charitably purposed organization. *Ruston Hospital, Inc. v. Riser*, App. 2 Cir.1966, 191 So.2d 665.

Property of charitable foundation must meet four criteria under Article 7, Section 21(B)(1) of State Constitution in order to qualify for ad valorem tax exemption. Op.Atty.Gen., No. 91-298, July 26, 1991.

The words "charitable undertaking", within Const.1921, Art. 10, § 4, exempting from taxation places devoted to charitable undertakings, refers to any benevolent undertaking from which the public at large may derive educational, scientific, religious or humane advantages, and to deserve the exemption the administrators must manage the property to the end that it is nonprofit taking and not conducted for revenue purposes. Op.Atty.Gen., 1944- 46, p. 985.

Only property actually used for church, school or charitable purposes would be exempt from taxation. Op.Atty.Gen., 1920-22, p. 814.

### **C. Annual Certification.**

LA CONST Art. 7, s 21

The exemption shall be for an initial term of no more than five calendar years, and may be renewed for an additional five years. All property exempted shall be listed on the assessment rolls and submitted to the Louisiana Tax Commission or its successor, but no taxes shall be collected thereon during the period of exemption.

When property becomes exempt from taxation by virtue of purpose for which it is acquired and use made of it, duration of exemption depends upon length of time it is so devoted and used. *New Orleans Bank & Trust Co. v. City of New Orleans*, Sup.1933, 176 La. 946, 147 So. 42.

Real estate exempt from taxation on assessment date remains exempt during current year, though transferred to one required to pay taxes. *Gulf Public Service Co. v. Louisiana Tax Commission*, Sup.1929, 167 La. 757, 120 So. 286.

### **D. Obligation to File Copies of Lease or Agreements.**

If the owner of property does not fall within one of the tax classifications enumerated in Article VII, Section 21, the property will not be exempt from ad valorem taxes even though it is being leased to a governmental agency. Op.Atty.Gen., No. 94-602, Dec. 29, 1994; No. 94-603, Dec. 29, 1994.

### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found to specifically require that a change in use be reported.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

Attorney General does not have authority to make decision as to whether any particular taxpayer is exempt from payment of ad valorem taxes, as such decision is based upon factual determination, and Louisiana Tax Commission is granted exclusive right to make such decision under Const. Art. 7, § 18. Op.Atty.Gen., No. 76-114, March 29, 1976.

A tax exemption granted by constitution cannot be taken away or limited by act of the Legislature or otherwise than by constitutional amendment. State ex rel. United Seamen's Service v. City of New Orleans, Sup.1946, 209 La. 797, 25 So.2d 596; Warren County, Miss. v. Hester, Sup.1951, 219 La. 763, 54 So.2d 12, certiorari denied 72 S.Ct. 167, 342 U.S. 877, 96 L.Ed. 659.

The legislature is powerless, directly or indirectly, to grant exemptions from taxation. Hibernia Nat. Bank in New Orleans v. Louisiana Tax Com'n, Sup.1940, 195 La. 43, 196 So. 15.

Members of the Legislature in enacting legislation are presumed to have known that property which is constitutionally subject to taxation cannot be exempted by them. State ex rel. Porterie v. Housing Authority of New Orleans, Sup.1938, 190 La. 710, 182 So. 725.

The Legislature cannot grant exemptions from ad valorem taxation different from the exclusive exemptions granted in the Constitution. Op.Atty.Gen., No. 92-579, Sept. 17, 1992.

### **B. Removal of Exemptions.**

Exemptions are removed when the assessor determines that the property is no longer eligible for the exemption.

### **C. Assessment of Omitted Property.**

Omitted property is dealt with as all property and will be assessed on a regular basis.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

LA R.S. 47:1998

### **A. Appeals.**

(1) Any taxpayer or bona fide representative of an affected tax-recipient body in the state dissatisfied with the action of the tax commission under the provisions of R.S. 47:1989, shall have the right to institute suit within thirty days of the

decision of the tax commission in either the district court for the parish where the tax commission is domiciled or the district court of the parish where the property is located contesting the correctness of assessment. Any taxpayer who owns property assessed in more than one parish may institute this suit in either the district court for the parish where the tax commission is domiciled or the district court of any one of the parishes in which the property is located and assessed, provided at least twenty-five percent of the parishes where the property is located are named in the suit. However, if at least twenty-five percent of the parishes are not named in the suit, then suit must be filed in the parish where the property is located.

(2) Any taxpayer who has filed suit under this provision and whose taxes have become due shall pay such taxes under protest and shall cause to issue notice to the officer designated by law for the collection of such tax under the provisions of R.S. 47:2110(E), and shall cause service of process to be made on the Louisiana Tax Commission as the officer designated by law to assess the property as provided for in R.S. 47:2110(B). However, the portion of taxes that is not in dispute shall be paid without being made subject to the protest.

**B. Filing suit in court.**

(1) Any taxpayer or bona fide representative of an affected tax-recipient body in the state shall have the right to institute suit in either the district court for the parish where the tax commission is domiciled or the district court of the parish where the property is located, for the purpose of contesting the correctness or legality of any change in assessment made against the property under written instructions of the tax commission, pursuant to R.S. 47:1990, which suits must be instituted within thirty days after the date of the written instructions of the tax commission ordering the change.

(2) Any taxpayer who owns property assessed in more than one parish may institute this suit in either the district court for the parish where the tax commission is domiciled or the district court of any one of the parishes in which the property is located and assessed, provided at least twenty-five percent of the parishes where the property is located are named in the suit. However, if at least twenty-five percent of the parishes are not named in the suit, then suit must be filed in the parish where the property is located.

(3) Any taxpayer in the state who has filed suit under these provisions and whose taxes have become due shall pay said taxes under protest and shall cause to issue a notice to the officer designated by law for the collection of such tax under the provisions of R.S. 47:2110(E), and shall cause service of process to be made on the Louisiana Tax Commission as provided for in R.S. 47:2110(B). However, the portion of taxes that is not in dispute shall be paid without being made subject to the protest.

**C.** The assessor shall bring suit, when necessary to protect the interest of the state, and shall also have the right of appeal and such proceedings shall be without cost to him or the state.

**D.** In all suits relating to property taxes the judge shall hear and try such cases without delay, in chambers if necessary, without cost to the reviewers or the assessors.

**E.** The plea of estoppel shall never be allowed by the courts of this state in matters of

local or municipal assessments where there are radical defects in the proceedings leading up to such local assessments, but such plea shall have full effect as against mere subsequent irregularities or informalities therein where no protest has been made thereto, provided that nothing contained in this Subsection shall apply to the levying of taxes for the security of any issuance of bonds.

F. If the assessed valuation finally determined under this Section is greater than the taxpayer's own assessed valuation, the court shall enter judgment against the taxpayer for the additional taxes due together with interest at the actual rate earned on the money paid under protest in the escrow account during the period from the date of notice of intention to file suit for recovery of taxes pursuant to R.S. 47:2110(E) until paid. If the taxpayer prevails in his suit to recover taxes paid under protest, the appropriate amount of taxes shall be refunded to the taxpayer together with interest at the rate set forth above during the period from the date of payment until the date of such refund.

Petition for review of decision of Tax Commission had to be filed within 30 days of Commission's decision disposing of application for rehearing, either under judicial review statute specifically addressing Commission decisions, or, if that statute did not provide 30 days to sue for judicial review after decision denying rehearing, under Administrative Procedure Act (APA) residual delay provisions. *Hibernia Nat. Bank v. Louisiana Tax Com'n*, App. 1 Cir.1995, 94 0677 (La.App. 1 Cir. 3/3/95), 652 So.2d 662.

## MAINE

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

ME ST T. 36 s 1760

Subject to the provisions of section 1760-C, no tax on sales, storage or use may be collected upon or in connection with:

1. Exemptions by constitutional provisions. Sales which this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.
2. Certain governmental entities. Sales to the State or any political subdivision, or to the Federal Government, or to any unincorporated agency or instrumentality of either of them or to any incorporated agency or instrumentality of them wholly owned by them. This exemption does not apply where title is held or taken as security for any financing arrangement. This exemption also does not apply to corporations organized under Title IV, Part E of the Farm Credit Act of 1971, 12 United States Code, Sections 2211 to 2214.
6. Certain meals. Sales of meals:
  - A. Served by public or private schools, school districts, student organizations and parent-teacher associations to the students or teachers of a school;
  - B. To patients of hospitals licensed by the State for the care of human beings and other institutions licensed by the State for the hospitalization or nursing care of human beings, or institutions, agencies, hospitals, boarding homes and boarding houses licensed by the Department of Human Services under Title 22, Subtitle 6 [FN1] and Title 22, section 1781;
  - C. By hospitals, schools, long-term care facilities, food contractors and restaurants to incorporated nonprofit area agencies on aging for the purpose of providing meals to the elderly;
  - D. To residents of incorporated nonprofit church-affiliated congregate housing facilities for the elderly in which at least 75% of the units are available for leasing to eligible lower-income residents; and
  - E. Served by colleges to employees of the college when the meals are purchased with debit cards issued by the colleges.
16. Hospitals, research centers, churches and schools. Sales to incorporated hospitals, incorporated nonprofit nursing homes licensed by the Department of Human Services, incorporated nonprofit boarding care facilities licensed by the Department of Human Services, incorporated nonprofit home health care agencies certified under the United States Social Security Act of 1965, Title XVIII, as amended, incorporated nonprofit rural community health centers engaged in, or providing facilities for, the delivery of comprehensive primary health care, incorporated nonprofit dental health centers, institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research or for the purpose of establishing and maintaining laboratories for scientific study and investigation in the field of biology or ecology or operating educational television or radio stations, schools, incorporated nonprofit organizations or their affiliates whose purpose is to provide literacy assistance or free clinical assistance to children with dyslexia and regularly organized churches or houses of religious worship,

excepting sales, storage or use in activities that are mainly commercial enterprises. "Schools" means incorporated nonstock educational institutions, including institutions empowered to confer educational, literary or academic degrees, that have a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year and that keep and furnish to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank, no part of the net earnings of which inures to the benefit of any individual.

19. Schools. Rental charged for living quarters, sleeping or housekeeping accommodations to any student necessitated by attendance at a school as defined in subsection 16.

26. Nonprofit fire departments and nonprofit ambulance services. Sales to incorporated nonprofit fire departments and to incorporated nonprofit ambulance services.

28. Community mental health facilities and community mental retardation facilities.

44. Certain church affiliated residential homes. Sales to any church affiliated nonprofit organization which operates, under a charter granted by the Legislature, a residential home for adults.

53. Nonprofit volunteer search and rescue organizations. Sales to incorporated, nonprofit volunteer search and rescue organizations.

55. Incorporated nonprofit hospice organizations. Sales to incorporated nonprofit hospice organizations which provide a program or care for the physical and emotional needs of terminally ill patients.

56. Nonprofit youth organizations. Sales to nonprofit youth organizations whose primary purpose is to provide athletic instruction in a nonresidential setting, or to councils and local units of incorporated nonprofit national scouting organizations;

#### ME ST T. 22 s 2067

The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the State, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and will constitute the performance of an essential governmental function, and neither the authority nor its agent shall or may be required to pay any taxes or assessments upon or in respect of a project or projects or any property acquired, used by the authority or its agent or under the jurisdiction, control, possession or supervision of the same or upon the activities of the authority or its agent in the operation or maintenance of a project or projects under this chapter, or upon income or other revenues received therefrom, and any bonds, notes and other obligations issued under this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, as well as the income and property of the authority, are at all times exempt from taxation of every kind by the State and by the municipalities and all other political subdivisions of the State.

#### ME ST T. 20-A s 3647

Bonds and notes of an interstate school district shall be exempt from local property taxes in both states, and the interest or discount thereon and any profit derived from the disposition thereof shall be exempt from personal income taxes in both states.

ME ST T. 36 s 651

The following public property is exempt from taxation:

1. Public property.
  - A. The property of the United States so far as the taxation of such property is prohibited under the Constitution and laws of the United States.
  - B. The property of the State of Maine.

ME ST T. 36 s 652

The following property of institutions and organizations is exempt from taxation:

1. Property of institutions and organizations.
  - A. The real estate and personal property owned and occupied or used solely for their own purposes by benevolent and charitable institutions incorporated by this State. Such an institution may not be deprived of the right of exemption by reason of the source from which its funds are derived or by reason of limitation in the classes of persons for whose benefit such funds are applied.

For the purposes of this paragraph, "benevolent and charitable institutions" include, but are not limited to, nonprofit nursing homes and nonprofit boarding homes and boarding care facilities licensed by the Department of Human Services pursuant to Title 22, chapter 1665 or its successor, nonprofit community mental health service facilities licensed by the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services pursuant to Title 34-B, chapter 3 and nonprofit child care centers incorporated by this State as benevolent and charitable institutions. For the purposes of this paragraph, "nonprofit" means a facility exempt from taxation under Section 501(c)(3) of the Code;

- B. The real estate and personal property owned and occupied or used solely for their own purposes by literary and scientific institutions. If any building or part of a building is used primarily for employee housing, that building, or that part of the building used for employee housing, shall not be exempt from taxation.
    - C. Further conditions to the right of exemption under paragraphs A and B are that:
      - (1) Any corporation claiming exemption under paragraph A must be organized and conducted exclusively for benevolent and charitable purposes;
      - (2) A director, trustee, officer or employee of an organization claiming exemption is not entitled to receive directly or indirectly any pecuniary profit from the operation of that organization, excepting reasonable compensation for services in effecting its purposes or as a proper beneficiary of its strictly benevolent or charitable purposes;
      - (3) All profits derived from the operation of an organization claiming exemption and the proceeds from the sale of its property are devoted exclusively to the purposes for which it is organized;
      - (4) The institution, organization or corporation claiming exemption under this subsection shall file with the tax assessors upon their request a report for its preceding fiscal year in such detail as the tax assessors may reasonably require;

An exemption granted under this subparagraph must be revoked for any year in which the

owner of the property is no longer a nonprofit housing corporation or the operation of the residential rental housing is an unrelated trade or business to that nonprofit housing corporation.

E. The real estate and personal property owned and occupied by posts of the American Legion, Veterans of Foreign Wars, American Veterans of World War II, Grand Army of the Republic, Spanish War Veterans, Disabled American Veterans and Navy Clubs of the U.S.A., which shall be used solely by those organizations for meetings, ceremonials or instruction, including all facilities appurtenant to such use and used in connection therewith. If any building shall not be used in its entirety for those purposes, but shall be used in part for those purposes and in part for any other purpose, exemption shall only be of the part used for those purposes.

F. The real estate and personal property owned and occupied or used solely for their own purposes by chambers of commerce or boards of trade in this State.

G. Houses of religious worship, including vestries, and the pews and furniture within the same; tombs and rights of burial; and property owned and used by a religious society as a parsonage to the value of \$20,000, and personal property not exceeding \$6,000 in value, but so much of any parsonage as is rented is liable to taxation. For purposes of the tax exemption provided by this paragraph, a parsonage shall mean the principal residence provided by a religious society for its clergyman whether or not located within the same municipality or place as the house of religious worship where the clergyman regularly conducts religious services.

H. Real estate and personal property owned by or held in trust for fraternal organizations, except college fraternities, operating under the lodge system which shall be used solely by fraternal organizations for meetings, ceremonials, religious or moralistic instruction, including all facilities appurtenant to such use and used in connection therewith. If any building shall not be used in its entirety for such purposes, but shall be used in part for such purposes and in part for any other purpose, exemption shall be of the part used for such purposes.

J. The real and personal property owned by one or more of the foregoing organizations and occupied or used solely for their own purposes by one or more other such organizations.

K. The real and personal property leased by and occupied or used solely for its own purposes by an incorporated benevolent and charitable organization which is exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended, and the primary purpose of which is the operation of a hospital licensed by the Department of Human Services, health maintenance organization or blood bank.

Further conditions to the right of exemption are that:

(1) No director, trustee, officer or employee of any organization claiming exemption shall receive directly or indirectly any pecuniary profit from the operation thereof, excepting reasonable compensation for services in effecting its purposes or as a proper beneficiary

of its purposes;

(2) All profits derived from the operation thereof and the proceeds from the sale of its property are devoted exclusively to the purposes for which it is organized; and

(3) The institution, organization or corporation claiming exemption under this subsection shall file with the tax assessors upon their request a report for its preceding fiscal year in such detail as the tax assessors may reasonably require.

An organization or institution that desires to secure exemption under this section shall make written application and file written proof of entitlement for each parcel to be considered on or before the first day of April in the year in which the exemption is first requested with the assessors of the municipality in which the property would otherwise be taxable. If granted, the exemption continues in effect until the assessors determine that the organization or institution is no longer qualified. Proof of entitlement must indicate the specific basis upon which exemption is claimed.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Exemption from taxation, while entitled to reasonable interpretation in accordance with its purpose, is not to be extended by application to situations not clearly coming within scope of exemption provisions. *Harold MacQuinn, Inc. v. Halperin* (1980) Me., 415 A.2d 818.

All exemptions from taxation are construed strictly since such special privileges are in conflict with universal obligation of all to contribute just proportion toward public burdens. *Episcopal Camp Foundation, Inc. v. Town of Hope* (1995) Me., 666 A.2d 108. *City of Lewiston v. Marcotte Congregate Housing, Inc.* (1996) Me., 673 A.2d 209.

For purposes of real property tax exemption for charitable organizations, nonprofit corporation was organized and conducted exclusively for benevolent and charitable purposes, where it functioned as part of religious congregation, coordinated activities of affiliate and subsidiary organizations as those organizations pursued their charitable, religious, educational, scientific, and other purposes, owned and operated hospitals, nursing homes, congregate housing and other facilities for care, treatment and healing of human ailments and disease, and no part of its net earnings inured to benefit of any private individual, and, except for reasonable compensation for services rendered, none of its income was distributed to its members, directors, or officers. *City of Lewiston v. Marcotte Congregate Housing, Inc.* (1996) Me., 673 A.2d 209.

### **B. Partial Exemptions.**

Partial exemptions are allowed. The same requirements must be met as noted above.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

## **A. Creation of Exemptions.**

ME ST T. 5 s 194-A

2. Charitable status of organization. Any nonprofit hospital and medical service organization is a charitable and benevolent institution and a public charity and its assets are held for the purpose of fulfilling the charitable purposes of the organization. The charitable purposes include, but are not limited to, the following: providing access to medical care through affordable health insurance and affordable managed care products for persons of all incomes; identifying and addressing the State's unmet health care needs, particularly with regard to medically uninsured and underserved populations; making services and care available through participating providers; and improving the quality of care for medically uninsured and underserved populations. The following ownership interests apply in any proceeding in court or before the superintendent in which the ownership of the organization is at issue or is relevant.

A. If the organization materially changes its form on or before December 31, 2000, then 100% of the fair market value of the organization as of the date of the material change in form is owned by the charitable trust upon the approval or approval with modifications of the charitable trust plan or modified charitable trust plan by the court pursuant to subsection 5 or 6 and must be dedicated to the fulfillment of the charitable trust.

B. If the organization materially changes its form after December 31, 2000 and on or before December 31, 2005, then 95% of the fair market value of the organization as of the date of the material change in form is owned by the charitable trust upon the approval or approval with modifications of the charitable trust plan or modified charitable trust plan by the court pursuant to subsection 5 or 6 and must be dedicated to the fulfillment of the charitable trust; and the remaining 5% is owned by subscribers in aggregate. For purposes of this paragraph, subscribers include only those persons who were subscribers on any date in the 3-year period immediately prior to the material change in form, if in each case the person was a subscriber for period of no less than 3 consecutive months.

C. If the organization materially changes its form after December 31, 2005, then 90% of the fair market value of the organization as of the date of the material change in form is owned by the charitable trust upon the approval or approval with modifications of the charitable trust plan or modified charitable trust plan by the court pursuant to subsection 5 or 6 and must be dedicated to the fulfillment of the charitable trust; and the remaining 10% is owned by subscribers in aggregate. For purposes of this paragraph, subscribers include only those persons who were subscribers on any date in the 3-year period immediately prior to the material change in form, if in each case the person was a subscriber for period of no less than 3 consecutive months.

3. Determination of ownership interest and charitable purposes by the Superior Court. A nonprofit hospital and medical service organization shall file a statement of ownership interests and charitable purposes with the Attorney General by December 31, 1997.

B. Within 45 days after the organization has filed its statement of ownership interests and charitable purposes, the Attorney General shall file in Superior Court

for Kennebec County an action under its charitable authority seeking approval or approval with modifications of the statement or any amended statement filed by the organization with the Attorney General's consent.

C. The Superior Court shall approve or approve with modifications the notice provisions in the statement and issue orders to accomplish that notice.

D. The organization shall pay the costs of providing the notice ordered by the Superior Court.

E. Any objection by any person to the designation of ownership interests or the description of charitable purposes and any claim of ownership interest in the organization must be filed within 90 days after issuance of the notice ordered by the Superior Court.

F. The Superior Court shall hold a hearing on any objections to the designation of ownership interests and charitable purposes set forth in subsection 2 and any claim of ownership interest in the organization and shall approve the designation of ownership interests and charitable purposes unless the court determines that the designation is unlawful.

G. The judgment of the Superior Court, after exhaustion of all appeals, is final, binding and conclusive as to all matters expressly determined in the judgment of the Superior Court. Any claim of rights, title and interest in or to the nonprofit hospital and medical service organization is barred except to the extent the claim is determined to be valid in the judgment of the Superior Court after exhaustion of all appeals. The sole remedy of persons claiming any right, title or interest in the nonprofit hospital and medical service organization is to seek adjudication of the claim pursuant to this subsection.

4. Representation of charitable interests. Except as provided in this subsection, the Attorney General is the sole person authorized to represent the charitable interests of beneficiaries of the charitable obligations of a nonprofit hospital and medical service organization and any health insurance affiliate in any proceeding before any court or any administrative agency. The Attorney General may enforce the organization's charitable obligations in an action in Superior Court under the Attorney General's charitable authority. Nothing in this subsection may be construed to limit the superintendent's authority with respect to the interests of subscribers or the public in enforcing the provisions of Title 24 and Title 24-A.

A. The board of directors of a nonprofit hospital and medical service organization has the responsibility to fulfill the organization's charitable obligation, subject only to the Attorney General's authority to represent the charitable interests of beneficiaries of the organization's charitable obligation, any applicable law and the superintendent's authority to enforce Title 24 and Title 24-A.

B. A nonprofit hospital and medical service organization shall reimburse the Attorney General and the superintendent for the costs of any experts or consultants retained by the Attorney General or the superintendent in connection with any matter before any court or any administrative agency relating to the organization's charitable value and charitable obligations.

## **B. Procedures for Retaining an Exemption.**

ME ST T. 36 s 684

1. The bureau shall furnish to the assessor of each municipality a sufficient number of printed forms to be filed by applicants for an exemption under this subchapter and shall determine the content of the forms. A municipality shall provide to its inhabitants reasonable notice of the availability of application forms. An individual claiming an exemption under this subchapter for the first time shall file the application form with the assessor or the assessor's representative. For an exemption from taxes based on the status of property on April 1, 1998, the application must be filed by May 15, 1998. For taxes based on the status of property after April 1, 1998, the application must be filed by April 1st of the year on which the taxes are based.

### **C. Annual Certification.**

ME ST T. 5 s 194-A

8. Annual report. The organization shall file an annual report with the Attorney General and the superintendent at the time and in the manner as the Attorney General establishes describing the efforts that the organization has undertaken to fulfill its charitable and benevolent purposes.

### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found to require that a copy of leases or agreements be filed.

### **E. Notification Requirements After Change in Use or Ownership.**

ME ST T. 36 s 684

4. Owner notification. An owner of property receiving an exemption under this subchapter shall notify the assessor promptly when the ownership or use of the property changes so as to change the qualification of the property for an exemption under this subchapter.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

ME ST T. 36 s 685

1. Examination and identification. The assessor shall examine each application for homestead exemption that is timely filed with the assessor, determine whether the property is entitled to an exemption under this subchapter and identify the exemption in the municipal valuation.

### **B. Removal of Exemptions.**

An exemption is removed when either the taxpayer or tax assessor determines that the property is no longer eligible for the exemption. An exemption can also be removed if the taxpayer does not file the correct paperwork to keep an exemption.

### **C. Assessment of Omitted Property.**

ME ST T. 36 s 684

2. False filing. An individual who knowingly gives false information for the purpose of claiming a homestead exemption under this subchapter commits a Class E crime. An individual who claims to be a permanent resident of this State under this subchapter who also claims to be a permanent resident of another state for the tax year for which an application for a homestead exemption is made commits a Class E crime.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

ME ST T. 36 s 706

Before making an assessment, the assessor or assessors, the chief assessor of a primary assessing area or the State Tax Assessor in the case of the unorganized territory may give reasonable notice in writing to all persons liable to taxation in the municipality, primary assessing area or the unorganized territory to furnish to the assessor or assessors, chief assessor or State Tax Assessor true and perfect lists of all their estates, not by law exempt from taxation, of which they were possessed on the first day of April of the same year. The notice to owners may be by mail directed to the last known address of the taxpayer or by any other method that provides reasonable notice to the taxpayer.

If notice is given by mail and the taxpayer does not furnish the list, he is barred of his right to make application to the assessor or assessors, chief assessor or State Tax Assessor or any appeal therefrom for any abatement of his taxes, unless he furnishes the list with his application and satisfies them that he was unable to furnish it at the time appointed.

The assessor or assessors, chief assessor or State Tax Assessor may require the person furnishing the list to make oath to its truth, which oath any of them may administer, and may require him to answer in writing all proper inquiries as to the nature, situation and value of his property liable to be taxed in the State; and a refusal or neglect to answer such inquiries and subscribe the same bars an appeal, but such list and answers shall not be conclusive upon the assessor or assessors, chief assessor or the State Tax Assessor. If the assessor or assessors, chief assessor or the State Tax Assessor fail to give notice by mail, the taxpayer is not barred of his right to make application for abatement provided that upon demand the taxpayer shall answer in writing all proper inquiries as to the nature, situation and value of his property liable to be taxed in the State; and a refusal or neglect to answer the inquiries and subscribe the same bars an appeal, but the list and answers shall not be conclusive upon the assessor or assessors, chief assessor or the State Tax Assessor.

ME ST T. 36 s 843

1. Municipalities. If a municipality has adopted a board of assessment review and the

assessors or the municipal officers refuse to make the abatement asked for, the applicant may apply in writing to the board of assessment review within 60 days after notice of the decision from which the appeal is being taken or after the application is deemed to have been denied, and, if the board thinks the applicant is over-assessed, the applicant is granted such reasonable abatement as the board thinks proper. Except with regard to nonresidential property or properties with an equalized municipal valuation of \$1,000,000 or greater either separately or in the aggregate, either party may appeal from the decision of the board of assessment review directly to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil Procedure. If the board of assessment review fails to give written notice of its decision within 60 days of the date the application is filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to Superior Court as if there had been a written denial.

1-A. Nonresidential property of \$1,000,000 or greater. With regard to nonresidential property or properties with an equalized municipal valuation of \$1,000,000 or greater either separately or in the aggregate, either party may appeal the decision of the local board of assessment review or the primary assessing area board of assessment review to the State Board of Property Tax Review within 60 days after notice of the decision from which the appeal is taken or after the application is deemed to be denied, as provided in subsections 1 and 2. The board shall hold a hearing de novo. If the board thinks that the applicant is over-assessed, it shall grant such reasonable abatement as the board thinks proper. For the purposes of this section, "nonresidential property" means property that is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with a commercial, industrial or business use.

2. Primary assessing areas. If a primary assessing area has adopted a board of assessment review and the chief assessor, municipal officer or the State Tax Assessor refuses to make the abatement asked for, the applicant may apply in writing to the board of assessment review within 60 days after notice of the decision from which the appeal is being taken or after the application is deemed to have been denied, and if the board thinks the applicant is over-assessed, the applicant is granted such reasonable abatement as the board thinks proper. Except with regard to nonresidential property or properties with an equalized municipal valuation of \$1,000,000 or greater, either separately or in the aggregate, either party may appeal the decision of the board of assessment review directly to the Superior Court, in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the board of assessment review fails to give written notice of its decision within 60 days of the date the application was filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to the Superior Court as if there had been a written denial.

3. Notice of decision. Any agency to which an appeal is made under this section is subject to the provisions for notice of decision in section 842.

4. Payment requirements for taxpayers. If the taxpayer has filed an appeal under this section without having paid an amount of current taxes equal to the amount of taxes paid in the next preceding tax year, provided that amount does not exceed the amount of taxes due in the current tax year, or the amount of taxes in the current tax year not in dispute, whichever is greater, by or after the due date, the appeal process must be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of a due date for payment of taxes in a particular municipality,

without the appropriate amount of taxes having been paid, the appeal process must be suspended until the appropriate amount of taxes described in this subsection, together with any accrued interest and costs, has been paid. This section applies to any property tax year beginning on or after April 1, 1993. This section does not apply to property with a valuation of less than \$500,000.

## MARYLAND

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

#### MD TAX GENERAL s 11-204

(a) Sales and use tax does not apply to:

- (1) a sale to a cemetery company, as described in s 501 (c) (13) of the Internal Revenue Code in effect on July 1, 1987;
- (2) a sale to a credit union organized under the laws of the State or of the United States;
- (3) a sale to a nonprofit organization made to carry on its work, if the organization;
- (4) a sale, not exceeding \$500, to a nonprofit incorporated senior citizens' organization made to carry on its work;
- (5) a sale to a volunteer fire company or department or volunteer ambulance company or rescue squad located in the State made to carry on the work of the company, department, or squad;
- (6) a sale of tangible personal property to a nonprofit parent-teacher association located in the State if the association makes the purchase to contribute the property to a school to which a sale is exempt under item (3) of this subsection or s 11-220 of this subtitle; or
- (7) a sale to a nonprofit organization made to carry on its work, if the organization:

(b) Sales and use tax does not apply to a sale by:

- (1) a bona fide church or religious organization, if the sale is made for the general purposes of the church or organization;
- (2) a gift shop at a mental hospital that the Department of Health and Mental Hygiene operates;
- (3) a hospital thrift shop;
- (5) an elementary or secondary school in the State or a nonprofit parent- teacher organization or other nonprofit organization within an elementary or secondary school in the State for the sale of magazine subscriptions in a fund- raising campaign, if the net proceeds are used solely for the educational benefit of the school or its students, including a sale resulting from an agreement or contract with an organization to participate in a fund-raising campaign for a percentage of the gross receipts under which students act as agents or salespersons for the organization by selling or taking orders for the sale.

#### MD EDUC, s 4-114

(a) All property granted, conveyed, devised, or bequeathed for the use of a particular public school or school system:

- (2) Is exempt from all State and local taxes.

(b) Money invested in trust for the benefit of the public schools for any county or city is exempt from all State and local taxes.

#### MD TAX PROPERTY s 7-201

(a) Except as otherwise provided in subsection (b) of this section, property owned by an individual or a religious group is not subject to property tax if the property is actually used exclusively to bury dead individuals.

(b) Property owned by a cemetery or mausoleum company is not subject to property tax, if:

- (1) the property is actually used exclusively to bury dead individuals; and
- (2) the cemetery or mausoleum company:
  - (i) is not organized for profit; and
  - (ii) uses its funds only to maintain or improve the property.

#### MD TAX PROPERTY s 7-202

(b) Requirements for exemption.

(1) Except as provided in subsection (c) of this section, property is not subject to property tax if the property:

(i) is necessary for and actually used exclusively for a charitable or educational purpose to promote the general welfare of the people of the State, including an activity or an athletic program of an educational institution; and

(ii) is owned by:

1. a nonprofit hospital;
  2. a nonprofit charitable, fraternal, educational, or literary organization including:
    - A. a public library that is authorized under Title 23 of the Education Article; and
    - B. a men's or women's club that is a nonpolitical and nonstock club;
  3. a corporation or trustee that holds the property for the sole benefit of an organization that qualifies for an exemption under this section;
- or
4. a nonprofit housing corporation.

(2) The exemption under paragraph (1) (ii) 1. of this subsection includes any personal property initially leased by a nonprofit hospital for more than 1 year under a lease that is noncancellable except for cause.

#### MD TAX PROPERTY s 7-204

Property that is owned by a religious group or organization is not subject to property tax if the property is actually used exclusively for:

- (1) public religious worship;
- (2) a parsonage or convent; or
- (3) educational purposes.

#### MD TAX PROPERTY s 7-210

(a) Except as otherwise provided in s 6-102 of this article and except as otherwise provided under this section, government-owned property is not subject to property tax, if the property:

- (1) is devoted to a governmental use or purpose; and

- (2) is owned by:
- (i) the federal government;
  - (ii) the State;
  - (iii) a county or a municipal corporation; or
  - (iv) an agency or instrumentality of the federal government, the State, a county, or of a municipal corporation.

#### MD TAX PROPERTY s 7-240

Personal property is not subject to property tax if the property:

- (1) is owned by a nonprofit organization that:
- (i) is qualified as tax exempt under s 501 (c) (4) of the Internal Revenue Code; and
  - (ii) is engaged primarily in providing a program to render its best efforts to contain, clean up, and otherwise mitigate spills of oil or other substances occurring in United States coastal and tidal waters; and
- (2) is used for the purposes of the organization.

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions.**

##### MD TAX PROPERTY s 7-101

Property tax exemptions provided under this title shall be strictly construed.

##### MD TAX PROPERTY s 7-104

(a) Except as provided in subsection (c) of this section and in ss 7-202 and 7-215 of this title, property tax on wholly exempt property shall be abated for the taxable year that follows the date on which the property became exempt.

Any exemption from taxation is to be strictly construed in favor of the State, and this rule is not relaxed in favor of charitable or benevolent institutions. *Supervisor of Assmts. v. Har Sinai W. Corp.*, 95 Md. App. 631, 622 A.2d 786 (1993).

#### **B. Partial Exemptions.**

No statute was found to conclusively allow for a partial exemption.

### **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

#### **A. Creation of Exemptions.**

##### MD TAX GENERAL s 11-204

(c) To qualify as an organization to which a sale is exempt under subsection (a) (3) or (5) of this section, the organization shall file an application for an exemption certificate with the Comptroller.

## **B. Procedures for Retaining an Exemption.**

### MD TAX PROPERTY s 7-103

- (a) Application for exemption. -- Real property that is subject to exemption from property tax by Subtitle 2 of this title is not exempted until the exemption has been applied for and approved under this section.
- (b) Application requirements; contents of application.
  - (1) A person claiming an exemption shall apply to the supervisor of the county where the real property is located on the form that the Department requires.
  - (2) The application shall contain the information that the Department requires.
- (c) Copy to Department. -- The supervisor shall send a copy of each application to the Department for approval or rejection.
- (d) Entry of exemption. -- If the exemption is approved, the supervisor shall enter:
  - (1) the real property exemption in the assessment records; and
  - (2) the real property on the list of exempt property.
- (e) Rejection of application. -- If an application is rejected, the supervisor shall notify the person claiming the exemption of:
  - (1) the reasons for rejection, as provided by s 8-402 of this article; and
  - (2) the right to a hearing and appeal as provided by Title 14, Subtitle 5 of this article.
- (f) Review of exempt properties. -- The Department and the supervisor shall periodically review the list of exempt property to determine whether any property does not meet the requirements of the law that provides for the exemption.

## **C. Annual Certification.**

### MD TAX PROPERTY s 7-104

- (b) If an owner of property subject to an exemption on June 30 files an application for abatement on or before the following September 1 with the Department or the supervisor, the tax is abated for the taxable year.

## **D. Obligation to File Copies of Lease or Agreements.**

No statute was found to require that a copy of a lease or agreement be filed.

## **E. Notification Requirements After Change in Use or Ownership.**

### MD TAX PROPERTY s 7-104

- (c) If property that is exempt from property tax is transferred to a person whose use of the property qualifies the property for an exemption from the date of transfer, then the property tax shall be abated from that date.

### MD TAX PROPERTY s 7-105

- (b) Except as otherwise provided in this article, when any property that was formerly exempt for public purposes is sold and the property is no longer entitled to the exemption,

the property tax is payable for the remainder of the taxable year from the date of sale.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

MD TAX PROPERTY s 7-106

(a) Manner of assessment. -- Except for real property owned by the federal government, real property that is exempt by law from the property tax shall be assessed under this article and in the manner required by the Director.

(b) Assessment records. -- The assessments of exempt real property shall be maintained in the records of the Department and of the supervisor in each county in which the exempt property is located.

(c) Effect on distribution of State funds. -- For the purpose of distributing State funds, the assessments of exempt property may not be included in the total assessment of all property.

### **B. Removal of Exemptions.**

An exemption will be removed when the tax assessor determines that the exemption is no longer allowed, when the taxpayer fails to file the proper paperwork, or when the taxpayer determines that the property is no longer exempt and communicates that to the tax assessment board.

### **C. Assessment of Omitted Property.**

MD TAX PROPERTY s 14-1103

(a) In general. -- Except as otherwise provided in subsections (b) and (c) of this section, property tax shall be assessed for the taxable period specified in Title 8 of this article.

(b) Exception -- Escaped property. -- Escaped property shall be assessed under s 8-417 at the time the property is located and for not more than the 3 preceding taxable years.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

The process for appealing a decision of the tax board is noted above in the procedures section. No other statutes were found to explain the judicial review process.

## MASSACHUSETTS

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

MA ST 59 § 5, first paragraph

The following property shall be exempt from taxation and the date of determination as to age, ownership or other qualifying factors required by any clause shall be July first of each year unless another meaning is clearly apparent from the context.

MA ST 59 § 5

Clause (1)

First, Property owned by the United States so far as the taxation of such property is constitutionally prohibited, excepting property which the Congress of the United States has permitted to be subject to local taxation.

MA ST 59 § 5

Clause (3)

Third, Personal property of a charitable organization, which term, as used in this clause, shall mean (1) a literary, benevolent, charitable or scientific institution or temperance society incorporated in the commonwealth, and (2) a trust for literary, benevolent, charitable, scientific or temperance purposes if it is established by a declaration of trust executed in the commonwealth or all its trustees are appointed by a court or courts in the commonwealth and if its principal literary, benevolent, charitable, scientific or temperance purposes are solely carried out within the commonwealth or its literary, benevolent, charitable, scientific or temperance purposes are principally and usually carried out within the commonwealth; and real estate owned by or held in trust for a charitable organization and occupied by it or its officers for the purposes for which it is organized or by another charitable organization or organizations or its or their officers for the purposes of such other charitable organization or organizations; and real estate purchased by a charitable organization with the purpose of removal thereto, until such removal, but not for more than two years after such purchase; provided, however, that:--  
(a) If any of the income or profits of the business of the charitable organization is divided among the stockholders, the trustees or the members, or is used or appropriated for other than literary, benevolent, charitable, scientific or temperance purposes or if upon dissolution of such organization a distribution of the profits, income or assets may be made to any stockholder, trustee or member, its property shall not be exempt; and  
(b) A corporation coming within the foregoing description of a charitable organization or trust established by a declaration of trust executed in the commonwealth and coming within said description of a charitable organization shall not be exempt for any year in which it omits to bring in to the assessors the list, statements and affidavit required by section twenty-nine and a true copy of the report for such year required by section eight F of chapter twelve to be filed with the division of public charities in the department of the attorney general, nor shall it be exempt for that athletic property or portion thereof for the part of the year which the assessors have determined to be utilized for other than literary, educational, benevolent, temperance, charitable, or scientific purposes in direct

competition with a person engaged in the same activity and subject to the tax imposed by this chapter on properties so used. In the case of the exemption of property from tax for a part of the year, the tax imposed shall bear the same proportion to the tax which would be applicable to such property if it were subject to tax for the entire year as the time such property is employed in such use bears to the total time during which such property is available for use during the year.

(c) Real or personal property of a charitable organization occupied or used wholly or partly as or for an insane asylum, insane hospital, or institution for the insane, or principally for the treatment of mental diseases or mental disorders, shall not be exempt unless at least one fourth of all property so occupied or used, wholly or partly, on the basis of valuation thereof, and one fourth of the income of all trust and other funds and property held for the benefit of such asylum, hospital or institution and not actually occupied or used by it for such purposes, is used and expended entirely for the treatment, board, lodging or other direct benefit of indigent insane persons, or indigent persons in need of treatment for mental diseases, as resident patients, without any charge therefor to such persons either directly or indirectly, except that a charitable organization conducting an insane asylum, insane hospital or institution for the insane to which persons adjudged insane by due process of law may be committed shall be exempt from taxation on personal property and buildings so occupied or used, but shall be subject to taxation on the fair cash value of the land owned by it and used for the purposes of such asylum, hospital or institution; and

(d) Real estate acquired after May fourth, nineteen hundred and eleven, by any association or private corporation formed or incorporated for the care of the insane, shall not be exempt under paragraph (c) unless the city council of the city, or the inhabitants of the town, in which it is situated, have by vote lawfully taken consented to the acquisition of such real estate, to be so exempt; nor shall real estate of a trust coming within the foregoing description of a charitable organization, if occupied or used wholly or partly as or for an insane asylum, insane hospital, or institution for the insane, or principally for the treatment of mental diseases or mental disorders, be exempt under paragraph (c) unless the city council of the city, or the inhabitants of the town, in which it is situated, have by vote lawfully taken consented to such exemption; and

(e) Real and personal property of an educational institution coming within the foregoing description of a charitable organization which is occupied or used wholly or principally as residences for officers of such institutions and which is not part of or contiguous to real estate which is the principal location of such institution shall not be exempt.

In any city or town which accepts the provisions of this paragraph, the provisions of subsection (c) shall not apply to any charitable non-residential mental health facility, organized under chapter one hundred and eighty which provides clinical, therapeutic, diagnostic and counseling services to persons with mental disorders.

#### MA ST 59 § 5

##### Clause (7)

Seventh, Personal property of a fraternal society, order or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing life, sick, accident or other benefits for the members of such society, order or association, or their dependents.

MA ST 59 § 5

Clause (10)

Tenth, Personal property owned by or held in trust within the commonwealth for religious organizations, whether or not incorporated, if the principal or income is used or appropriated for religious, benevolent or charitable purposes.

MA ST 59 § 5

Clause (11)

Eleventh, Notwithstanding the provisions of any other general or special law to the contrary, houses of religious worship owned by, or held in trust for the use of, any religious organization, and the pews and furniture and each parsonage so owned, or held in irrevocable trust, for the exclusive benefit of the religious organizations, and including the official residences occupied by district superintendents of the United Methodist Church and the Christian and Missionary Alliance and of the Church of the Nazarene, and by district executives of the Southern New England District of the Assemblies of God, Inc., Unitarian-Universalist Churches and the Baptist General Conference of New England, and the official residence occupied by the president of the New England Synod of the Lutheran Church in America, Inc., and the official residence occupied by a person who has been designated by the congregation of a Hebrew Synagogue or Temple as the rabbi thereof, but such exemption shall not, except as herein provided, extend to any portion of any such house of religious worship appropriated for purposes other than religious worship or instruction. The occasional or incidental use of such property by an organization exempt from taxation under the provisions of 26 USC Sec. 501(c)(3) of the Federal Internal Revenue Code shall not be deemed to be an appropriation for purposes other than religious worship or instruction.

MA ST 59 § 5

Clause (12)

Twelfth, Cemeteries, tombs and rights of burial, so long as dedicated to the burial of the dead, and buildings owned by religious nonprofit corporations and used exclusively in the administration of such cemeteries, tombs and rights of burial.

MA ST 59 § 5

Clause (13)

Thirteenth, Personal property held by cities, towns, religious societies and cemeteries, whether incorporated or unincorporated, or by the commonwealth or by any corporation, for the perpetual care of graves, cemetery lots and cemeteries, for the placing of flowers upon graves, for the care or renewal of gravestones, monuments or tombs, and for the care and maintenance of burial chapels; but this exemption shall not apply to any such personal property held by a cemetery corporation which distributes any of the income or profits of its business among its stockholders or members, nor shall such property be exempt for any year in which the holder thereof, other than the state treasurer, omits to bring in to the assessors the list and statement required by section twenty- nine.

#### MA ST 121A § 10

Exemption from taxation and assessments; valuation; appeals; annual payment; additional tax and project approval procedure for urban redevelopment company. For a period of fifteen years after the organization of any such corporation, such corporation and all its real and personal property, including all real and personal property leased by it from a housing authority or from a redevelopment authority or from a city or town or a corporation wholly owned or controlled by a city or town, shall be exempt from taxation and from betterments and special assessments; and for such period any such corporation shall not be required to pay any tax, excise, or assessment to or for the commonwealth or any of its political subdivisions; provided, however, that notwithstanding the foregoing provisions of this section, any such corporation shall be required to pay (1) the excises and sums respectively prescribed by this section and section fifteen; (2) excises assessed under chapter sixty A and acts in amendment thereof or addition thereto; and (3) excises imposed by chapter sixty-four A and acts in amendment thereof or addition thereto; and provided, further, that nothing in this section shall be construed to prevent any such corporation which enters into a contract under section fourteen from agreeing therein to make, or from making pursuant thereto, payments in lieu of betterments or special assessments.

#### MA ST 121C § 9

The real estate and tangible personal property of the corporation shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessments; provided, that in lieu of such taxes, betterments and special assessments, the municipality may determine a sum to be paid to it annually in any year or period of years, such sum to be in any year not in excess of the amount that would be levied at the then current tax rate upon the average of the assessed value of such real estate, including buildings and other structures, for the three years preceding the year of acquisition thereof, the valuation for each year being reduced by all abatements thereon.

#### MA ST 180 § 4

A corporation may be formed for any one or more of the following purposes:

- (a) for any civic, educational, charitable, benevolent or religious purpose;
- (b) for the prosecution of any antiquarian, historical, literary, scientific, medical, chiropractic, artistic, monumental or musical purpose;
- (c) for establishing and maintaining libraries;
- (d) for supporting any missionary enterprise having for its object the dissemination of religious or educational instruction in foreign countries;
- (e) for promoting temperance or morality in the commonwealth;
- (f) for fostering, encouraging or engaging in athletic exercises or yachting;
- (g) for encouraging the raising of choice breeds of domestic animals and poultry;
- (h) for the association and accommodation of societies of Free Masons, Odd Fellows, Knights of Pythias or other charitable or social bodies of a like character and purpose;
- (i) for the establishment and maintenance of places for reading rooms, libraries or social meetings;
- (j) for establishing boards of trade, chambers of commerce and bodies of like nature;

- (k) for providing nonprofit credit counseling services, as defined in section four A;
- (l) for encouraging agriculture or horticulture; for improving and ornamenting the streets and public squares of any city or town by planting and cultivating ornamental trees therein and also otherwise improving the physical aspects of such city or town and furthering the recreation and enjoyment of the inhabitants thereof;
- (m) for the purpose of purchasing, holding, preserving and maintaining burial grounds in accordance with the provisions of chapter one hundred and fourteen;
- (n) for establishing a not-for-profit association of employers as authorized by section twenty-five E of chapter one hundred and fifty-two, including such not-for-profit associations of employers organized as nonprofit corporations.

If a corporation is formed under this chapter for the purpose of rendering one or more professional services as defined in chapter one hundred and fifty-six A, the relationship between the corporation or an employee thereof rendering professional service and the person receiving such service shall be the same as if such corporation or employee rendered such service to said person as an individual practitioner, including any liability arising out of the rendering of such service.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

- (1) The property must fit into one of the statutes noted above.
- (2) The taxpayer must file an exemption request unless otherwise instructed by the statute controlling the exemption.
- (3) The taxpayer must annually file for the exemption unless otherwise noted in the controlling statute.

### **B. Partial Exemptions.**

Partial exemptions are allowed and explained in the actual texts of the statutes. See the requirements section.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

#### **MA ST 59 § 29**

Assessors before making an assessment shall give seasonable notice thereof to all persons subject to taxation in their respective towns. Such notice shall be posted in one or more public places in each town, or shall be given in some other sufficient manner, and shall require the said persons to bring into the assessors, before a date therein specified, in case of residents a true list, containing the items required by the commissioner in the form prescribed by him under section five of chapter fifty-eight of all their personal estate not exempt from taxation, except intangible property the income of which is included in a return filed the same year in accordance with sections twenty-two to twenty-five,

inclusive, of chapter sixty-two, and in case of non-residents and foreign corporations such a true list of all their personal estate in that town not exempt from taxation, and may or may not require such list to include their real estate subject to taxation in that town. It shall also require all persons, except corporations making returns to the commissioner of insurance as required by section thirty-eight of chapter one hundred and seventy-six, to bring in to the assessors before a date therein specified, which shall not be later than March first following, unless the assessors for cause shown extend the time to a reasonable later time but in no event later than thirty days after the mailing of the tax bills for the fiscal year to which the filing relates, true lists, similarly itemized, of all real and personal estate held by them respectively for literary, educational, temperance, benevolent, charitable or scientific purposes on January first preceding, or at the election of any such corporation on the last day of its fiscal year preceding said January first, together with such information as may be required to comply with regulations promulgated by the commission pursuant to section three of chapter fifty-eight and the amount of receipts and expenditures for said purposes during the year together with copies of federal tax returns containing unrelated business income taxable under section five hundred and eleven of the Internal Revenue Code. The assessors may require from any person claiming under the Seventeenth, Eighteenth or Twenty-second clause of section five an exemption from taxation, a full list of all such person's taxable property, both real and personal.

#### **B. Procedures for Retaining an Exemption.**

##### MA ST 121A § 10

During the period of fifteen years after the organization of a corporation under this chapter, such corporation shall pay in each calendar year to the commonwealth with respect to its corporate existence at any time within the preceding calendar year an excise equal to the sum of the following: namely, an amount equal to five per cent of its gross income in such preceding calendar year, from all sources, and an amount equal to ten dollars per thousand upon the valuation determined as hereinbefore provided to be the fair cash value as of January first in the year in which the excise becomes payable of all real and tangible personal property of such corporation, including all real and tangible personal property leased by it which is exempted by this section from taxation under chapter fifty-nine; provided, that the excise payable in any year shall not be less than the amount which the city or town would receive for taxes, at the rate for such year, upon whichever of the following valuations is the lesser: (a) the valuation upon which the aforesaid amount equal to ten dollars per thousand is computed; or (b) the average of the assessed valuations of the land and all buildings and other things erected thereon or affixed thereto on the three assessment dates, in the case of land purchased, taken or leased by such corporation from a housing authority, redevelopment authority, city, town or corporation wholly owned or controlled by a city or town, next preceding the acquisition of the land by such housing authority, redevelopment authority, city, town or wholly owned or controlled corporation, and in the case of all other land purchased, taken or leased by a corporation organized under this chapter, next preceding the acquisition thereof by such corporation, the assessed valuation for each assessment date being reduced by all abatements, if any. As used herein, the phrase "rate for such year" shall be

the rate established by the city or town with respect to the fiscal year commencing during the calendar year for which a return is filed by the corporation.

#### MA ST 59 § 5C

With respect to each parcel of real property classified as Class One, residential, in each city or town certified by the commissioner to be assessing all property at its full and fair cash valuation, and at the option of the board of selectmen or mayor, with the approval of the city council, as the case may be, there shall be an exemption equal to not more than twenty per cent of the average assessed value of all Class One, residential, parcels within such city or town; provided, however, that such an exemption shall be applied only to the principal residence of a taxpayer as used by the taxpayer for income tax purposes. This exemption shall be in addition to any exemptions allowable under section five; provided, however, that in no instance shall the taxable valuation of such property after all applicable exemptions be reduced below ten per cent of its full and fair cash valuation, except through the applicability of section eight A of chapter fifty-eight and of clause Eighteenth of section five. Where, under the provisions of section five, the exemption is based upon an amount of tax rather than on valuation, the reduction of taxable valuation for purposes of the preceding sentence shall be computed by dividing the said amount of tax by the residential class tax rate of the city or town and multiplying the result by one thousand dollars. For purposes of this paragraph, "parcel" shall mean a unit of real property as defined by the assessors in accordance with the deed for such property and shall include a condominium unit.

In those cities and towns in which an exemption is made available hereunder, a taxpayer aggrieved by the failure to receive such residential exemption may apply for such residential exemption to the assessors, in writing, on a form approved by the commissioner within three months after the date on which the bill or notice of assessment was sent.

#### **C. Annual Certification.**

##### MA ST 59 § 5, first paragraph

The following property shall be exempt from taxation and the date of determination as to age, ownership or other qualifying factors required by any clause shall be July first of each year unless another meaning is clearly apparent from the context.

#### MA ST 59 § 5C

A timely application filed hereunder shall, for the purposes of this chapter, be treated as a timely filed application pursuant to section fifty-nine.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found to require copies of leases or agreements be filed.

## **E. Notification Requirements After Change in Use or Ownership.**

No statute was found to require that any notification be given after change in ownership or use occurs. (Except that required by annual filing requirements.)

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

#### **MA ST 121A § 10**

Notwithstanding the foregoing provisions of this section, the assessors of every city or town in which real or tangible personal property exempted by this section from taxation under chapter fifty-nine is situated on January first of any year shall, on or before March first in such year, determine and certify to the commissioner of revenue and to the corporation organized under this chapter which owns or leases such property the fair cash value of such property as of January first in such year. On or before the first day of April then next ensuing, or within thirty days after the receipt of the certification of valuation from the assessors, whichever is later, such corporation, if aggrieved by such valuation, may appeal therefrom to the appellate tax board. Said board shall hear and decide the subject matter of such appeal and give notice of its decision to the commissioner of revenue, the assessors and the corporation; and, except as provided in section thirteen of chapter fifty-eight A, such decision shall be final and conclusive.

#### **MA ST 59 § 11**

Taxes on real estate shall be assessed, in the town where it lies, to the person who is the owner on January first, and the person appearing of record, in the records of the county, or of the district, if such county is divided into districts, where the estate lies, as owner on January first, even though deceased, shall be held to be the true owner thereof; provided, that whenever the commissioner deems it proper he may, in writing, authorize the assessment of taxes upon real estate to the person who is in possession thereof on January first, and such person shall thereupon be held to be the true owner thereof for the purposes of this section; and provided, further, that whenever the commissioner deems it proper he may, in writing, authorize the assessment of taxes upon any present interest in real estate to the owner of such interest on January first, and taxes on such interest may thereupon be assessed to such person; and provided, further, that in cluster developments or planned unit developments, as defined in section nine of chapter forty A, the assessment of taxes on the common land, so called, including cluster development common land held under a conservation restriction pursuant to section thirty-one of chapter one hundred and eighty-four, the beneficial interest in which is owned by the owners of lots or residential units within the plot, may be included as an additional assessment to each individual lot owner in the cluster if authorized in writing by the commissioner and in such manner as prescribed by him. Real estate held by a religious society as a ministerial fund shall be assessed to its treasurer in the town where the land lies. Buildings erected on land leased by the commonwealth under section twenty-six of chapter seventy-five shall be assessed to the lessees, or their assignees, at the value of

said buildings. Except as provided in the three following sections, mortgagors of real estate shall for the purpose of taxation be deemed the owners until the mortgagee takes possession, after which the mortgagee shall be deemed the owner.

Whenever the assessors of any town assess a tax on real estate to a person other than the person appearing of record, in the records of the county, or of the district, if such county is divided into districts, where the estate lies, as owner on January first, such assessors shall, if the tax is a lien upon such real estate under section thirty-seven of chapter sixty, unless the commissioner shall certify that the assessors by reasonable diligence cannot ascertain the name of the person so appearing of record, include in such assessment the name of the person so appearing of record without imposing upon him personal liability for the tax.

### **B. Removal of Exemptions.**

Exemptions are removed when the taxpayer fails to file for the exemption or when the assessor determines that the property is no longer exempt from taxation.

### **C. Assessment of Omitted Property.**

MA ST 59 § 5

Clause (13)

This exemption shall not apply to any such property for any year in which the holder thereof, other than the state treasurer, omits to bring in to the assessors the list and statement required by section twenty- nine.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

MA ST 58A § 7

Any party taking an appeal to the board, hereinafter called the appellant, from a decision or determination of the commissioner or of a board of assessors, hereinafter referred to as the appellee, shall file a petition with the clerk of the appellate tax board and serve upon said appellee a copy thereof in the manner provided in section 9. No petition shall relate to an assessment on more than one parcel of real estate, except where the board shall specifically permit otherwise. Upon such appeal, the petition shall set forth specifically the facts upon which the party taking an appeal, hereinafter called the appellant, relies, together with a statement of the contentions of law which the appellant desires to raise. The appellant shall state upon the petition the address at which service of any pleading, motion, order, notice or process in connection with the appeal can be made upon him. Within such time as the board by its rules may prescribe, the appellee shall file with the board an answer denying or admitting each and every allegation of fact contained in the petition; except that, in an appeal under section 64 or 65 of chapter 59, if the appellee desires to raise no issue other than the question whether there has been an overvaluation or improper classification of the property on which the tax appealed from was assessed, no answer need be filed. If no answer is filed in such a case, the allegation of overvaluation or improper classification of such property shall be held to be denied and

all other material facts alleged in the petition admitted. If an answer is filed, a copy shall be served upon the appellant, in the manner provided in section 9. The party taking the appeal shall at the time of filing the petition pay to the clerk an entry fee for each appeal from a decision of the commissioner, or, in the case of an appeal from a decision of a board of assessors, an entry fee where the assessed fair cash valuation of the real property, or personal property, or both, the tax on which is sought to be abated, is \$50,000 or less; or an entry fee where such assessed fair cash valuation is in excess of \$50,000. The commissioner of administration shall annually determine the amounts of such entry fees under the provisions of section 3B of chapter 7. Except as provided in section 12C of this chapter, the board shall not consider, unless equity and good conscience so require, any issue of fact or contention of law not specifically set out in the petition upon appeal or raised in the answer. At any time before the decision upon the appeal by the board or by the appeals court under section 13, the appellee may abate the tax appealed from, in whole or in part, or change its determination subject to the provisions of section 37A or 37C of chapter 62C.

In the case of an appeal relating to property classified as either residential greater than eight units, or commercial or industrial, and which is assessed for more than \$200,000 in the previous fiscal year, upon the written request of the appellee, the appellant shall file with the board an income and expense statement for the most recent year preceding the valuation date at issue in the appeal, completed under oath, within 40 days of such request.

#### MA ST 59 § 5B

Any person of a city or town aggrieved by a determination of the board of assessors as to the eligibility or noneligibility of a corporation or trust for the exemption granted pursuant to the clause Third of section five may appeal therefrom by filing a petition with the clerk of the appellate tax board in accordance with the provisions of section seven of chapter fifty-eight A within three months of said determination. As used in this section the term "person" shall mean the corporation or trust applying for the exemption or an individual, corporation, or trust engaged in a business activity in direct competition with an activity conducted by the charitable corporation or trust.

## MICHIGAN

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

MI CONST Art. 9, § 4

Sec. 4. Property owned and occupied by non-profit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

MI ST 125.1442

Property of the state housing authority shall be exempt from taxation.

MI ST 128.112

A private burial ground shall be exempt from taxation.

MI ST 205.54o

(1) A person subject to tax under this act with aggregate sales at retail in the calendar year of less than \$5,000.00 and not operating for profit who is a school, church, hospital, parent cooperative preschool, or nonprofit organization with a tax exempt status under section 4n(1)(a) or (b) may exclude from the proceeds used for the computation of the tax the sales of tangible personal property for fund-raising purposes.

(2) A club, association, auxiliary, or other organization affiliated with a school, church, hospital, parent cooperative preschool, or nonprofit organization with a tax exempt status under section 4n(1)(a) or (b) is not considered a separate person for purposes of this exemption. As used in this section, "school" means each elementary, middle, junior, or high school site within a local school district that represents a district attendance area as established by the board of the local school district.

MI ST 211.7

Public property belonging to the United States shall be exempt from taxation.

MI ST 211.7l

State owned property used for a public purpose shall be exempt from taxation.

MI ST 211.7m

Property owned by, or being acquired pursuant to, an installment purchase agreement by a county, township, city, village, or school district used for public purposes and property owned or being acquired by an agency, authority, instrumentality, nonprofit corporation, commission, or other separate legal entity comprised solely of, or which is wholly owned by, or whose members consist solely of a political subdivision, a combination of political subdivisions, or a combination of political subdivisions and the state and is used to carry out a public purpose itself or on behalf of a political subdivision or a combination is exempt from taxation under this act. Parks shall be open to the public generally. This exemption shall not apply to property acquired after July 19, 1966, unless a deed or other memorandum of conveyance is recorded in the county where the property is located

before December 31 of the year of acquisition, or the local assessing officer is notified by registered mail of the acquisition before December 31 of the year of acquisition.

#### MI ST 211.7n

Real estate or personal property owned and occupied by nonprofit theater, library, educational, or scientific institutions incorporated under the laws of this state with the buildings and other property thereon while occupied by them solely for the purposes for which the institutions were incorporated is exempt from taxation under this act. In addition, real estate or personal property owned and occupied by a nonprofit organization organized under the laws of this state devoted exclusively to fostering the development of literature, music, painting, or sculpture which substantially enhances the cultural environment of a community as a whole, is available to the general public on a regular basis, and is occupied by it solely for the purposes for which the organization was incorporated is exempt from taxation under this act.

#### MI ST 211.7o

(1) Property owned and occupied by a nonprofit charitable institution while occupied by that nonprofit charitable institution solely for the purposes for which it was incorporated is exempt from the collection of taxes under this act.

(2) Property owned and occupied by a charitable trust while occupied by that charitable trust solely for the charitable purposes for which that charitable trust was established is exempt from the collection of taxes under this act.

(3) Property owned by a nonprofit charitable institution or charitable trust that is leased, loaned, or otherwise made available to another nonprofit charitable institution or charitable trust or to a nonprofit hospital or a nonprofit educational institution that is occupied by that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution solely for the purposes for which that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution was organized or established and that would be exempt from taxes collected under this act if the property were occupied by the lessor nonprofit charitable institution or charitable trust solely for the purposes for which the lessor charitable nonprofit institution was organized or the charitable trust was established is exempt from the collection of taxes under this act.

(4) A charitable home of a fraternal or secret society, or a nonprofit corporation whose stock is wholly owned by a religious or fraternal society that owns and operates facilities for the aged and chronically ill and in which the net income from the operation of the corporation does not inure to the benefit of any person other than the residents, is exempt from the collection of taxes under this act.

(5) As used in this section, "charitable trust" means a charitable trust registered under the supervision of trustees for charitable purposes act, 1961 PA 101, MCL 14.251 to 14.266.

#### MI ST 211.7q

Real estate not to exceed 400 acres of land in this state owned by a boy or girl scout or camp fire girls organization, a 4-H club or foundation, or a young men's Christian association or young women's Christian association is exempt from taxation under this act, if at least 50% of the membership of the association or organization are residents of

this state, but upon petition of the association or organization the county board of commissioners may waive the residence requirement while occupied by the association or organization solely for the purpose for which the association or organization was incorporated or established.

#### MI ST 211.7r

The real estate and building of a clinic erected, financed, occupied, and operated by a nonprofit corporation or by the trustees of health and welfare funds is exempt from taxation under this act, if the funds of the corporation or the trustees are derived solely from payments and contributions under the terms of collective bargaining agreements between employers and representatives of employees for whose use the clinic is maintained. The real estate with the buildings and other property located on the real estate on that acreage, owned and occupied by a nonprofit trust and used for hospital or public health purposes is exempt from taxation under this act, but not including excess acreage not actively utilized for hospital or public health purposes and real estate and dwellings located on that acreage used for dwelling purposes for resident physicians and their families.

#### MI ST 211.7s

House of public worship, including parsonages or other residence of religious leadership, shall be exempt from taxation.

#### MI ST 211.7z

(1) Property which is leased, loaned, or otherwise made available to a school district, community college, or other state supported educational institution, or a nonprofit educational institution which would have been exempt from ad valorem taxation had it been occupied by its owner solely for the purposes for which it was incorporated, while it is used by the school district, community college, or other state supported educational institution, or a nonprofit educational institution primarily for public school or other educational purposes is exempt from taxation under this act.

(2) The value of real estate owned and occupied by a parent cooperative preschool, as defined in section 9 is exempt from taxation under this act, if the property is used predominantly for operating a preschool education program.

#### MI ST 211.9

(a) Charitable education and scientific institutions; charitable homes. The personal property of charitable, educational, and scientific institutions incorporated under the laws of this state. This exemption does not apply to secret or fraternal societies, but the personal property of all charitable homes of the societies and nonprofit corporations that own and operate facilities for the aged and chronically ill in which the net income from the operation of the corporations does not inure to the benefit of a person other than the residents is exempt.

(b) Libraries and reading rooms. The property of all library associations, circulating libraries, libraries of reference, and reading rooms owned or supported by the public and not used for gain.

(c) Patriotic, religious, and youth organizations. The property of posts of the grand army

of the republic, sons of veterans' unions, and of the women's relief corps connected with them, of young men's Christian associations, women's Christian temperance union associations, young people's Christian unions, a boy or girl scout or camp fire girls organization, 4-H clubs, and other similar associations.

(i) Fire fighting equipment. Fire engines and other implements used in extinguishing fires owned or used by an organized or independent fire company.

(p) The personal property of a parent cooperative preschool. As used in this subdivision and section 7z, "parent cooperative preschool" means a nonprofit, nondiscriminatory educational institution maintained as a community service and administered by parents of children currently enrolled in the preschool, that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed by qualified preschool personnel, and that is licensed by the department of social services under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws.

#### MI ST 331.1504

All property of any corporation or nonprofit subsidiary corporation and its income and operation is exempt from all taxation by the state or by any taxing unit therein.

#### MI ST 380.1141

(1) The property of a school district is exempt from taxation, provisions of other acts to the contrary notwithstanding, except that property owned by the school district that is used for private purposes for more than 2 years is not exempt from taxation as long as the private use continues beyond the 2-year period.

(2) School property not being utilized primarily for public school purposes and from which income is being derived or which is being held out for income purposes at the time of final confirmation of special assessment rolls by the governing body of a city, village, or township shall be liable to the city, village, or township for special assessments attributable to the property. The property shall continue to be liable for the special assessment for a period not longer than 2 years after the property is put to a public school use. The board of a school district may enter into an agreement with a county or county agency, city, village, or township to pay special assessments for local improvements levied against school property irrespective of the use to which the property is put.

#### MI ST 456.108

All the lands of said corporation enclosed and set apart for cemetery purposes, and all rights of burial therein, shall be wholly exempt from taxation of any kind whatsoever.

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions.**

Claimant seeking real property tax exemption must establish four elements:

1. Real estate must be owned and occupied by exemption claimant

2. Exemption claimant must be library, benevolent, charitable, educational or scientific institution
3. Claimant must have been incorporated under laws of Michigan
4. Exemption exists only when claimant solely for purpose for which it was incorporated thereon occupies buildings and other property.

Ladies Literary Club v. City of Grand Rapids (1980) 298 N.W.2d 422, 409 Mich. 748. Christian Reformed Church in North America v. City of Grand Rapids (1981) 303 N.W.2d 913, 104 Mich.App. 10. Edsel & Eleanor Ford House v. Village of Grosse Pointe Shores (1984) 350 N.W.2d 894, 134 Mich.App. 448, appeal denied. Michigan Baptist Homes & Development Co. v. City of Ann Arbor (1976) 242 N.W.2d 749, 396 Mich. 660. American Concrete Institute v. Michigan State Tax Commission (1968) 163 N.W.2d 508, 12 Mich.App. 595.

Because exemption is the antithesis of tax equality, exemption statutes are to be strictly construed in favor of the taxing unit. Asher Student Foundation v. City of East Lansing, Ingham County (1979) 278 N.W.2d 675, 88 Mich.App. 568.

In determining whether property was being devoted to charitable purposes within meaning of § 211.7 (see, now, § 211.7o), the rule that tax exemptions were to be construed strictly was generally applied, with the result that, in the absence of a specific charter or statutory provision, no property owned by charitable institution, but held as a source of income, could have escaped taxation, although the fact that a charge was made for benefits conferred, against those who were able to pay, in no way detracted from the charitable character of an organization. Oakwood Hospital Corp. v. Michigan State Tax Commission (1965) 132 N.W.2d 634, 374 Mich. 524; Gull Lake Bible Conference Ass'n v. Ross Tp. (1958) 88 N.W.2d 264, 351 Mich. 269. Association of Little Friends, Inc. v. City of Escanaba (1984) 360 N.W.2d 602, 138 Mich.App. 302, appeal denied; American Society of Agr. Engineers v. Township of St. Joseph (1974) 218 N.W.2d 685, 53 Mich.App. 45; David Walcott Kendall Memorial School v. City of Grand Rapids (1968) 160 N.W.2d 778, 11 Mich.App. 231.

Taxpayer's burden of proof in establishing that it was within class of property entitled to charitable use exemption from property tax was proof by preponderance of evidence, rather than proof beyond reasonable doubt. Holland Home v. City of Grand Rapids (1996) 557 N.W.2d 118, 219 Mich.App. 384.

Relevant inquiry in determining whether property qualifies for an exemption from the ad valorem property tax as a charitable institution is whether the institution promotes the general welfare of the public by extending a gift for the benefit of an indefinite number of people, bringing them under the influence of religion or education, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government. Edsel & Eleanor Ford House v. Village of Grosse Pointe Shores (1984) 350 N.W.2d 894, 134 Mich.App. 448, appeal denied.

Nonprofit corporation's federal income tax status did not affect or predetermine taxable status of its property as that of scientific institution under Michigan general property tax

law. *American Concrete Institute v. Michigan State Tax Commission* (1968) 163 N.W.2d 508, 12 Mich.App. 595.

Under statutory real property tax exemption for hospital property, only those facilities that are reasonably necessary for competent operation of hospital should receive tax-exempt status. *Saginaw General Hosp. v. City of Saginaw* (1995) 528 N.W.2d 805, 208 Mich.App. 595.

## **B. Partial Exemptions.**

Exemption from taxation granted to charitable corporations applied only to that property or part of property substantial use of which was related to charitable object or other qualifying norms for exemption. *Hospital Purchasing Service of Mich. v. City of Hastings* (1968) 161 N.W.2d 759, 11 Mich.App. 500.

Petitioner, a nonprofit corporation whose property was principally used as an old ladies' home, qualified as a charitable institution, but it was not entitled to a tax exemption for its entire parcel, part of which was used for the operation of a historical house as a museum; it was, however, entitled to an exemption for that part of its property occupied solely for the purpose of maintenance of the home for the aged. *McFarlan Home v. City of Flint* (1981) 307 N.W.2d 712, 105 Mich.App. 728.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

MI ST 211.7a

(2) Each city and township shall cause to be mailed, on or before May 1, 1981, an exemption affidavit to the occupant of each piece of property within the city or township that is classified as residential or agricultural property and which contains a dwelling suitable for occupancy. Exemption affidavits shall be returned on or before May 22, 1981 to the local official of the city or township who shall be designated on the exemption affidavit. Exemption affidavits shall also be made available at each local unit of government after April 30, 1981. Each city and township may publish individually or jointly on or before May 10, 1981, in a newspaper of general circulation, notice of the availability of the exemption affidavit, that these exemption affidavits must be returned by May 22, 1981 in order to be eligible for the reduction of a 1981 property tax bill if Proposal A at the May 19, 1981 special election is approved, and that, if Proposal A at the May 19, 1981 special election is approved, an eligible owner of a homestead who fails to file an exemption affidavit by May 22, 1981 may submit a claim for a refund of taxes paid that were eligible to be exempted with the state department of treasury. The failure to send or receive the exemption affidavit shall not invalidate an ad valorem property tax levy on the property.

## **B. Procedures for Retaining an Exemption.**

One seeking real property tax exemption must establish that claimant owns and occupies the real estate, that claimant is a library, benevolent, charitable, educational or scientific institution and that claimant is a Michigan corporation. *Association of Little Friends, Inc. v. City of Escanaba* (1984) 360 N.W.2d 602, 138 Mich.App. 302, appeal denied.

## **C. Annual Certification.**

MI ST 211.7cc

(1) A homestead is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, Act No. 451 of the Public Acts of 1976, being section 380.1211 of the Michigan Compiled Laws, if an owner of that homestead claims an exemption as provided in this section. Notwithstanding the tax day provided in section 2, the status of property as a homestead shall be determined on the date an affidavit claiming an exemption is filed under subsection (2).

(2) An owner of property may claim an exemption under this section by filing an affidavit on or before May 1 with the local tax-collecting unit in which the property is located. The affidavit shall state that the property is owned and occupied as a homestead by that owner of the property on the date that the affidavit is signed. The affidavit shall be on a form prescribed by the department of treasury. Beginning in 1995, 1 copy of the affidavit shall be retained by the owner, 1 copy shall be retained by the local tax collecting unit until any appeal or audit period under this act has expired, and 1 copy shall be forwarded to the department of treasury pursuant to subsection (4), together with all information submitted under subsection (22) for a cooperative housing corporation. Beginning in 1995, the affidavit shall require the owner claiming the exemption to indicate if that owner has claimed another exemption on property in this state that is not rescinded. If the affidavit requires an owner to include a social security number, that owner's number is subject to the disclosure restrictions in Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws.

MI ST 211.24

(1) On or before the first Monday in March in each year, the supervisor or assessor shall make and complete an assessment roll, upon which he or she shall set down the name and address of every person liable to be taxed in the township or assessment district with a full description of all the real property liable to be taxed. If the name of the owner or occupant of any tract or parcel of real property is known, the assessor shall enter the name and address of the owner or occupant opposite to the description of the property. If unknown, the real property described upon the roll shall be assessed as "owner unknown". All contiguous subdivisions of any section that are owned by 1 person, firm, corporation, or other legal entity and all unimproved lots in any block that are contiguous and owned by 1 person, firm, corporation, or other legal entity shall be assessed as 1 parcel, unless demand in writing is made by the owner or occupant to have each subdivision of the section or each lot assessed separately. However, failure to assess contiguous parcels as entires does not invalidate the assessment as made. Each

description shall show as near as possible the number of acres contained in it, as determined by the assessor. It is not necessary for the assessment roll to specify the quantity of land comprised in any town, city, or village lot. The assessor shall estimate, according to his or her best information and judgment, the true cash value and assessed value of every parcel of real property and set the assessed value down opposite the parcel. The assessor shall calculate the tentative taxable value of every parcel of real property and set that value down opposite the parcel. The assessor shall determine the percentage of value of every parcel of real property that is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1211 of the Michigan Compiled laws, and set that percentage of value down opposite the parcel. The assessor shall determine the date of the last transfer of ownership of every parcel of real property occurring after December 31, 1994 and set that date down opposite the parcel. The assessor shall also estimate the true cash value of all the personal property of each person, and set the assessed value and tentative taxable value down opposite the name of the person. In determining the property to be assessed and in estimating the value of that property, the assessor is not bound to follow the statements of any person, but shall exercise his or her best judgment. Property assessed to a person other than the owner shall be assessed separately from the owner's property and shall show in what capacity it is assessed to that person, whether as agent, guardian, or otherwise. Two or more persons not being copartners, owning personal property in common, may each be assessed severally for each person's portion. Undivided interests in lands owned by tenants in common, or joint tenants not being copartners, may be assessed to the owners.

#### **D. Obligation to File Copies of Lease or Agreements.**

##### MI ST 211.7m

This exemption shall not apply to property acquired after July 19, 1966, unless a deed or other memorandum of conveyance is recorded in the county where the property is located before December 31 of the year of acquisition, or the local assessing officer is notified by registered mail of the acquisition before December 31 of the year of acquisition.

MI ST 211.7z and several other sections allow for leased property to be tax exempt if the lessee uses the property for a tax-exempt purpose. None of these sections have any filing requirements.

##### MI ST 211.8a

(1) Qualified personal property made available by a person that is a qualified business for use by another person shall not be assessed to the qualified business and instead is assessable and taxable to the user who acquires or possesses the qualified personal property to the extent provided for in this section. Property assessed under this section shall not be required to be assessed separately from other personal property assessed to the user.

(2) A person who is a qualified business that makes available qualified personal property shall file the statement required by section 18 not later than February 1. A person to

whom qualified personal property is taxable as provided in this section shall file the statement required by section 18 by February 20 and shall include the qualified personal property on that statement. The statement filed by the qualified business shall include, itemized for each user, several statements describing the use of the property and the user of the property.

#### **E. Notification Requirements After Change in Use or Ownership.**

See section on removing exemptions.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

MI ST 211.7cc

(4) Upon receipt of an affidavit filed under subsection (2) and unless the claim is denied under subsection (6), the assessor shall exempt the property from the collection of the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of Act No. 451 of the Public Acts of 1976 as provided in subsection (1) until December 31 of the year in which the property is transferred or is no longer a homestead as defined in section 7dd. The local tax-collecting unit shall forward copies of affidavits to the department of treasury according to a schedule prescribed by the department of treasury.

(7) The department of treasury shall determine if the property is the homestead of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. If the department of treasury determines that the property is not the homestead of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An owner may appeal the denial of a claim of exemption to the department of treasury within 35 days of receipt of the notice of denial. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of Act No. 122 of the Public Acts of 1941, being section 205.21 of the Michigan Compiled Laws. Within 10 days after acknowledging an appeal of a denial of a claim of exemption, the department of treasury shall notify the assessor and the treasurer for the county in which the property is located that an appeal has been filed. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall issue a corrected tax bill for previously unpaid taxes with interest and penalties computed based

on the interest and penalties that would have accrued from the date the taxes were originally levied if there had not been an exemption. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall prepare and submit a supplemental tax bill for any additional taxes, together with any interest and penalties. For taxes levied in 1994 only, the county treasurer shall waive any interest and penalties due if the owner pays the supplemental tax bill not more than 30 days after the owner receives the supplemental tax bill. Interest and penalties shall not be assessed for any period before February 14, 1995. However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the homestead property tax exemption for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under Act No. 122 of the Public Acts of 1941 and shall deposit any tax, interest, or penalty collected into the state school aid fund.

#### **B. Removal of Exemptions.**

MI ST 211.7cc

(5) Not more than 90 days after exempted property is no longer used as a homestead by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. Beginning October 1, 1994, an owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$200.00. This penalty shall be collected under Act No. 122 of the Public Acts of 1941, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) If the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the homestead of the owner claiming the exemption, effective for taxes levied after 1994 the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the department of treasury within 35 days after the date of the notice. The denial shall be made on a form prescribed by the department of treasury. If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the homestead of the owner claiming the exemption, for taxes levied in 1994 the assessor may send a recommendation for denial for any affidavit that is forwarded to the department of treasury stating the reasons for the recommendation. If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the homestead of the owner claiming the exemption and has not denied the claim, for taxes levied after 1994 the assessor shall include a recommendation for denial with any affidavit that is forwarded to the

department of treasury or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

### **C. Assessment of Omitted Property.**

MI ST 211.154

(1) If the state tax commission determines that property liable to taxation, including property subject to taxation under Act No. 198 of the Public Acts of 1974, being sections 207.551 to 207.572 of the Michigan Compiled Laws, Act No. 282 of the Public Acts of 1905, being sections 207.1 to 207.21 of the Michigan Compiled Laws, Act No. 189 of the Public Acts of 1953, being sections 211.181 to 211.182 of the Michigan Compiled Laws, and the commercial redevelopment act, Act No. 255 of the Public Acts of 1978, being sections 207.651 to 207.668 of the Michigan Compiled Laws, has been incorrectly reported or omitted for any previous year, but not to exceed the current assessment year and 2 years immediately preceding the date of discovery and disclosure to the state tax commission of the incorrect reporting or omission, the state tax commission shall place the corrected assessment value for the appropriate years on the appropriate current assessment roll. The commission shall certify to the treasurer who has possession of the appropriate current tax roll the amount of taxes due as computed by the correct annual rate of taxation for each year except the current year. Taxes computed under this section shall not be spread against the property for a period before the last change of ownership of the property.

(4) A person to whom property is assessed under this section may appeal a determination of the state tax commission to the Michigan tax tribunal.

MI ST 211.22

If a supervisor, assessing officer, member of the state tax commission, or director or deputy director of the county tax or equalization department is satisfied that a statement required under section 18 is incorrect, or if a statement required under section 18 cannot be obtained from the person, firm, or corporation whose property is assessed, a supervisor, assessing officer, member of the state tax commission, or director or deputy director of the county tax or equalization department may examine, under oath to be administered by the supervisor, assessing officer, member of the state tax commission, or director or deputy director of the county tax or equalization department, any person he or she believes has knowledge of the amount or value of any property owned, held, or controlled by the person neglecting, refusing, or omitting to be examined or to furnish the statement required under section 18. A supervisor or assessing officer is authorized to assess to a person, firm, or corporation subject to assessment the amount of real and personal property the supervisor or assessing officer considers reasonable and just.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

MI ST 211.34

(4) The supervisor of a township or, with the approval of the governing body, the certified assessor of a township or city, or the intermediate district board of education, or

the board of education of an incorporated city or village aggrieved by the action of the county board of commissioners, in equalizing the valuations of the townships or cities of the county, may appeal from the determination to the state tax tribunal in the manner provided by law. An appeal from the determination by the county board of commissioners shall be filed with the clerk of the tribunal by a written or printed petition that shall set forth in detail the reasons for taking the appeal. The petition shall be signed and sworn to by the supervisor, the certified assessor, or a majority of the members of the board of education taking the appeal, shall show that a certain township, city, or school district has been discriminated against in the equalization, and shall pray that the state tax tribunal proceed at its earliest convenience to review the action from which the appeal is taken. The state tax tribunal shall, upon hearing, determine if in its judgment there is a showing that the equalization complained of is unfair, unjust, inequitable, or discriminatory. The state tax tribunal shall have the same authority to consider and pass upon the action and determination of the county board of commissioners in equalizing valuations as it has to consider complaints relative to the assessment and taxation of property. The state tax tribunal may order the county board of commissioners to reconvene and to cause the assessment rolls of the county to be brought before it, may summon the commissioners of the county to give evidence in relation to the equalization, and may take further action and may make further investigation in the premises as it considers necessary. The state tax tribunal shall fix a valuation on all property of the county. If the state tax tribunal decides that the determination and equalization made by the county board of commissioners is correct, further action shall not be taken. If the state tax tribunal, after the hearing, decides that the valuations of the county were improperly equalized, it shall proceed to make deductions from, or additions to, the valuations of the respective townships, cities, or school districts as may be considered proper, and in so doing the tribunal shall have the same powers as the county board of commissioners had in the first instance. The deductions or additions shall decrease or increase the state equalized valuation of the local unit affected but shall not increase or decrease the total state equalized valuation of the county in the case of an appeal under this section to the state tax tribunal. If the tax tribunal finds that the valuations of a class of property in a county were improperly equalized by that county and determines that the total value of that class of property in the county may not be at the level required by law, prior to entry of a final order, the tax tribunal shall forward its findings and determination to the state tax commission. Within 90 days after receiving the findings and determination of the tax tribunal, the state tax commission shall determine whether the state equalized valuation of that class of property in the county was set at the level prescribed by law or should be revised to provide uniformity among the counties and shall enter an order consistent with the state tax commission's findings. The tax tribunal shall enter a final order based upon the revised state equalized valuation, if any, which is adopted by the state tax commission. The state tax tribunal immediately after completing its revision of the equalization of the valuation of the several assessment districts shall report its action to the county board of commissioners and board of education if the board has instituted the appeal by filing its report with the clerk of the county board of commissioners. The action of the state tax tribunal in the premises shall constitute the equalization of the county for the tax year.

(5) For purposes of appeals pursuant to subsection (4) in 1981 only, an agent of a

supervisor, including an assessor, shall be considered to have the authority to file and sign a petition for an appeal, and any otherwise timely submitted petition in 1981 by an agent of a supervisor shall be reviewed by the tribunal as if submitted by the supervisor.

#### MI ST 205.735

(1) A proceeding before the tribunal is original and independent and is considered de novo. For an assessment dispute as to the valuation of the property or where an exemption is claimed, except as otherwise provided in this section for a year in which the July or December board of review has authority to determine a claim of exemption for qualified agricultural property or for an appeal of a denial of a homestead exemption by the department of treasury, the assessment must be protested before the board of review before the tribunal acquires jurisdiction of the dispute under subsection (2), except as provided by section 37(5) and (7). For a dispute regarding a determination of a claim for exemption of qualified agricultural property for a year in which the July or December board of review has authority to determine a claim of exemption for qualified agricultural property, the claim for exemption must be presented to either the July or December board of review before the tribunal acquires jurisdiction of the dispute. For a special assessment dispute, the special assessment must be protested at the hearing held for the purpose of confirming the special assessment roll before the tribunal acquires jurisdiction of the dispute.

(2) The jurisdiction of the tribunal in an assessment dispute is invoked by a party in interest, as petitioner, filing a written petition on or before June 30 of the tax year involved. Except in the residential property and small claims division, a written petition is considered filed by June 30 of the tax year involved if it is sent by certified mail on or before June 30 of that tax year. In the residential property and small claims division, a written petition is considered filed by June 30 of the tax year involved if it is postmarked by first class mail or delivered in person on or before June 30 of the tax year involved. All petitions required to be filed or served by a day during which the offices of the tribunal are not open for business shall be filed by the next business day. In all other matters, the jurisdiction of the tribunal is invoked by a party in interest, as petitioner filing a written petition within 30 days after the final decision, ruling, determination, or order that the petitioner seeks to review. An appeal of a contested tax bill shall be made within 60 days after mailing by the assessment district treasurer and the appeal is limited solely to correcting arithmetic errors or mistakes and is not a basis of appeal as to disputes of valuation of the property, the property's exempt status, or the property's equalized value resulting from equalization of its assessment by the county board of commissioners or the state tax commission. Service of the petition on the respondent shall be by certified mail. For an assessment dispute, service of the petition shall be mailed to the assessor of that governmental unit if the respondent is the local governmental unit. Except for petitions filed under chapter 6, a copy of the petition shall also be sent to the secretary of the school board in the local school district in which the property is located and to the clerk of any county that may be affected.

(3) The petition or answer may be amended at any time by leave of the tribunal and in compliance with its rules. If a tax was paid while the determination of the right to the tax is pending before the tribunal, the taxpayer may amend his or her petition to seek refund of that tax.

(4) A person or legal entity may appear before the tribunal in his or her own behalf, or may be represented by an attorney or by any other person as the appellant may choose.

# MINNESOTA

## WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

M.S.A. Const. Art. 10, § 1

Power of taxation; exemptions; legislative powers.

Section 1. The power of taxation shall never be surrendered, suspended or contracted away. Taxes shall be uniform upon the same class of subjects and shall be levied and collected for public purposes, but public burying grounds, public school houses, public hospitals, academies, colleges, universities, all seminaries of learning, all churches, church property, houses of worship, institutions of purely public charity, and public property used exclusively for any public purpose, shall be exempt from taxation except as provided in this section. There may be exempted from taxation personal property not exceeding in value \$200 for each household, individual or head of a family, and household goods and farm machinery as the legislature determines. The legislature may authorize municipal corporations to levy and collect assessments for local improvements upon property benefited thereby without regard to cash valuation. The legislature by law may define or limit the property exempt under this section other than churches, houses of worship, and property solely used for educational purposes by academies, colleges, universities and seminaries of learning.

"Purely" as used in the constitution, which provides that institutions of "purely" public charities shall be exempt from taxation means wholly, solely, and exclusively. *State v. Evans Scholars Foundation of Minn., Inc.*, 1967, 278 Minn. 74, 153 N.W.2d 148.

MN ST § 272.02

Subdivision 1. EXEMPT PROPERTY DESCRIBED. All property described in this section to the extent herein limited shall be exempt from taxation:

- (1) All public burying grounds.
- (2) All public schoolhouses.
- (3) All public hospitals.
- (4) All academies, colleges, and universities, and all seminaries of learning.
- (5) All churches, church property, and houses of worship.
- (6) Institutions of purely public charity except parcels of property containing structures and the structures described in section 273.13, subdivision 25, paragraph (e), other than those that qualify for exemption under clause (25).
- (7) All public property exclusively used for any public purpose.
- (8) Except for the taxable personal property enumerated below, all personal property and the property described in section 272.03, subdivision 1, paragraphs (c) and (d), shall be exempt.
- (12) Property used in a continuous program to provide emergency shelter for victims of domestic abuse, provided the organization that owns and sponsors the shelter is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1992, notwithstanding the fact that the sponsoring organization receives funding under

section 8 of the United States Housing Act of 1937, as amended.

(13) If approved by the governing body of the municipality in which the property is located, property not exceeding one acre which is owned and operated by any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders; provided the property is used primarily as a clubhouse, meeting facility, or recreational facility by the group or association and the property is not used for residential purposes on either a temporary or permanent basis.

(16) Real and personal property owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used in the generation and distribution of hot water for heating buildings and structures.

(19) Transitional housing facilities.

(20) Real and personal property, including leasehold or other personal property interests, owned and operated by a corporation if more than 50 percent of the total voting power of the stock of the corporation is owned collectively by

(i) the board of regents of the University of Minnesota

(ii) the University of Minnesota Foundation, an organization exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1992

(iii) a corporation organized under chapter 317A, which by its articles of incorporation is prohibited from providing pecuniary gain to any person or entity other than the regents of the University of Minnesota

which property is used primarily to manage or provide goods, services, or facilities utilizing or relating to large-scale advanced scientific computing resources to the regents of the University of Minnesota and others.

(25) A structure that is situated on real property that is used for:

(i) housing for the elderly or for low- and moderate-income families as defined in Title II of the National Housing Act, as amended through December 31, 1990

(ii) housing lower income families or elderly or handicapped persons, as defined in Section 8 of the United States Housing Act of 1937, as amended.

Several additional criteria must also be met.

Subd. 2. Certain school district property not exempt. Property owned, leased or used by any public elementary or secondary school district for a home, residence or lodging house for any teacher, instructor, or administrator, and any property owned by any public school district which is leased to any person or organization for a nonpublic purpose for one year or more pursuant to section 123B.51, subdivision 4, shall *not* be included in the exemption provided in subdivision 1.

Subd. 3. Certain hospital property not exempt. Property owned or leased by, or loaned to, a hospital and used principally by such hospital as a recreational or rest area for employees, administrators, or medical personnel shall *not* be included in the exemption provided in subdivision 1.

26 U.S.C.A. § 501

Exemption from tax on corporations, certain trusts, etc.

(a) Exemption from taxation.--An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(c) List of exempt organizations.--The following organizations are referred to in subsection (a):

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

M.S.A. § 306.14

Taxes; roads; special assessments.

Subdivision 1. Tax exemption. The lands and property of any such cemetery association are exempt from all public taxes and assessments. No road or street shall be laid through the cemetery, or any part of the lands of the association without the consent of the trustees.

M.S.A. § 307.09

Private cemeteries that are organized as a non-profit entity are exempt from taxation.

M.S.A. § 272.021

Property of a volunteer fire department used for an essential public and government purpose is exempt from taxation.

Resolution of case under statute governing exemptions from property tax for institutions of purely public charity requires analysis of facts of that case in light of North Star factors:

- (1) whether stated purpose of undertaking is to be helpful to others without immediate expectation of material reward
- (2) whether entity involved is supported by donations and gifts in whole or in part;
- (3) whether recipients of "charity" are required to pay for assistance received in whole or in part
- (4) whether income received from gifts and donations and charges to users produces profit to charitable institution
- (5) whether beneficiaries of "charity" are restricted or unrestricted and, if restricted,

whether class of persons to whom charity is made available is one having reasonable relationship to charitable objective

(6) whether dividends, in form or substance, or assets upon dissolution are available to private interests.

Care Institute, Incorporated-Maplewood v. County of Ramsey, 1998, 576 N.W.2d 734.

Although North Star factors, governing property tax exemptions for institutions of purely public charity, are only guidelines, and every factor need not be present for institution to qualify for exemption, Supreme Court will affirm tax court when, after independent review of record, there is sufficient evidence in record upon which tax court could have reasonably based its conclusion. Care Institute, Incorporated-Maplewood v. County of Ramsey, 1998, 576 N.W.2d 734.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

A statute creating exemption from taxation must be strictly construed and any doubt should be resolved in favor of taxing authority. Northwestern Municipal Ass'n v. U.S., D.C.Minn.1938, 22 F.Supp. 18, affirmed 99 F.2d 460.

Word "charity" as used in context of tax exemption has broader significance than in common speech and is broadly defined as gift, to be applied consistently with existing laws, for benefit of indefinite number of persons by bringing their hearts under influence of education or religion, by relieving their bodies from disease, suffering, or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public buildings or works, or otherwise lessening burdens of government. White Earth Land Recovery Project v. County of Becker, 1996, 544 N.W.2d 778.

All property is presumed taxable, and the burden is on party seeking tax-free status as charity to prove entitlement to claimed exemption. White Earth Land Recovery Project v. County of Becker, 1996, 544 N.W.2d 778.

Taxation being the rule and exemption the exception, there is a presumption that all property is taxable. Junior Achievement of Greater Minneapolis, Inc. v. State, 1965, 271 Minn. 385, 135 N.W.2d 881.

### **B. Partial Exemptions.**

M.S.A. § 469.043

Subd. 2. Partial tax exemption. The governing body of a city in which the proposed development is to be located, after the approval required by subdivision 3, may exempt from all local taxes up to 50 percent of the net tax capacity of the development provided the development is a part of a redevelopment project.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

M.S.A. § 272.025

Filing requirement.

Subdivision 1. Statement of exemption.

(a) Except in the case of churches and houses of worship, property solely used for educational purposes by academies, colleges, universities or seminaries of learning, property owned by the state of Minnesota or any political subdivision thereof, and property exempt from taxation under section 272.02, subdivision 1, clauses (8), (9), (12), (14), (17), (19), and (21) to (25), and at the times provided in subdivision 3, a taxpayer claiming an exemption from taxation on property described in section 272.02, subdivision 1, shall file a statement of exemption with the assessor of the assessment district in which the property is located.

(b) A taxpayer claiming an exemption from taxation on property described in section 272.02, subdivision 1, clause (9), shall file a statement of exemption with the commissioner of revenue, on or before February 15 of each year for which the taxpayer claims an exemption.

(c) In case of sickness, absence or other disability or for good cause, the assessor may extend the time for filing the statement of exemption for a period not to exceed 60 days.

(d) The commissioner of revenue shall prescribe the form and contents of the statement of exemption.

### **B. Procedures for Retaining an Exemption.**

M.S.A. § 272.025

Subd. 4. Knowing violation. No property subject to the requirements of this section shall be exempt from taxation under section 272.02 if the taxpayer claiming the exemption knowingly violates any of the provisions of this section.

### **C. Annual Certification.**

M.S.A. § 272.025

Subd. 3. Filing dates. The statement required by subdivision 1, paragraph (a), must be filed with the assessor by February 1 of the assessment year, however, any taxpayer who has filed the statement required by subdivision 1 more than 12 months prior to February 1, 1983, or February 1 of each third year after 1983, shall file a statement by February 1, 1983, and by February 1 of each third year thereafter.

### **D. Obligation to File Copies of Lease or Agreements.**

Under some sections of the above codes leased or loaned property can be exempt from taxation. There is not, however, any additional requirements for non-profit entities who use leased or loaned property to report such agreements above and beyond the regular filing requirements.

#### **E. Notification Requirements After Change in Use or Ownership.**

M.S.A. § 272.025

Subd. 2. Verification. Upon the written request of the assessor, the taxpayer filing a statement of exemption shall make available to the assessor all books and records relating to the ownership or use of property which are reasonably necessary to verify that the property qualifies for exemption.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

M.S.A. § 273.18

Listing, valuation, and assessment of exempt property by county auditors

(a) In every sixth year after the year 1926, the county auditor shall enter, in a separate place in the real estate assessment books, the description of each tract of real property exempt by law from taxation, with the name of the owner, if known, and the assessor shall value and assess the same in the same manner that other real property is valued and assessed, and shall designate in each case the purpose for which the property is used.

#### **B. Removal of Exemptions.**

Exemptions are removed when the property no longer qualifies for an exemption from taxation. This can be done when an assessor regularly reviews the property's exempt status or when the property owner reports to the board of assessors that the property is no longer used for a tax exempt purpose.

#### **C. Assessment of Omitted Property.**

M.S.A. § 272.10

Right to assess and collect; limitation.

Except as hereinafter provided, the right to assess property omitted in any year, or to reassess taxes upon property prevented from being collected in any year, either as authorized and directed by this chapter or otherwise, shall not be defeated by reason of any limitation contained in any statute of this state, and, except as otherwise provided in this chapter, there shall be no limitation of time upon the right of the state to provide for and enforce the assessment and collection of taxes upon all property subject to taxation.

M.S.A. § 273.02

Omitted property.

Subdivision 1. Discovery. If any real or personal property be omitted in the assessment of any year or years, and the property thereby escape taxation, or if any real property be undervalued by reason of failure to take into consideration the existence of buildings or improvements thereon, or be erroneously classified as a homestead, when such omission, under valuation or erroneous classification is discovered the county auditor shall in the case of omitted property enter such property on the assessment and tax books for the year or years omitted, and in the case of property undervalued by reason of failure to take into consideration the existence of buildings or improvements thereon, or property erroneously classified as a homestead, shall correct the net tax capacity or classification thereof on the assessment and tax books and shall assess the property, and extend against the same on the tax list for the current year all arrearage of taxes properly accruing against it, including therein, in the case of personal property taxes, interest thereon at the rate of seven percent per annum from the time such taxes would have become delinquent, when the omission was caused by the failure of the owner to list the same. If any tax on any property liable to taxation is prevented from being collected for any year or years by reason of any erroneous proceedings, under valuation by reason of failure to take into consideration the existence of buildings or improvements, erroneous classification as a homestead, or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the current year.

#### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

There is a general right for a property owner to file a complaint about the assessment of his/her property. No other statutes providing rights to a taxpayer or tax paying body was found.

# MISSISSIPPI

## WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

MS ST s 17-21-5

(2) The governing authorities of any municipality of this state with a population of twenty-five thousand (25,000) or more according to the latest federal decennial census, may, in their discretion, exempt from any or all municipal ad valorem taxes, excluding ad valorem taxes for school district purposes, for a period of not more than seven (7) years, any privately owned new structures and any new renovations of and improvements to existing structures lying within a designated business improvement district, urban renewal district or redevelopment district, as determined by the municipality, but only in the event such structures shall have been constructed, renovated or improved pursuant to the requirements of an approved project of the municipality for the development of the business improvement district, urban renewal district or redevelopment district. The tax exemption authorized herein may be granted only after written application has been made to the governing authorities of the municipality by any person, firm or corporation claiming the exemption, and an order passed by the governing authorities of such municipality finding that the construction, renovation or improvement of said property is for the promotion of business, commerce or industry in the designated business improvement district, urban renewal district or redevelopment district.

MS ST s 27-31-1

The following shall be exempt from taxation:

- (a) All cemeteries used exclusively for burial purposes.
- (b) All property, real or personal, belonging to the State of Mississippi or any of its political subdivisions, except property of a municipality not being used for a proper municipal purpose and located outside the county or counties in which such municipality is located. A proper municipal purpose within the meaning of this section shall be any authorized governmental or corporate function of a municipality.
- (c) All property, real or personal, owned by units of the Mississippi National Guard, or title to which is vested in trustees for the benefit of any unit of the Mississippi National Guard; provided such property is used exclusively for such unit, or for public purposes, and not for profit.
- (d) All property, real or personal, belonging to any religious society, or ecclesiastical body, or any congregation thereof, or to any charitable society, or to any historical or patriotic association or society, or to any garden or pilgrimage club or association and used exclusively for such society or association and not for profit; not exceeding, however, the amount of land which such association or society may own as provided in Section 79-11-33. All property, real or personal, belonging to any rural waterworks system or rural sewage disposal system incorporated under the provisions of Section 79-11-1. All property, real or personal, belonging to any college or institution for the education of youths, used directly and exclusively for such purposes, provided that no such college or institution for the education of youths shall have exempt from taxation more than six hundred forty (640) acres of land; provided, however, this exemption shall

not apply to commercial schools and colleges or trade institutions or schools where the profits of same inure to individuals, associations or corporations. All property, real or personal, belonging to an individual, institution or corporation and used for the operation of a grammar school, junior high school, high school or military school. All property, real or personal, owned and occupied by a fraternal and benevolent organization, when used by such organization, and from which no rentals or other profits accrue to the organization, but any part rented or from which revenue is received shall be taxed.

(e) All property, real or personal, held and occupied by trustees of public schools, and school lands of the respective townships for the use of public schools, and all property kept in storage for the convenience and benefit of the State of Mississippi in warehouses owned or leased by the State of Mississippi, wherein said property is to be sold by the Alcoholic Beverage Control Division of the State Tax Commission of the State of Mississippi.

(f) All property, real or personal, whether belonging to religious or charitable or benevolent organizations, which is used for hospital purposes, and nurses' homes where a part thereof, and which maintain one or more charity wards that are for charity patients, and where all the income from said hospitals and nurses' homes is used entirely for the purposes thereof and no part of the same for profit.

(r) The libraries of all persons.

(u) All state, county, municipal, levee, drainage and all school bonds or other governmental obligations, and all bonds and/or evidences of debts issued by any church or church organization in this state, and all notes and evidences of indebtedness which bear a rate of interest not greater than the maximum rate per annum applicable under the law; and all money loaned at a rate of interest not exceeding the maximum rate per annum applicable under the law; and all stock in or bonds of foreign corporations or associations shall be exempt from all ad valorem taxes.

(dd) All property, real or personal, used exclusively for the housing of and provision of services to elderly persons, disabled persons, mentally impaired persons or as a nursing home, which is owned, operated and managed by a not-for-profit corporation, qualified under Section 501(c)(3) of the Internal Revenue Code, whose membership or governing body is appointed or confirmed by a religious society or ecclesiastical body or any congregation thereof.

(ff) All property, real or personal, owned by a nonprofit organization that: (i) is qualified as tax exempt under Section 501(c)(4) of the Internal Revenue Code of 1986, as amended; (ii) assists in the implementation of the national contingency plan or area contingency plan, and which is created in response to the requirements of Title IV, Subtitle B of the Oil Pollution Act of 1990, P.L. 101-380; (iii) engages primarily in programs to contain, clean up and otherwise mitigate spills of oil or other substances occurring in the United States coastal or tidal waters; and (iv) is used for the purposes of the organization.

MS ST s 41-73-67

All property acquired or held by the authority under this act is declared to be public property used for public and governmental purposes, and all property, income therefrom and bonds issued under this act, interest payable thereon and income derived therefrom, shall at all times be exempt from all taxes imposed by the state, any county, any

municipality or any other political subdivision of the state. Upon dissolution of the authority, all assets thereof, after payment of all its indebtedness, shall inure to the benefit of the state.

MS CONST Art. 7, s 181

The property of all private corporations for pecuniary gain shall be taxed in the same way and to the same extent as the property of individuals, but the legislature may provide for the taxation of banks and banking capital, by taxing the shares according to the value thereof (augmented by the accumulations, surplus, and unpaid dividends), exclusive of real estate, which shall be taxed as other real estate. Exemptions from taxation to which corporations are legally entitled at the adoption of this Constitution, shall remain in full force and effect for the time of such exemption as expressed in their respective charters, or by general laws, unless sooner repealed by the legislature. And, domestic insurance companies shall not be required to pay a greater tax in the aggregate than is required to be paid by foreign insurance companies doing business in this state, except to the extent of the excess of their ad valorem tax over the privilege tax imposed upon such foreign companies; and the legislature may impose privilege taxes on building and loan associations in lieu of all other taxes except on their real estate.

MS CONST Art. 7, s 182

The power to tax corporations and their property shall never be surrendered or abridged by any contract or grant to which the state or any political subdivision thereof may be a party, except that the Legislature may grant exemption from taxation in the encouragement of manufactures and other new enterprises of public utility extending for a period of not exceeding ten (10) years on each such enterprise hereafter constructed, and may grant exemptions not exceeding ten (10) years on each addition thereto or expansion thereof, and may grant exemptions not exceeding ten (10) years on future additions to or expansions of existing manufactures and other enterprises of public utility. The time of each exemption shall commence from the date of completion of the new enterprise, and from the date of completion of each addition or expansion, for which an exemption is granted. When the Legislature grants such exemptions for a period of ten (10) years or less, it shall be done by general laws, which shall distinctly enumerate the classes of manufactures and other new enterprises of public utility, entitled to such exemptions, and shall prescribe the mode and manner in which the right to such exemptions shall be determined.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

While tax exemption statutes must be strictly construed against exemption, and all reasonable doubt must be resolved against it, court will not ascribe to legislature intention to be unfair and unjust, and will not interpret exemption statute to bring about unthought of results. *Better Living Services, Inc. v. Bolivar County* (Miss. 1991) 587 So.2d 914; *Board of Sup'rs, Warren County v. Vicksburg Hospital* (Miss. 1935) 173 Miss. 805, 163

So. 382.

General rule is that statutes exempting property from taxation are to be strictly construed in favor of the taxing authority and against the exemption. *Local Union No. 845, United Rubber, Cork, Linoleum and Plastic Workers of America, Home Ass'n, Inc. v. Lee County Bd. of Sup'rs* (Miss. 1979) 369 So.2d 497. Taxation k 204(2)

One seeking benefit of an exemption from property taxation must clearly show or demonstrate that he is within the letter of the exemption, since all reasonable doubts are generally resolved against the exemption. *Local Union No. 845, United Rubber, Cork, Linoleum and Plastic Workers of America, Home Ass'n, Inc. v. Lee County Bd. of Sup'rs* (Miss. 1979) 369 So.2d 497. Taxation k 251.1

### **B. Partial Exemptions.**

No statutes were found that discuss partial exemptions.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when the taxpayer files for an exemption and is approved by the tax assessment board.

### **B. Procedures for Retaining an Exemption.**

MS ST s 27-35-31

The property of each corporation or joint stock company (whether organized under the laws of this state or any other state or country) shall be assessed and taxed as that of a person; and the laws, providing for the assessment and collection of taxes on the property of persons, shall apply to the assessment and collection of taxes on the property of corporations and joint stock companies. All shares or certificates of stock issued by any such corporation or joint stock company shall be exempt from taxation and shall not be returned for assessment. The president, secretary or other officer of the same shall render, under oath, the tax list, in its name, of its property, real or personal or both, subject to taxation, to the assessor at the same time that persons are required to render their assessments of their property. Its land and tangible personal property shall be appraised at true value and assessed and taxed where situated on the first day of January of the year; and the accounts, notes, bonds, shares or certificates of stock, bank deposits, rights, money or other intangible property subject to taxation owned by a corporation or joint stock company organized under the laws of this state shall be assessed and taxed at its domicile; but any such intangible personal property, which would be exempt from taxation according to law, if owned by a person shall be exempt from taxation when owned by a corporation or joint stock company and shall not be returned for assessment. Such intangible personal property owned by a corporation or joint stock company organized under the laws of any state or country other than Mississippi shall be exempt

from taxation and shall not be returned for assessment. This section shall not apply to persons, firms or corporations assessed by the state railroad assessors or domestic insurance companies; but the shares or certificates of stock issued by a railroad, sleeping car, express, telephone or telegraph company or a freight car line or a railroad equipment company or a domestic insurance company shall be exempt from taxation in the hands of the stockholder and shall not be returned for taxation by such stockholder.

### **C. Annual Certification.**

MS ST s 27-35-23

(1) Except as may be otherwise provided for in subsection (2) of this section, the tax assessor shall call upon each person liable to taxation in his county for a list of his taxable personal property, either in person, or by leaving a copy of the prescribed tax list at his business or his usual place of residence, and it shall be the duty of each person to make out and deliver to the tax assessor, upon demand, and if not demanded, not later than the first day of April in each year, a true list of his taxable property with the true value of each article, specifying all such property of which he was possessed on the next preceding tax lien date in his own right or in the right of his wife or minor child, or as executor, administrator, guardian, trustee, agent, or otherwise, rendering separate lists of the property of each. The taxpayer shall fill in all blanks on the tax lists and show in the proper place all taxable personal property owned by him or by any person for whom he is required to give in taxable property.

(2) If the tax assessor has previously received from the taxpayer true list of the taxpayer's taxable personal property, the tax assessor may, in his discretion, require that the taxpayer furnish him, upon demand, and if not demanded, not later than the first day of April in each year after receipt of such previous list, only with a list of additions and deletions to the tax list the taxpayer has previously provided as may properly update such list and the taxpayer shall not be required to furnish a complete list of his taxable personal property as provided in subsection (1) of this section. In any subsequent year the tax assessor may require the taxpayer to furnish a complete list of his taxable personal property if he considers it necessary.

(3) The list prescribed in subsection (1) or (2) of this section shall show where the property was situated on the next preceding tax lien date and the taxpayer shall render separate lists for personal property where located in a school district, or a road district, and the list, or lists, required to be rendered by every person shall show clearly the taxing district or municipality in which the property was subject to taxation on the tax lien date next preceding.

(4) Each list shall be verified by oath which the assessor, or his deputy, is authorized and required to administer, to each person, as follows:

"You do solemnly swear (or affirm) that the list of property you have made for purposes of taxation is a just and true account of all property you are required to render subject to taxation in your own right, or that of any other person for whom you ought to give in taxable property, and that each statement of fact is true and correct as stated, and that no property subject to taxation has been omitted and all property has been listed at its true value so help you God."

(5) If any person fails to furnish the assessor with a list of property as required by this

section, or if the assessor finds or obtains information of property owned by a nonresident or someone unknown to the assessor, such property shall be appraised by the assessor at the true value at which similar property is appraised. Where the owner is unknown to the tax assessor, the property shall be assessed to the person having the same in charge.

(6) Upon request by the tax assessor, the taxpayer shall provide to the tax assessor whatever reasonable documentation the tax assessor considers necessary to verify the list required pursuant to this section. The documentation shall be limited to information needed by the tax assessor to arrive at the true value of the property.

(7) The tax assessors shall include on the personal property roll the list of aircraft received from the State Tax Commission which are liable for registration but which have not been so registered as required by Title 61, Chapter 15, Mississippi Code of 1972.

(8) Upon the written request of the taxpayer, the tax assessor shall provide a list of the taxable personal property, appraised value and assessed value for each item listed if the taxpayer has rendered the information needed by him to make up such a list.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statutes were found that require copies of leases or agreements to be filed.

#### **E. Notification Requirements After Change in Use or Ownership.**

No statutes were found that require notification of a change in use or ownership.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

MS ST s 21-33-49

(1) The governing authorities of each municipality shall furnish their tax collector a sufficient number of tax receipts, in books, printed in triplicate, in blank form, numbered serially by the printer. The clerk shall first make a record of all such receipts by numbers, and shall take the tax collector's receipt therefor, and shall thereafter, at the end of the fiscal year, credit the tax collector with all unused receipts.

Such tax receipts shall be prepared and printed so as to show the total assessment of the property on which the taxes are collected, together with a description of the property, the line and page of the assessment roll where the assessment is listed, and the amount, if any, shown as a home exemption, if the property be an exempt home. They shall show the rate of levy, separately for general current expenses and maintenance taxes, for school maintenance taxes, for bonds, interest, notes or other obligations, and the total tax levy, and the total amount of all taxes received. If the property described in the receipt be an exempt home, there shall be shown the additional amount of taxes which would have been collected had the home not been exempt, which additional amount shall be separately stated.

The said tax receipts may contain such other and additional statements as the governing authorities of the municipality may prescribe and shall generally comply with the

requirements of Sections 27-41-1 through 27-41-89, Mississippi Code of 1972, governing the installment payment of taxes.

(2) As to any real property on which taxes for any previous year were not paid, the tax collector shall give notice of the delinquent taxes by stamping on the current tax receipt the fact that previous taxes are delinquent. The tax collector shall not accept payment of current year taxes for real property which has sold for delinquent taxes until the taxpayer provides the tax collector with proof that the tax sales for such real property for the previous two (2) years have been redeemed in the chancery clerk's office. Failure of the tax collector to stamp tax receipts shall not void any tax sale. The tax collector shall have no liability for errors made in complying with the provisions of this subsection if such tax collector makes a good faith effort to comply with such provisions.

#### MS ST s 27-33-33

The county tax assessor shall perform such duties as are generally required by him by this article and with respect to exempt homesteads, and the application therefor, and his duties are specifically defined as follows:

- (a) He shall, in each year the land roll is made, require that all lands and buildings which have been or are claimed for homestead exemption be separately assessed on the land roll; and he shall, in the case of homestead lands not already separately assessed on the land roll, prepare proper notice to the board of supervisors requesting that the land assessment roll be changed so that all homestead property shall be separately assessed; and in the case of newly constructed dwellings, he shall carefully inspect the same and recommend to the board the value at which such dwellings should be assessed; and when rural lands are divided and a part included in the homestead exemption, he shall assess the respective tracts at the value used for cultivable lands and for uncultivable lands, and fairly assess homesteads and nonhomesteads at the same proportion to true value.
- (b) He shall keep available a supply of the prescribed blank homestead exemption applications, and he shall require each applicant to properly execute the application in entire conformity with the requirements of Section 27-33-31.
- (c) He shall aid the applicant in executing the application.
- (d) He shall notify the applicant if an application for homestead exemption is incorrect or incomplete in any substantial particular, and require that it be properly and completely executed before accepting it for delivery to the clerk.
- (e) He shall, when an application is accepted by him, retain the original, the duplicate and the triplicate. He shall endorse "filed" on the quadruplicate with the date and his official signature and return it to the applicant as evidence of the application and that it was filed.
- (f) He shall promptly give to the board of supervisors any knowledge or information he may have, or any fact he may have knowledge of, bearing on the eligibility of the applying person or property and not revealed in the application; and note on the application any condition requiring special consideration.
- (g) He shall, on the first day of each month, deliver to the clerk of the board of supervisors all originals and duplicates of applications for homestead exemption received and accepted by him during the preceding month.
- (h) He shall attend all meetings of the board when any matter with respect to homestead exemptions is being considered by it and shall render such assistance and perform such services as the board may direct from time to time.

(i) He shall, at least ten (10) days but not more than thirty (30) days prior to April 1 of each year, publish notice in a newspaper having general circulation in the county in which he serves as tax assessor informing persons who are receiving homestead exemption that the tax assessor must be notified if changes have occurred in the status of the homestead in the property description, ownership, use or occupancy since January 1 of the preceding year and that, in the event such persons are still eligible for homestead exemption, a new application for homestead exemption must be filed.

### **B. Removal of Exemptions.**

An exemption is removed when either the taxpayer or tax assessor determines that the exemption is no longer applicable or when the taxpayer fails to file the proper paper work.

### **C. Assessment of Omitted Property.**

MS ST s 27-33-59

(a) Any person who shall knowingly make any false or fraudulent claim for exemption under the provisions of this article or make any false statement or representation, or concealment of a material fact in support of such claim; or any person who shall assist another in the preparation of any false or fraudulent claim; or enters into any collusion with another by the execution of a fictitious deed, deed of trust, or mortgage, or shall otherwise aid, assist or abet any person in the preparation or presentation of any false or fraudulent claim for exemption shall be guilty of a misdemeanor. Upon conviction such person shall be punished by a fine not exceeding five hundred dollars (\$500.00) or six (6) months imprisonment.

(b) Any person who obtains a homestead exemption by any means referred to in this section or in any manner other than as provided by this article shall be liable for double the amount of the taxes lost by reason of the illegal exemption, and the property shall be liable for the said amount, which may be collected by suit or by sale of the property.

(c) If a revision of tax loss be occasioned by disallowance by the commission of a fraudulent exemption, or if the revision is caused by knowing noncompliance with provisions of this article on the part of officers in the allowance of exemptions, then any reduction in the total amount of tax loss may be made by the commission, in its discretion, in double the amount of the reduction of the total tax loss. Such reduction shall be made from the second installment or any subsequent payment due the taxing unit. But in no instance shall the reduction in tax loss be less than the amount of taxes due on such fraudulent or illegal exemption.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

MS ST s 11-51-77

Any person aggrieved by a decision of the board of supervisors or the municipal authorities of a city, town or village, as to the assessment of taxes, may, within ten days after the adjournment of the meeting at which such decision is made, appeal to the circuit

court of the county, upon giving bond, with sufficient sureties, in double the amount of the matter in dispute, but never less than one hundred dollars, payable to the state, and conditioned to perform the judgment of the circuit court, and to be approved by the clerk of such board, who, upon the filing of such bond, shall make a true copy of any papers on file relating to such controversy, and file such copy certified by him, with said bond, in the office of the clerk of the circuit court, on or before its next term. The controversy shall be tried anew in the circuit court at the first term, and be a preference case, and, if the matter be decided against the person who appealed, judgment shall be rendered on the appeal bond for damages at the rate of ten per centum on the amount in controversy and all costs. If the matter be decided in favor of the person who appealed, judgment in his favor shall be certified to the board of supervisors, or the municipal authorities, as the case may be, which shall conform thereto, and shall pay the costs. The county attorney, the district attorney, or the attorney general, if the state, county or municipality be aggrieved by a decision of the board of supervisors or the municipal authorities of a city, town, or village as to the assessment of taxes, may, within twenty days after the adjournment of the meeting at which such decision is made, or within twenty days after the adjournment of the meeting at which the assessment rolls are corrected in accordance with the instructions of the state tax commission, or within twenty days after the adjournment of the meeting of the board of supervisors at which the approval of the roll by the state tax commission is entered, appeal to the circuit court of the county in like manner as in the case of any person aggrieved as hereinbefore provided, except no bond shall be required, and such appeal may be otherwise governed by the provisions of this section.

#### MS ST s 27-35-89

(1) The board of supervisors of each county shall hold a meeting at the courthouse, or at the chancery clerk's office in counties where the chancery clerk's office is in a building separate from the courthouse, on the first Monday of August, to hear objections to the assessment. The board shall examine the assessment rolls, and hear and determine all exceptions thereto, and shall sit from day to day until the same shall have been disposed of, and all proper corrections made, or may take objections under advisement as provided in subsection (2) of this section. The board shall equalize the assessment and may increase or diminish the valuation of any property, so that property of the same value shall be assessed for an equal sum. Where an individual assessment has been increased immediate notice in writing shall be sent by mail to the person whose assessment is increased by the clerk of the board of supervisors. At the said meeting the board shall have the power to change erroneous assessments or to add omitted property but any person affected by such action shall have notice as next above provided. If the board adjourn before considering the objections filed, such objections shall be heard at the next regular meeting of the board.

(2) The board of supervisors may take an objection under advisement to allow the taxpayer or his designee, the tax assessor or the board to compile information relating to the objection; however, the board shall enter an order on the objection on or before the first Monday of September.

#### MS ST s 27-35-93

A person who is dissatisfied with the assessment may, at the August meeting, present objections thereto in writing which shall be filed by the clerk and docketed and preserved with the roll. All persons who fail to file objections shall be concluded by the assessment and precluded from questioning its validity after its final approval by the board of supervisors or by operation of law, except minors and persons non compos mentis.

## MISSOURI

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

MO CONST Art. 10, s 6

1. All property, real and personal, of the state, counties and other political subdivisions, and nonprofit cemeteries, shall be exempt from taxation; all personal property held as industrial inventories, including raw materials, work in progress and finished work on hand, by manufacturers and refiners, and all personal property held as goods, wares, merchandise, stock in trade or inventory for resale by distributors, wholesalers, or retail merchants or establishments shall be exempt from taxation; and all property, real and personal, not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, or for agricultural and horticultural societies may be exempted from taxation by general law. In addition to the above, household goods, furniture, wearing apparel and articles of personal use and adornment owned and used by a person in his home or dwelling place may be exempt from taxation by general law but any such law may provide for approximate restitution to the respective political subdivisions of revenues lost by reason of the exemption. All laws exempting from taxation property other than the property enumerated in this article, shall be void. The provisions of this section exempting certain personal property of manufacturers, refiners, distributors, wholesalers, and retail merchants and establishments from taxation shall become effective, unless otherwise provided by law, in each county on January 1 of the year in which that county completes its first general reassessment as defined by law.

MO ST 137.100

The following subjects are exempt from taxation for state, county or local purposes:

- (1) Lands and other property belonging to this state;
- (2) Lands and other property belonging to any city, county or other political subdivision in this state, including market houses, town halls and other public structures, with their furniture and equipments, and on public squares and lots kept open for health, use or ornament;
- (3) Nonprofit cemeteries;
- (4) The real estate and tangible personal property which is used exclusively for agricultural or horticultural societies organized in this state, including not-for-profit agribusiness associations;
- (5) All property, real and personal, actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not held for private or corporate profit, except that the exemption herein granted does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes;

#### MO ST 137.101

The activities of nationally affiliated fraternal, benevolent, veteran or service organizations which promote good citizenship, humanitarian activities, or improve the physical, mental and moral condition of an indefinite number of people are purposes purely charitable within the meaning of subsection 1 of section 6 of article X of the constitution and local assessing authorities may exempt such portion of the real and personal property of such organizations as the assessing authority may determine is utilized in purposes purely charitable from the assessment, levy and collection of taxes.

#### MO ST 238.307

1. A corporation may be created to fund, promote, plan, design, construct, maintain, and operate one or more projects or to assist in such activity.
2. The corporation shall be a nonmember, nonstock corporation. It shall be organized under and governed by sections 238.300 to 238.360 and by the provisions of the general not for profit corporation law, chapter 355, RSMo. Any provision of sections 238.300 to 238.360 shall take precedence over any conflicting provision of chapter 355, RSMo.
3. No part of the earnings or assets of a transportation corporation shall inure to the benefit of any private interests, person, or entity.
4. Property held by and activities of a corporation created under the provisions of sections 238.300 to 238.360 exist and are conducted for purely civic, social welfare, and charitable purposes. A transportation corporation shall be exempt from taxation in accordance with article X, section 6 of the Missouri Constitution. The corporation shall not be required to pay any taxes or assessments upon or with respect to a project or property acquired or used by the corporation or upon income therefrom.

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions.**

Constitutional provisions exempting property from taxation are to be strictly construed but the provisions are to be given a reasonable, natural, and practical interpretation in light of modern conditions in order to effectuate the purpose for which the exemption is granted. *Barnes Hosp. v. Leggett* (App. E.D. 1983) 646S.W.2d 889. *Sunday School Bd. of Southern Baptist Convention v. Mitchell* (Sup. 1983) 658 S.W.2d 1.

To establish a charitable purpose within the statutory exemption from real estate taxes, the property must be owned and operated on a not-for-profit basis so that there can be no profit, presently or prospectively, to individuals or corporations, the property must be dedicated unconditionally to the charitable activity, the dominant use of the property must be for the benefit of an indefinite number of people, and there must be a direct or indirect benefit to society in addition to and as a result of the benefit conferred on the persons directly served by the humanitarian activity. *Sunday School Bd. of Southern Baptist Convention v. Mitchell* (Sup. 1983) 658 S.W.2d 1.

Tax exemption for property used for "purposes purely charitable" requires that the property must be actually and regularly used exclusively for purposes purely charitable as previously defined by Supreme Court, it must be owned and operated on a not-for-profit basis, and that the dominant use of the property must be for the benefit of an indefinite number of people and must directly benefit society generally. *State ex rel. Wagner v. St. Louis County Port Authority* (Sup. 1980) 604 S.W.2d 592.

Law places substantial burden on those claiming exemptions from ad valorem taxation on ground that property is used exclusively for religious worship to establish that their property falls within exempt class. *Missouri Church of Scientology v. State Tax Commission* (Sup. 1977) 560 S.W.2d 837, appeal dismissed 99 S.Ct. 57, 439 U.S. 803, 58 L.Ed.2d 95. *Pentecostal Church of God of America v. Hughlett* (App. S.D. 1980) 601 S.W.2d 666.

## **B. Partial Exemptions.**

Provisions of this section and V.A.M.S. § 137.100 which exempt from taxation property "used exclusively \* \* \* for purposes purely charitable" authorize a partial exemption of a building or tract, where that building or tract is used in part for charitable purposes and in part for noncharitable purposes, such rule will be applied prospectively to the instant case and all assessments which commence on the first day of January, 1980, and thereafter; overruling *Wyman v. City of St. Louis*, 17 Mo. 335; *State ex rel. Spillers v. Johnston*, 214 Mo. 656, 113 S.W. 1083; *Evangelical Lutheran Synod v. Hoehn*, 355 Mo. 257, 196 S.W. 134, and their progeny. *Barnes Hospital v. Leggett* (Sup. 1979) 589 S.W.2d 241.

Initial decision as to which parts of property are exempt from real property taxes under charitable exemption and value of nonexempt property are assigned by law to taxing officials. *Local Union No. 124, Intern. Broth. of Elec. Workers v. Pendergast* (Sup. 1995) 891 S.W.2d 417.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when the paperwork for an exemption is filed and accepted with/by the county tax assessor.

### **B. Procedures for Retaining an Exemption.**

No statutes were found that outline the specific steps to be taken to get an exemption. A timely filing for an exemption is required. Once the exemption is granted it is kept by continuing to submit the appropriate paperwork as all property is regularly assessed and reassessed.

**C. Annual Certification.**

Regular assessments and reassessments are to be conducted as the Constitution of Missouri implies.

**D. Obligation to File Copies of Lease or Agreements.**

No statute was found that requires copies of leases or agreements to be filed.

**E. Notification Requirements After Change in Use or Ownership.**

No statute was found that requires notification after change in use or ownership.

**WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

**A. Monitoring Exemptions.**

Exemptions are monitored when all property is regularly reassessed.

**B. Removal of Exemptions.**

An exemption is removed when the tax assessor determines that the property is no longer eligible for an exemption. An exemption is also lost when the taxpayer fails to file the appropriate paperwork to keep the exemption.

**C. Assessment of Omitted Property.**

No statute was found that discusses omitted property.

**HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

**MO ST 137.385**

Any person aggrieved by the assessment of his property may appeal to the county board of equalization. An appeal shall be in writing and the forms to be used for this purpose shall be furnished by the county clerk. Such appeal shall be lodged with the county clerk as secretary of the board of equalization before the third Monday in June; provided, that the board may in its discretion extend the time for filing such appeals.

**MO ST 138.430**

1. Every owner of real property or tangible personal property shall have the right to appeal from the local boards of equalization to the state tax commission under rules prescribed by the state tax commission, within the time prescribed in this chapter or thirty days following the final action of the local board of equalization, whichever date later occurs, concerning all questions and disputes involving the assessment against such

property, the correct valuation to be placed on such property, the method or formula used in determining the valuation of such property, or the assignment of a discriminatory assessment to such property. The commission shall investigate all such appeals and shall correct any assessment or valuation which is shown to be unlawful, unfair, improper, arbitrary or capricious. Any person aggrieved by the decision of the commission may seek review as provided in chapter 536, RSMo.

2. In order to investigate such appeals, the commission may inquire of the owner of the property or of any other party to the appeal regarding any matter or issue relevant to the valuation, subclassification or assessment of the property. The commission may make its decision regarding the assessment or valuation of the property based solely upon its inquiry and any evidence presented by the parties to the commission, or based solely upon evidence presented by the parties to the commission.

3. Every owner of real property or tangible personal property shall have the right to appeal to the circuit court of the county in which the collector maintains his office, from the decision of the local board of equalization not later than thirty days after the final decision of the board of equalization concerning all questions and disputes involving the exclusion or exemption of such property from assessment or from the tax rolls pursuant to the Constitution of the United States or the constitution or laws of this state, or of the taxable situs of such property. The appeal shall be as a trial de novo in the manner prescribed for nonjury civil proceedings.

4. Upon the timely filing of an appeal as provided in this section, the state tax commission or the clerk of the circuit court, as applicable, shall send to the county collector to whom the taxes on the property involved would be due, a notice that an appeal has been filed, which notice shall contain the name and address of the taxpayer filing the appeal.

5. If the circuit court, after review of the appeal, finds that the appeal is not a proper subject for the appeal to the circuit court as provided in subsection 3 of this section, it shall transfer the appeal to the state tax commission for consideration.

6. If an assessor classifies real property under a classification that is contrary to or in conflict with a determination by the state tax commission or a court of competent jurisdiction of said property, the taxpayer shall be awarded costs of appeal and reasonable attorney's fees on a challenge of the assessor's determination.

## MONTANA

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

MT CONST Art. 8, s 5

- (1) The legislature may exempt from taxation:
  - (a) Property of the United States, the state, counties, cities, towns, school districts, municipal corporations, and public libraries, but any private interest in such property may be taxed separately.
  - (b) Institutions of purely public charity, hospitals and places of burial not used or held for private or corporate profit, places for actual religious worship, and property used exclusively for educational purposes.
  - (c) Any other classes of property.
- (2) The legislature may authorize creation of special improvement districts for capital improvements and the maintenance thereof. It may authorize the assessment of charges for such improvements and maintenance against tax exempt property directly benefited thereby.

MT ST 15-6-201

- (1) The following categories of property are exempt from taxation:
  - (a) except as provided in 15-24-1203, the property of:
    - (i) the United States, with minor exceptions
    - (ii) the state, counties, cities, towns, and school districts;
    - (iii) irrigation districts organized under the laws of Montana and not operating for profit;
    - (iv) municipal corporations;
    - (v) public libraries; and
    - (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
  - (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;
  - (c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.
  - (d) property that is:
    - (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;
    - (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

- (iii) not maintained and operated for private or corporate profit;
- (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;
- (f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;
- (g) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate profit;
- (o) health care providers
  - (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and
  - (ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;
  - (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(2) Provisions:

- (a) For the purposes of subsection (1)(e):
  - (i) the term "institutions of purely public charity" includes any organization that meets the following requirements:
    - (A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.
    - (B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.
  - (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.
- (b) For the purposes of subsection (1)(g), the term "public museums, art galleries,

zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

- (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- (ii) held for future display; or
- (iii) used to house or store a public display.

MT ST 15-6-209

(1) The building and appurtenant land, not exceeding 3 acres, owned by a nonprofit community service organization is exempt from property taxation, except as provided in subsections (4) and (5), if the organization:

- (a) is a lodge of a nationally recognized fraternal organization;
- (b) senior citizen provision
  - (i) furnishes services to senior citizens in the form of daytime or evening educational or recreational activities that are recognized in the state plan on aging adopted by the department of public health and human services; and
  - (ii) does not furnish living accommodations to senior citizens; or
- (c) primarily furnishes facilities without charge, except that a minimal fee may be charged for janitorial services, for public meetings and entertainments.

MT ST 15-31-102

(1) Except as provided in subsection (3), there may not be taxed under this title any income received by any:

- (a) labor, agricultural, or horticultural organization;
- (b) fraternal beneficiary, society, order, or association operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of the society, order, or association or their dependents;
- (c) cemetery company owned and operated exclusively for the benefit of its members;
- (d) corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;
- (e) business league, chamber of commerce, or board of trade not organized for profit, no part of the net income of which inures to the benefit of any private stockholder or individual;
- (f) civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;
- (g) club organized and operated exclusively for pleasure, recreation, and other

nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

MT ST 35-20-217

The cemetery lands and property of any association formed pursuant to this chapter are exempt from all public taxes and assessments and not liable to be sold on execution or applied in payment of debts of any individual proprietors; but the proprietors of lots in such cemetery, their heirs or legal representatives may hold the same exempt therefrom so long as the same remain appropriated to the use of a cemetery, and during that time no street or road shall be laid through such cemetery or any part of the lands held by such association for the purpose aforesaid without the consent of the trustees of such association.

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions.**

Tax Exemption for Undeveloped Property Adjacent to Church Buildings -- Application of Doctrine of Strict Construction of Tax Exemptions: Where the plaintiff church owned land, adjacent to the church, that was used for a church road and recreational activities of church members, the District Court erred, in a quiet title action brought by the church, in denying a tax exemption for the land actually used for the road providing access to the church. However, as there was no direct evidence of the use for church purposes of the other undeveloped property adjacent to the road and church, the Supreme Court strictly construed the tax exemption laws to deny an exemption for the other undeveloped property. *Old Fashion Baptist Church v. Dept. of Revenue*, 206 M 451, 671 P2d 625, 40 St. Rep. 1774 (1983).

#### **B. Partial Exemptions.**

MT ST 15-24-1208

(1) If property is owned in any manner by both a tax-exempt person or entity and a person or entity subject to taxation, the ownership interest of the person or entity subject to taxation in the property must be assessed, and that interest is taxable. The department of revenue shall assess the value of the taxable interest in the property by prorating the value of the property between the taxable interest and the nontaxable interest based on the ownership interests shown on the title to the property or any other document that evidences the ownership of the property. If there is no title to the property or other document that evidences the ownership interests or if the title or other document does not show the ownership interest, the value of the property must be prorated among the owners as if each owner owned equal interests in the property.

(2) If property is tax-exempt by virtue of its use, it loses its tax-exempt status when the tax-exempt use ends. If the property is used for both a tax-exempt use and a taxable use, the property is taxed based on the taxable use. The department shall assess the property based on the ratio of the taxable use to the total tax-exempt and taxable use during the

preceding calendar year multiplied by the market value of the property.

MT ST 15-6-209

(5) The exemption provided under this section may not be extended to any property owned by a community service organization described in this section that is leased in whole or in part to any person for business or profitmaking purposes.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

MT ST 15-6-209

(2) An applicant for exemption under this section shall demonstrate that it has been an active community service organization continuously from January 1, 1981.

### **B. Procedures for Retaining an Exemption.**

MT ST 15-24-1802

(1) A business incubator owned or leased and operated by a local economic development organization is eligible for an exemption from property taxes as provided in this section.

(2) In order to qualify for the tax exemption described in this section, the governing body of the county, consolidated government, incorporated city or town, or school district in which the property is located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved, the governing body shall do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid in full or, if the property is leased to a business incubator, until all of the owner's property taxes on that property have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic development organization:

(a) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

(b) is engaged in economic development and business assistance work in the area; and

(c) owns or leases and operates or will operate the business incubator.

(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change for the tax exemption provided for in this section.

(4) The tax exemption described in subsection (1) applies only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to levies and assessments required under Title 15, chapter 10, 20-9-331, or 20-9-333 or

otherwise required under state law.

### **C. Annual Certification.**

MT ST 15-24-1207

(1) Each private person who is a possessor or a beneficial user of tax-exempt property for industrial, trade, or other business purposes subject to tax pursuant to 15-24-1203 shall, on or before March 1 each year, file with the department a statement of the possession or other beneficial use of tax-exempt property in the preceding calendar year and the value of the property. The statement must be in the form prescribed by the department and must be verified by the possessor or beneficial user or, in the case of an association or corporation, by an officer of the association or corporation. The statement must include:

(a) the name and address of the person, association, or corporation;

(b) the location of the tax-exempt property; and

(c) the market value in dollars and cents of the tax-exempt property.

(2) A person who fails to file the statement required by subsection (1) must be assessed the penalty provided in 15-8-309.

(3) The department may adopt any reasonable rules necessary to insure that the possessor or other beneficial user of tax-exempt property complies with the provisions of this part.

### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found to require that copies of leases or agreements be filed.

### **E. Notification Requirements After Change in Use or Ownership.**

No notifications statutes were found.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

MT ST 15-16-203

(1) Subject to 15-10-420, real property or improvements exempt from taxation under Title 15, chapter 6, that during a tax year become the property of a person subject to taxation must be assessed and taxed from the date of change from a nontaxable status to a taxable status.

(2) As provided in subsection (3), the county treasurer shall adjust the tax that would have been due and payable for the current year on the property under 15-16-102 if the property was not exempt.

(3) To determine the amount of tax due for previously exempt property, the county treasurer shall multiply the amount of tax levied and assessed on the original taxable value of the property for the year by the ratio that the number of days in the year that the property will be in taxable status bears to 365.

(4) If the property has not been assessed and taxed during the taxable year because of

exemption, the department shall prepare a special assessment for the property and the county treasurer shall determine the amount of taxes that would have been due under subsection (2).

(5) Upon determining the amount of tax due, the county treasurer shall notify the person to whom the tax is assessed, in the same manner as notification is provided under 15-16-101(2), of the amount due and the date or dates on which the taxes due are payable as provided in 15-16-102.

MT ST 15-6-209

(4) A building and land exempted under this section must be appraised, assessed, and subject to levies for any special improvement district if the special improvement directly benefits the building or land.

### **B. Removal of Exemptions.**

An exemption is removed when the tax assessor determines that the property no longer qualifies for the exemptions or when the taxpayer fails to file the proper paperwork.

### **C. Assessment of Omitted Property.**

No statute was found that specifically addresses omitted property.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

No statutes were found that govern how and by whom an appeal may be brought.

# NEBRASKA

## WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

NE CONST Art. VIII, s 2

Notwithstanding Article I, section 16, Article III, section 18, or Article VIII, section 1 or 4, of this Constitution or any other provision of this Constitution to the contrary:

(1) The property of the state and its governmental subdivisions shall constitute a separate class of property and shall be exempt from taxation to the extent such property is used by the state or governmental subdivision for public purposes authorized to the state or governmental subdivision by this Constitution or the Legislature. To the extent such property is not used for the authorized public purposes, the Legislature may classify such property, exempt such classes, and impose or authorize some or all of such property to be subject to property taxes or payments in lieu of property taxes except as provided by law;

(2) the Legislature by general law may classify and exempt from taxation property owned by and used exclusively for agricultural and horticultural societies and property owned and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not owned or used for financial gain or profit to either the owner or user;

(9) the Legislature may define and classify personal property in such manner as it sees fit, whether by type, use, user, or owner, and may exempt any such class or classes of property from taxation if such exemption is reasonable or may exempt all personal property from taxation;

(10) no property shall be exempt from taxation except as permitted by or as provided in this Constitution

NE ST s 15-844

Land, buildings, money, debts due the city, real and personal property, and assets of every kind and description belonging to any city of the primary class shall be exempt from taxation and shall also be exempt from execution, liens, and sale. Judgments against a city of the primary class shall be paid out of the judgment fund or out of a special fund created for that purpose.

NE ST s 18-2137

The property of an authority is declared to be public property used for essential public and governmental purposes and shall be exempt from all taxes. Whenever such authority shall purchase or acquire real property pursuant to sections 18-2101 to 18-2144, the authority shall annually, so long as it shall continue to own such property, pay out of its revenue to the State of Nebraska, county, city, township, school district or other taxing subdivision in which such real property is located, in lieu of taxes, a sum equal to the amount which such state, county, city, township, school district or other taxing subdivision received from taxation from such real property during the year immediately preceding the purchase or acquisition of such real property by the authority. The county board of equalization may, in any year subsequent to the purchase or acquisition of such

property by the authority, determine the amount that said authority shall pay out of its revenue to the State of Nebraska and its several governmental subdivisions in lieu of taxes, which sum shall be as justice and equity may require, notwithstanding the amount which the state and its governmental subdivisions may have received from taxation during the year immediately preceding the purchase or acquisition of such property; PROVIDED, that with respect to any property in a redevelopment project, the tax exemption provided herein shall terminate when the authority sells, leases, or otherwise disposes of such property to a redeveloper for redevelopment. The members of the authority shall not incur any personal liability by reason of the making of such payments.

NE ST s 77-202

(1) The following property shall be exempt from property taxes:

(a) Property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose. For purposes of this subdivision, public purpose means use of the property (i) to provide public services with or without cost to the recipient, including the general operation of government, public education, public safety, transportation, public works, civil and criminal justice, public health and welfare, developments by a public housing authority, parks, culture, recreation, community development, and cemetery purposes, or (ii) to carry out the duties and responsibilities conferred by law with or without consideration.

(c) Property owned by and used exclusively for agricultural and horticultural societies;

Property owned by educational, religious, charitable, or cemetery organizations, or any organization for the exclusive benefit of any such educational, religious, charitable, or cemetery organization, and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not (i) owned or used for financial gain or profit to either the owner or user, (ii) used for the sale of alcoholic liquors for more than twenty hours per week, or (iii) owned or used by an organization which discriminates in membership or employment based on race, color, or national origin. For purposes of this subdivision, educational organization means an institution operated exclusively for the purpose of offering regular courses with systematic instruction in academic, vocational, or technical subjects or a museum or historical society operated exclusively for the benefit and education of the public. For purposes of this subdivision, charitable organization means an organization operated exclusively for the purpose of the mental, social, or physical benefit of the public or an indefinite number of persons;

NE ST s 77-212

Space provided for supportive medical services to patients in hospitals shall be exempt from section 77-211.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Exemptions are granted when the taxpayer files the appropriate paperwork and the exemption is granted by the board of tax assessors.

### **B. Partial Exemptions.**

A tax on exempt property is void and where it is levied on property as a whole, part of which is exempt and part not, the assessment, if inseparable, is unauthorized and the whole tax is void. *McDonald v. Masonic Temple Craft*, 135 Neb. 48, 280 N.W. 275 (1938).

Where two lower floors of building owned by religious, charitable and educational institution were rented for commercial purposes and not exempt from taxation, but two upper floors were exempt, one half of taxable value of lot could be considered in determining total taxable value of property. *Masonic Temple Craft v. Bd. of Equalization, Lincoln County*, 129 Neb. 293, 261 N.W. 569 (1935).

The partial exemption from taxation of classes of property specified in section 77-202.25, is not unreasonable, objectionable as discriminatory, or violative hereof. *Stahmer v. State*, 192 Neb. 63, 218 N.W.2d 893 (1974).

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

NE ST s 77-202.01

(1) Any organization or society seeking a tax exemption provided in subdivisions (1)(c) and (d) of section 77-202 for any real or tangible personal property, except real property used for cemetery purposes, shall apply for exemption to the county assessor on or before December 31 of the year preceding the year for which the exemption is sought on forms prescribed by the Property Tax Administrator. The county assessor shall examine the application and recommend either taxable or exempt for the real property or tangible personal property to the county board of equalization on or before February 1 following. Any organization or society which fails to file an exemption application on or before December 31 may apply on or before June 30 to the county assessor. The organization or society shall also file in writing a request with the county board of equalization for a waiver so that the county assessor may consider the application for exemption. The county board of equalization shall grant the waiver upon a finding that good cause exists for the failure to make application on or before December 31. When the waiver is granted, the county assessor shall examine the application and recommend either taxable

or exempt for the real property or tangible personal property to the county board of equalization and shall assess a penalty against the property of ten percent of the tax that would have been assessed had the waiver been denied or one hundred dollars, whichever is less, for each calendar month or fraction thereof for which the filing of the exemption application missed the December 31 deadline. The penalty shall be collected and distributed in the same manner as a tax on the property and interest shall be assessed at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date the tax would have been delinquent until paid. The penalty shall also become a lien in the same manner as a tax pursuant to section 77-203.

#### NE ST s 77-202.09

Any cemetery organization seeking a tax exemption for any real property used to maintain areas set apart for the interment of human dead shall apply for exemption to the county assessor on forms prescribed by the Property Tax Administrator. An application for a tax exemption shall be made on or before December 31 of the year preceding the year for which the exemption is sought. The county assessor shall examine the application and recommend either taxable or exempt to the county board of equalization on or before February 1 following. If a cemetery organization seeks a tax exemption for any real or tangible personal property acquired for or converted to exempt use on or after January 1, the organization shall make application for exemption on or before August 1. The procedure for reviewing the application shall be the same as for other exemptions pursuant to subdivisions (1)(c) and (d) of section 77-202. Any cemetery organization which fails to file on or before December 31 for exemption may apply on or before June 30 pursuant to subsection (2) of section 77-202.01, and the penalty and procedures specified in section 77-202.01 shall apply.

### **B. Procedures for Retaining an Exemption.**

#### NE ST s 77-202.02

The county board of equalization, between February 1 and June 1 after a hearing on ten days' notice to the applicant, and after considering the recommendation of the county assessor and any other information it may obtain, shall grant or withhold tax exemption for the real property or tangible personal property on the basis of law and of regulations promulgated by the Property Tax Administrator. The board shall certify its decision to the applicant, the county assessor, and the Property Tax Administrator within ten days thereafter.

For applications accepted after approval of a waiver pursuant to section 77-202.01, the county board of equalization shall hear and certify its decision on or before August 15.

#### NE ST s 77-202.05

The Property Tax Administrator shall prescribe forms for distribution to the county assessors on which persons, corporations, and organizations may apply for tax-exempt status for real or tangible personal property. The forms shall include the following information:

- (1) Name of owner or owners of the property, and if a corporation, the names of the officers and directors, and place of incorporation;

- (2) Legal description of real property and a general description as to class and use of all tangible personal property;
- (3) The precise statutory provision under which exempt status for such property is claimed; and
- (4) A statement that all taxes levied on such property have been paid up to the year for which exempt status is being claimed.

### **C. Annual Certification.**

NE ST s 77-202.03

(1) A properly granted exemption of real or tangible personal property, except real property used for cemetery purposes, provided for in subdivisions (1)(c) and (d) of section 77-202 shall continue for a period of four years if the affidavit required by subsection (2) of this section is filed when due. The four-year period shall begin with years evenly divisible by four.

In each intervening year occurring between application years, the organization or society which filed the granted exemption application for the real or tangible personal property, except real property used for cemetery purposes, shall file an affidavit with the county assessor on or before December 31 of the year preceding the year for which the exemption is sought, on forms prescribed by the Property Tax Administrator, certifying that the ownership and use of the exempted property has not changed during the year. Any organization or society which misses the December 31 deadline for filing the affidavit may file the affidavit by June 30. Such filing shall maintain the tax-exempt status of the property without further action by the county and regardless of any previous action by the county board to deny the exemption due to late filing of the affidavit. Upon any such late filing, the county board shall assess a penalty against the property of ten percent of the tax that would have been assessed had the affidavit not been filed or one hundred dollars, whichever is less, for each calendar month or fraction thereof for which the filing of the affidavit is late. The penalty shall be collected and distributed in the same manner as a tax on the property and interest shall be assessed at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date the tax would have been delinquent until paid. The penalty shall also become a lien in the same manner as a tax pursuant to section 77-203.

#### **(3) Mid-Year Filings**

(a) If any organization or society seeks a tax exemption for any real or tangible personal property acquired on or after January 1 of any year or converted to exempt use on or after January 1 of any year, the organization or society shall make application for exemption on or before August 1 of that year as provided in section 77-202.01. The procedure for reviewing the application shall be as in sections 77-202.01 to 77-202.07, except that the exempt use shall be determined as of the date of application and the review by the county board of equalization shall be completed by August 15.

(b) If an organization as described in subdivision (1)(c) or (d) of section 77-202 purchases, between August 1 and the levy date, property that has been granted tax exemption and the property continues to be qualified for a property tax exemption, the purchaser shall on or before December 1 make application for

exemption as provided in section 77-202.01. The procedure for reviewing the application shall be as in sections 77-202.01 to 77-202.07, and the review by the county board of equalization shall be completed by December 15.

(5) During the month of September of each year, the county board of equalization shall cause to be published in a paper of general circulation in the county a list of all real estate in the county exempt from taxation for that year pursuant to subdivisions (1)(c) and (d) of section 77-202. Such list shall be grouped into categories as provided by the Property Tax Administrator. A copy of the list and proof of publication shall be forwarded to the Property Tax Administrator.

NE ST s 77-202.10

Any real property exemption granted to a cemetery organization shall remain in effect without reapplication unless disqualified by change of ownership or use. On or before August 1 the county assessor shall annually make a review of the ownership and use of all cemetery real property and report such review to the county board of equalization.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statutes were found that require that copies of leases or agreements be filed.

#### **E. Notification Requirements After Change in Use or Ownership.**

NE ST s 77-202.03

In each intervening year occurring between application years, the organization or society which filed the granted exemption application for the real or tangible personal property, except real property used for cemetery purposes, shall file an affidavit with the county assessor on or before December 31 of the year preceding the year for which the exemption is sought, on forms prescribed by the Property Tax Administrator, certifying that the ownership and use of the exempted property has not changed during the year. Any organization or society which misses the December 31 deadline for filing the affidavit may file the affidavit by June 30. Such filing shall maintain the tax-exempt status of the property without further action by the county and regardless of any previous action by the county board to deny the exemption due to late filing of the affidavit. Upon any such late filing, the county board shall assess a penalty against the property of ten percent of the tax that would have been assessed had the affidavit not been filed or one hundred dollars, whichever is less, for each calendar month or fraction thereof for which the filing of the affidavit is late. The penalty shall be collected and distributed in the same manner as a tax on the property and interest shall be assessed at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date the tax would have been delinquent until paid. The penalty shall also become a lien in the same manner as a tax pursuant to section 77-203.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

NE ST s 15-807

The city council shall constitute the board of equalization for the city, and shall have power as such board to equalize all taxes and assessments, to correct any errors in the listing or valuation of property, and to supply any omissions in the same. A majority of all the members elected to the council shall constitute a quorum for the transaction of business properly before the board, but a less number may adjourn from time to time and compel the attendance of absent members. When sitting as a board of equalization on general or special taxes the council may adopt rules and regulations as to the manner of presenting complaints and applying for relief. It shall not invalidate or prejudice the proceedings of the board that a majority of the members thereof after organization as a board do not in fact continue present during the advertised hours for the sitting of such board; PROVIDED, HOWEVER, the clerk and some member of the board shall be present to receive complaints or applications for relief. No final action shall be taken with respect to any taxes or assessments by the board until a majority of the members of the council sitting as a board of equalization shall be present and in open session.

NE ST s 77-202.06

The Property Tax Administrator shall adopt and promulgate rules and regulations governing tax-exempt status for real or tangible personal property. The Tax Equalization and Review Commission may review and reverse any decision of the county board of equalization granting tax-exempt status for real or tangible personal property but only after a hearing has been held by the commission, upon ten days' written notice to the applicant and to the county board of equalization. The commission shall within thirty days after the hearing mail an order to the applicant, the county assessor, and the county board of equalization.

### **B. Removal of Exemptions.**

NE ST s 77-202.03

(4) In any year, the county assessor or the county board of equalization may cause a review of any exemption to determine whether the exemption is proper. Such a review may be taken even if the ownership or use of the property has not changed from the date of the allowance of the exemption. The review shall follow the procedure set out in section 77-202.02. If it is determined that a change in an exemption is warranted, the procedure for hearing set out in section 77-202.02 shall be followed. If an exemption is denied, the county board of equalization shall place the property on the tax rolls retroactive to January 1 of that year if on the date of the decision of the county board of equalization the property no longer qualifies for an exemption.

The county board of equalization shall give notice of the assessed value of the real

property in the same manner as outlined in section 77-1507, and the procedures for filing a protest shall be the same as those in section 77- 1502.

When personal property which was exempt becomes taxable because of lost exemption status, the owner or his or her agent has thirty days after the date of denial to file a personal property return with the county assessor. Upon the expiration of the thirty days for filing a personal property return pursuant to this subsection, the county assessor shall proceed to list and value the personal property and apply the penalty pursuant to section 77-1233.04.

### **C. Assessment of Omitted Property.**

No statutes were found that discuss omitted property.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

#### **NE ST s 77-1511**

The Tax Equalization and Review Commission shall hear appeals and cross appeals taken under section 77-1510 as in equity and without a jury and determine anew all questions raised before the county board of equalization which relate to the liability of the property to assessment, or the amount thereof. The commission shall affirm the action taken by the board unless evidence is adduced establishing that the action of the board was unreasonable or arbitrary or unless evidence is adduced establishing that the property of the appellant is assessed too low. Any decision rendered by the commission shall be certified to the county treasurer and to the officer charged with the duty of preparing the tax list, and if and when such decision becomes final, such officers shall correct their records accordingly.

#### **NE ST s 77-202.04**

Persons, corporations, or organizations denied exemption from taxation for real or tangible personal property by a county board of equalization may appeal to the Tax Equalization and Review Commission. The Property Tax Administrator may in his or her discretion intervene in any such appeal.

#### **NE ST s 77-202.07**

The applicant or county may appeal the order of the Tax Equalization and Review Commission to the Court of Appeals pursuant to section 77-5019.

## NEVADA

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

NV CONST Art. 8, s 2

All real property, and possessory rights to the same, as well as personal property in this State, belonging to corporations now existing or hereafter created shall be subject to taxation, the same as property of individuals; Provided, that the property of corporations formed for Municipal, Charitable, Religious, or Educational purposes may be exempted by law.

NV ST 361.050

All lands and other property owned by the United States, not taxable because of the Constitution or laws of the United States, shall be exempt from taxation.

NV ST 361.055

1. All lands and other property owned by the state are exempt from taxation, except real property acquired by the State of Nevada and assigned to the division of wildlife of the state department of conservation and natural resources which is or was subject to taxation under the provisions of this chapter at the time of acquisition.

NV ST 361.060

All lands and other property owned by the Nevada rural housing authority or any county, domestic municipal corporation, irrigation, drainage or reclamation district or town in this state are exempt from taxation, except as provided in NRS 539.213 with respect to certain community pastures.

NV ST 361.062

All property, both real and personal, of a trust created for the benefit and furtherance of any public function pursuant to the provisions of general or special law is exempt from taxation; but moneys in lieu of taxes may be paid to the beneficiary pursuant to any agreement contained in the instrument creating the trust.

NV ST 361.065

All lots, buildings and other school property owned by any legally created school district within the state and devoted to public school\* purposes are exempt from taxation.

\* Private schools that are not for profit are also exempted from taxes.

NV ST 361.073

All real and personal property of a water users' nonprofit association or of a water users' nonprofit cooperative corporation within the State of Nevada is exempt from taxation, but such property shall be taxed when it is used for any purpose other than carrying out the legitimate functions of such nonprofit association or of a water users' nonprofit cooperative corporation.

NV ST 361.098

All real and personal property owned by a charitable foundation established by the board of regents of the University of Nevada is exempt from taxation, but the property must be taxed when it is used for any purpose other than carrying out the legitimate functions of the foundation.

NV ST 361.110

1. Except as otherwise provided in subsection 2, the buildings, with their furniture and equipment, and the lots of ground on which they stand, used therewith and necessary thereto, of the Nevada Museum of Art, Inc., the Young Men's Christian Association, the Young Women's Christian Association, the American National Red Cross or any of its chapters in the State of Nevada, the Salvation Army Corps, the Girl Scouts of America, the Camp Fire Girls, Inc., the Boy Scouts of America and the Sierra Arts Foundation are exempt from taxation.

2. If any property exempt from taxation pursuant to subsection 1 is used for purposes other than those of the organizations described in subsection 1, respectively, and a rent or other valuable consideration is received for its use, the property must be taxed, unless the rent or other valuable consideration is paid or given by an organization that qualifies as a tax- exempt organization pursuant to 26 U.S.C. s 501(c)(3).

NV ST 361.125

1. Except as otherwise provided in subsection 2, churches, chapels, other than marriage chapels, and other buildings used for religious worship, with their furniture and equipment, and the lots of ground on which they stand, used therewith and necessary thereto, owned by some recognized religious society or corporation, and parsonages so owned, are exempt from taxation.

2. Except as otherwise provided in NRS 361.157, when any such property is used exclusively or in part for any other than church purposes, and a rent or other valuable consideration is received for its use, the property must be taxed.

3. The exemption provided by this section must be prorated for the portion of a fiscal year during which the religious society or corporation owns the real property. For the purposes of this subsection, ownership of property purchased begins on the date of recording of the deed to the purchaser.

NV ST 361.130

All cemeteries and graveyards set apart and used for and open to the public for the burial of the dead, when no charge is made for burial therein, shall be exempt from taxation.

NV ST 361.132

The cemetery lands and property of any nonprofit corporation governed by the provisions of chapter 82 of NRS formed for the purposes of procuring and holding lands to be used exclusively for a cemetery or place of burial of the dead are exempt from all public taxes, rates and assessments, and are not liable to be sold on execution or be applied in payment of debts due from any individual proprietors. The proprietors of lots or plats in such cemeteries, their heirs or devisees, may hold the lots or plats exempt in the same way so

long as the lots or plats remain dedicated to the purpose of a cemetery.

#### NV ST 361.135

1. The funds, furniture, paraphernalia and regalia owned by any lodge of the Benevolent Protective Order of Elks, Fraternal Order of Eagles, Free and Accepted Masons, Independent Order of Odd Fellows, Knights of Pythias or Knights of Columbus, or by any similar charitable organization, or by the Lahontan Audubon Society, the National Audubon Society, Inc., of New York, the Defenders of Wildlife of the District of Columbia or any similar benevolent or charitable society, so long as the same shall be used for the legitimate purposes of such lodge or society or for such charitable or benevolent purposes, shall be exempt from taxation, but such exemption shall in no case exceed the sum of \$5,000 assessed valuation to any one lodge, society or organization.
2. The real estate and fixtures of any such organization or society shall be exempt from taxation, but when any such property is used for purposes other than those of such organization or society, and a rent or other valuable consideration is received for its use, the property so used shall be taxed.

#### NV ST 361.140

1. In addition to the corporations defined by law to be charitable corporations there are hereby included:
  - (a) Any corporation whose objects and purposes are religious, educational or for public charity and whose funds have been derived in whole or substantial part from grants or other donations from governmental entities or donations from the general public, or both, not including donations from any officer or trustee of the corporation; and
  - (b) Any corporation prohibited by its articles of incorporation from declaring or paying dividends, and where the money received by it is devoted to the general purpose of charity and no portion of the money is permitted to inure to the benefit of any private person engaged in managing the charity, except reasonable compensation for necessary services actually rendered to the charity, and where indigent persons without regard to race or color may receive medical care and attention without charge or cost.
2. All buildings belonging to a corporation defined in subsection 1, together with the land actually occupied by the corporation for the purposes described and the personal property actually used in connection therewith, are exempt from taxation when used solely for the purpose of the charitable corporation.

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions.**

This section must be interpreted in light of Const. Art. 10, s 1, which provides that property used for municipal, educational, literary, scientific or other charitable purposes shall be exempt from taxation, because a statute may be no broader nor grant any more

rights than authorized by the Constitution. AGO 129 (4-22-1964).

## **B. Partial Exemptions.**

NV ST 361.135

3. Where any structure or parcel of land is used partly for the purposes of such organization or society and partly for rental purposes, the area used for rental purposes shall be assessed separately and that portion only shall be taxed.

Portion of property rented for other uses separately taxed. -- Under this section the principal or dominant use of real property, treated as a whole, determines whether the property is taxable or exempt; if the dominant use of a portion of the property is for purposes of the organization, and the remainder is rented for other uses, the remainder should be separately assessed and taxed. AGO 58 (2-4-1972).

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when one of the above mentioned qualifications is met and the procedures for retaining that exemption are followed.

### **B. Procedures for Retaining an Exemption.**

NV ST 361.155

1. All claims for personal tax exemptions on real property, the initial claim of an organization for a tax exemption on real property and the designation of any amount to be credited to the veterans' home account pursuant to NRS 361.0905 must be filed on or before June 15. All exemptions provided for pursuant to this chapter apply on a fiscal year basis and any exemption granted pursuant to this chapter must not be in an amount which gives the taxpayer a total exemption greater than that to which he is entitled during any fiscal year.

2. Each claim for an exemption provided for pursuant to this chapter must be filed with the county assessor of:

- (a) The county in which the claimant resides for personal tax exemptions; or
- (b) Each county in which property is located for the tax exemption of an organization.

### **C. Annual Certification.**

NV ST 361.155

3. After the initial claim for an exemption pursuant to NRS 361.088 or 361.098 to 361.150, inclusive, an organization is not required to file annual claims if the property remains exempt. If any portion of the property loses its exemption pursuant to NRS 361.157 or for any other reason becomes taxable, the organization must notify the county assessor.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found to require that copies of leases or agreements be filed.

#### **E. Notification Requirements After Change in Use or Ownership.**

NV ST 361.155

3. After the initial claim for an exemption pursuant to NRS 361.088 or 361.098 to 361.150, inclusive, an organization is not required to file annual claims if the property remains exempt. If any portion of the property loses its exemption pursuant to NRS 361.157 or for any other reason becomes taxable, the organization must notify the county assessor.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

The county assessor is required to monitor all exemptions.

#### **B. Removal of Exemptions.**

An exemption is removed when the county assessor determines that the property is no longer qualified for the exemptions or when the taxpayer fails to file the appropriate paperwork.

#### **C. Assessment of Omitted Property.**

NV ST 361.155

4. If an exemption is granted or renewed in error because of an incorrect claim or failure of an organization to give the notice required by subsection 3, the assessor shall assess the taxable portion of the property retroactively pursuant to NRS 361.769 and a penalty of 10 percent of the tax due for the current year and any prior years must be added.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

NV ST 361.420

1. Any property owner whose taxes are in excess of the amount which the owner claims justly to be due may pay each installment of taxes as it becomes due under protest in writing. The protest must be in triplicate and filed with the county treasurer at the time of the payment of the installment of taxes. The county treasurer forthwith shall forward one copy of the protest to the attorney general and one copy to the state controller.

2. The property owner, having protested the payment of taxes as provided in subsection 1 and having been denied relief by the state board of equalization, may commence a suit in

any court of competent jurisdiction in the State of Nevada against the state and county in which the taxes were paid, and, in a proper case, both the Nevada tax commission and the department may be joined as a defendant for a recovery of the difference between the amount of taxes paid and the amount which the owner claims justly to be due, and the owner may complain upon any of the grounds contained in subsection 4.

3. Every action commenced under the provisions of this section must be commenced within 3 months after the date of the payment of the last installment of taxes, and if not so commenced is forever barred. If the tax complained of is paid in full and under the written protest provided for in this section, at the time of the payment of the first installment of taxes, suit for the recovery of the difference between the amount paid and the amount claimed to be justly due must be commenced within 3 months after the date of the full payment of the tax or the issuance of the decision of the state board of equalization denying relief, whichever occurs later, and if not so commenced is forever barred.

4. In any suit brought under the provisions of this section, the person assessed may complain or defend upon any of the following grounds:

- (a) That the taxes have been paid before the suit;
- (b) That the property is exempt from taxation under the provisions of the revenue or tax laws of the state, specifying in detail the claim of exemption;
- (c) That the person assessed was not the owner and had no right, title or interest in the property assessed at the time of assessment;
- (d) That the property is situate in and has been assessed in another county, and the taxes thereon paid;
- (e) That there was fraud in the assessment or that the assessment is out of proportion to and above the taxable cash value of the property assessed;
- (f) That the assessment is out of proportion to and above the valuation fixed by the Nevada tax commission for the year in which the taxes were levied and the property assessed; or
- (g) That the assessment complained of is discriminatory in that it is not in accordance with a uniform and equal rate of assessment and taxation, but is at a higher rate of the taxable value of the property so assessed than that at which the other property in the state is assessed.

5. In a suit based upon any one of the grounds mentioned in paragraphs (e) to (g), inclusive, of subsection 4, the court shall conduct the trial without a jury and confine its review to the record before the state board of equalization. Where procedural irregularities by the board are alleged and are not shown in the record, the court may take evidence respecting the allegation and, upon the request of either party, shall hear oral argument and receive written briefs on the matter.

6. In all cases mentioned in this section where the complaint is based upon any grounds mentioned in subsection 4, the entire assessment must not be declared void but is void only as to the excess in valuation.

7. In any judgment recovered by the taxpayer under this section, the court may provide for interest thereon not to exceed 6 percent per annum from and after the date of payment of the tax complained of.

## NEW HAMPSHIRE

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

NH ST s 72:23

The following real estate and personal property shall, unless otherwise provided by statute, be exempt from taxation:

- I. Property owned by the state, cities, towns, school districts, and village districts:
  - (a) Lands and the buildings and structures thereon and therein and the personal property owned by the state, cities, towns, school districts, and village districts unless said real or personal property is used or occupied by other than the state or a city, town, school district or village district under a lease or other agreement the terms of which provide for the payment of properly assessed real and personal property taxes by the party using or occupying said property. The exemption provided herein shall apply to any and all taxes against lands and the buildings and structures thereon and therein and the personal property owned by the state, cities, towns, school districts, and village districts, which have or may have accrued since March 31, 1975, and to any and all future taxes which, but for the exemption provided herein, would accrue against lands and buildings and structures thereon and therein and the personal property owned by the state, cities, towns, school districts, and village districts.
- II. Lands and buildings and personal property owned and used by any county for governmental purposes, including hospitals, court houses, registry buildings, and county correctional facilities except that county farms and their lands, buildings and taxable personal property shall be taxed.
- III. Houses of public worship, parish houses, church parsonages occupied by their pastors, convents, monasteries, buildings and the lands appertaining to them owned, used and occupied directly for religious training or for other religious purposes by any regularly recognized and constituted denomination, creed or sect, organized, incorporated or legally doing business in this state and the personal property used by them for the purposes for which they are established.
- IV. The buildings and structures of schools, seminaries of learning, colleges, academies and universities organized, incorporated or legally doing business in this state and owned, used and occupied by them directly for the purposes for which they are established, including but not limited to the dormitories, dining rooms, kitchens, auditoriums, classrooms, infirmaries, administrative and utility rooms and buildings connected therewith, athletic fields and facilities and gymnasiums, boat houses and wharves belonging to them and used in connection therewith, and the land thereto appertaining but not including lands and buildings not used and occupied directly for the purposes for which they are organized or incorporated, and the personal property used by them directly for the purposes for which they are established, provided none of the income or profits are divided among the members or stockholders or used or appropriated for any other purpose than the purpose for which they are organized or established; provided further that if the value of the dormitories, dining rooms and kitchens shall exceed

\$150,000, the value thereof in excess of said sum shall be taxable. A town at an annual town meeting or the governing body of a city may vote to increase the amount of the exemption upon dormitories, dining rooms and kitchens.

V. The buildings, lands and personal property of charitable organizations and societies organized, incorporated, or legally doing business in this state, owned, used and occupied by them directly for the purposes for which they are established, provided that none of the income or profits thereof is used for any other purpose than the purpose for which they are established.

V-a. The real estate and personal property owned by any organization described in paragraphs I, II, III, IV or V of this section and occupied and used by another organization described in said paragraphs, but only to the extent that such real estate and personal property would be exempt from taxation under said paragraphs if such property were owned by the organization occupying and using the property, as long as any rental fee and repairs, charged by the owner, are not in clear excess of fair rental value.

VII. For the purposes of this section, the term "charitable" shall have the meaning set forth in RSA 72:23-1.

NH ST s 72:23-k

I. The real estate and personal property of charitable, nonprofit community housing and community health care facilities for elderly and disabled persons, if none of the income or profits is used for any purpose other than community housing or community health care, shall be exempt from taxation. This exemption shall apply to housing and health care facilities situated within New Hampshire which are sponsored or owned by nonprofit, charitable corporations or organizations, located within or outside of the state, and to projects organized, operated, or assisted under state law or pursuant to rules and regulations of the United States Department of Housing and Urban Development, the United States Department of Health and Human Services, or any successor agency.

NH ST s 72:23-1

The term "charitable" as used to describe a corporation, society or other organization within the scope of this chapter, including RSA 72:23 and 72:23-k, shall mean a corporation, society or organization established and administered for the purpose of performing, and obligated, by its charter or otherwise, to perform some service of public good or welfare advancing the spiritual, physical, intellectual, social or economic well-being of the general public or a substantial and indefinite segment of the general public that includes residents of the state of New Hampshire, with no pecuniary profit or benefit to its officers or members, or any restrictions which confine its benefits or services to such officers or members, or those of any related organization. The fact that an organization's activities are not conducted for profit shall not in itself be sufficient to render the organization "charitable" for purposes of this chapter, nor shall the organization's treatment under the United States Internal Revenue Code of 1986, as amended. This section is not intended to abrogate the meaning of "charitable" under the common law of New Hampshire.

NH ST s 195-D:15

The exercise of the powers granted by this chapter will be in all respects for the benefit of

the people of the state, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and will constitute the performance of an essential governmental function, and neither the corporation nor its agent shall or may be required to pay any taxes or assessment upon or in respect of a project or any property acquired or used by the corporation or its agent or under the jurisdiction, control, possession or supervision of the same or upon the activities of the corporation or its agent in the operation or maintenance of the project under the provisions of this chapter, or upon income or other revenues received therefrom, and any bonds, notes and other obligations issued under the provisions of this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, as well as the income and property of the corporation, are at all times exempt from taxation of every kind by the state and by the municipalities and all other political subdivisions of the state.

NH ST s 418:33

Every fraternal benefit society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, and municipal tax, other than taxes on real estate and office equipment.

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions.**

NH ST s 72:23-m

The exemptions afforded by RSA 72:23 or 72:23-a through 72:23-k, as well as exemptions granted by other provisions of law, shall be construed to confer exemption only upon property which meets requirements of the statute under which the exemption is claimed. The burden of demonstrating the applicability of any exemption shall be upon the claimant.

A tax exemption statute is construed not with rigorous strictness but to give full effect to the legislative intent of the statute, and, absent formal legislative history, intent must be gleaned from the plain language of the statute. *Wolfeboro Camp Sch., Inc. v. Town of Wolfeboro* (1994) 138 N.H. 496, 642 A.2d 928.

#### **B. Partial Exemptions.**

Where a building is used for both exempt and non-exempt activities under this section a division of value between the two uses should be made if such exist. *Alton Bay Camp Meeting Ass'n v. Town of Alton* (1968) 109 N.H. 44, 242 A.2d 80.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when the taxpayer files the appropriate paperwork requesting an exemption and the tax assessors approve that exemption.

### **B. Procedures for Retaining an Exemption.**

NH ST s 72:33

I. Except as provided in RSA 72:33-b, no person shall be entitled to the exemptions, deferrals, or tax credits provided by RSA 72:28, 29-a, 30, 31, 32, 35, 36-a, 37, 37-a, 37-b, 38-a, 39- b, 62, 66, and 70 unless the person has filed with the selectmen or assessors, by March 1 following the date of notice of tax under RSA 72:1-d, a permanent application therefor, signed under penalty of perjury, on a form approved and provided by the commissioner of revenue administration, showing that the applicant is the true and lawful owner of the property on which the exemption, deferral, or tax credit is claimed and that the applicant was duly qualified upon April 1 of the year in which the exemption, deferral, or tax credit is first claimed, or, in the case of financial qualifications, that the applicant is duly qualified at the time of application. The form shall include the following and such other information deemed necessary by the commissioner:

- (a) Instructions on completing and filing the form, including an explanation of the grounds for requesting tax exemptions, deferrals, and credits pursuant to RSA 72.
- (b) Sections for information concerning the applicant, the property for which the relief is sought, and other properties owned by the person applying.
- (c) A section explaining the appeal procedure and stating the appeal deadline in the event the municipality denies the tax relief request in whole or in part.
- (d) A place for the applicant's signature with a certification by the person applying that the application has a good faith basis and the facts in the application are true.

II. Any person who changes residence after filing such a permanent application shall file an amended permanent application on or before December 1 immediately following the change of residence. The filing of the permanent application shall be sufficient for said persons to receive these exemptions or tax credits on an annual basis so long as the applicant does not change residence; provided, however, that towns and cities may require an annual application for the tax deferral authorized for the elderly and disabled by RSA 72:38-a.

III. If the selectmen or assessors are satisfied that the applicant has willfully made any false statement in the application to obtain an exemption or tax credit, they may refuse to grant the exemption or tax credit.

V. In addition to the above requirements, applicants for exemption who claim ownership pursuant to RSA 72:29, V shall file with their application an additional statement signed under penalty of perjury, on a form approved and provided by the commissioner of revenue administration, showing they meet the requirements of RSA 72:29, V.

VI. The assessing officials may require applicants for any exemption or tax credit to file the information listed in RSA 72:34, or the statement required by RSA 72:33, V

periodically but no more frequently than annually. Failure to file such periodic statements may, at the discretion of the assessing officials, result in a loss of the exemption or tax credit for that year.

### **C. Annual Certification.**

NH ST s 72:23-c

I. Every religious, educational and charitable organization, Grange, the Veterans of Foreign Wars, the American Legion, the Disabled American Veterans, the American National Red Cross and any other national veterans association shall annually, on or before April 15, file a list of all real estate and personal property owned by them on which exemption from taxation is claimed, upon a form prescribed and provided by the board of tax and land appeals, with the selectmen or assessors of the place where such real estate and personal property are taxable. If any such organization or corporation shall willfully neglect or refuse to file such list upon request therefor, the selectmen may deny the exemption. If any organization, otherwise qualified to receive an exemption, shall satisfy the selectmen or assessors that they were prevented by accident, mistake or misfortune from filing an application on or before April 15, the officials may receive the application at a later date and grant an exemption thereunder for that year; but no such application shall be received or exemption granted after the local tax rate has been approved for that year.

II. City assessors, boards of selectmen, and other officials having power to act under the provisions of this chapter to grant or deny tax exemptions to religious, educational, and charitable organizations shall have the authority to request such materials concerning the organization seeking exemption including its organizational documents, nature of membership, functions, property and the nature of that property, and such other information as shall be reasonably required to make determinations of exemption of property under this chapter. Such information shall be provided within 30 days of a written request. Failure to provide information requested under this section shall result in a denial of exemption unless it is found that such requests were unreasonable.

NH ST s 72:23

VI. Every charitable organization or society, except those religious and educational organizations and societies whose real estate is exempt under the provisions of paragraphs III and IV, shall annually before June 1 file with the municipality in which the property is located upon a form prescribed and provided by the board of tax and land appeals a statement of its financial condition for the preceding fiscal year and such other information as may be necessary to establish its status and eligibility for tax exemption.

### **D. Obligation to File Copies of Lease or Agreements.**

NH ST s 72:23-k

II. On or before November 1 of each year the owner of the housing project shall enter into an agreement with the municipality in which the property is situated to pay the municipality, on December 1 of each year, a sum in lieu of taxes to defray the costs of municipal, non-utility, services. Failing mutual agreement, the sum paid on December 1

of each year shall be an amount not to exceed the lower of 10 percent of the shelter rent received by the owner from all sources during the preceding calendar year, not including security deposits received from residents of the housing project, for shelter and care of residents within the project, or a sum equivalent to that derived from application of the current municipal, non-school, portion of the local tax rate against the net local assessed value of the project. For cause shown and at any time, keeping in mind the nature and purpose of the project, the municipality or the board of tax and land appeals may refund or abate all or a portion of the payment in lieu of taxes in any year. The owner shall on or before June 1 of each year file with the municipality in which the property is located, upon a form prescribed and provided by the board of tax and land appeals, a statement of its financial condition for the preceding fiscal year and such other information as the board of tax and land appeals requires.

#### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found that requires notification after change in use or ownership.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

NH ST s 72:34

I. On receipt of an application provided for in RSA 72:33, the selectmen or assessors shall examine it as to the right to the tax exemption, tax deferral or tax credit, the ownership of the property listed, and, if necessary, the encumbrances reported.

II. For those exemptions having income or asset limitations, the assessing officials may request true copies of any of the following, as needed to verify eligibility. Any documents submitted shall be considered confidential, handled so as to protect the privacy of the applicant, and returned to the applicant at the time a decision is made on the application.

The documents are:

- (a) Federal income tax form;
- (b) State interest and dividends tax form; and
- (c) Property tax inventory form filed in any other town.

RSA 359-C shall not apply to the documents requested for verification under this section.

III. The assessing officials shall grant the exemption, deferral, or tax credit if:

- (a) They are satisfied that the applicant has not willfully made any false statement in the application for the purpose of obtaining the exemption, deferral, or tax credit; and
- (b) The applicant cooperated with their requests under paragraph II, if it applies.

IV. On or before July 1 following the date of notice of tax under RSA 72:1-d, the selectmen or assessors shall send by first class mail a written decision to any taxpayer who timely requests an exemption, deferral or tax credit. This decision shall be sent on a form to be prepared by the department of revenue administration. The decision shall advise the taxpayer of the municipality's decision and shall inform the taxpayer of the appeal procedure set forth in RSA 72:34-a. Failure to respond shall constitute denial. Municipalities may, at their option, require the taxpayer to furnish a self- addressed

envelope with sufficient postage for the mailing of this written decision.

### **B. Removal of Exemptions.**

An exemption is removed when the taxpayer fails to file the appropriate paperwork or when the tax assessor determines that the exemption no longer qualifies.

### **C. Assessment of Omitted Property.**

NH ST s 76:14

If the selectmen, before the expiration of the year for which a tax has been assessed, shall discover that the same has been taxed to a person not by law liable they may, upon abatement of such tax and upon notice to the person liable for such tax, impose the same upon the person so liable. And if it shall be found that any person or property shall have escaped taxation the selectmen, upon notice to the person, shall impose a tax upon the person or property so liable.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

NH ST s 72:34-a

Whenever the selectmen or assessors refuse to grant an applicant an exemption, deferral, or tax credit to which the applicant may be entitled under the provisions of RSA 72:23, 23-d, 23-e, 23-f, 23-g, 23-h, 23-i, 23-j, 23-k, 28, 29-a, 30, 31, 32, 35, 36- a, 37, 37-a, 37-b, 38-a, 39-a, 39-b, 41, 42, 62, 66, or 70 the applicant may appeal in writing, on or before September 1 following the date of notice of tax under RSA 72:1-d, to the board of tax and land appeals or the superior court, which may order an exemption, deferral, or tax credit, or an abatement if a tax has been assessed.

## **NEW JERSEY**

### **WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?**

#### **NJ ST 8A:5-10**

Cemetery companies shall be exempt from the payment of any real estate taxes on lands dedicated for cemetery purposes, personal property taxes, business taxes, sales taxes, income taxes, and inheritance taxes. All annual maintenance and special care charges paid by the interment space owner to any cemetery shall be exempt from the payment of any sales or use tax.

The cemetery property of whatsoever nature of any cemetery company, and lands dedicated prior to or in accordance with this act shall be exempt from all taxes, rates or assessments, and shall not be liable to be sold on execution, or to be applied in payment of debts due from any owner or holder of interment spaces, and their heirs, devisees or assigns shall hold the same exempt from taxation so long as the same shall remain dedicated to cemetery purposes. The aforesaid exemptions shall apply also to all land, structures, buildings, and equipment used for the operation and maintenance of said lands so dedicated.

#### **NJ ST 17:48A-24**

Any corporation subject to the provisions of this act is hereby declared to be a charitable and benevolent institution, and its funds and property shall be exempt from taxation by the State or any political subdivision thereof.

#### **NJ ST 26:2I-16**

The exercise of the powers granted by this act will be in all respects for the benefit of the people of this State, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a project by the authority or its agent will constitute the performance of an essential public function, neither the authority nor its agent shall be required to pay any taxes or assessments upon or in respect of a project or any property acquired or used by the authority or its agent under the provisions of this act or upon the income therefrom, and any bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes.

#### **NJ ST 54:4-3.6**

The following property shall be exempt from taxation under this chapter: all buildings actually used for colleges, schools, academies or seminaries, provided that if any portion of such buildings are leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, said portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually used for historical societies, associations or exhibitions, when owned by the State, county or any political subdivision thereof or when located on land owned by an educational institution which derives its primary support from State revenue; all buildings actually and

exclusively used for public libraries, religious worship or asylum or schools for feeble-minded or idiotic persons and children; all buildings used exclusively by any association or corporation formed for the purpose and actually engaged in the work of preventing cruelty to animals; all buildings actually and exclusively used and owned by volunteer first-aid squads, which squads are or shall be incorporated as associations not for pecuniary profit; all buildings actually used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women and children, provided that if any portion of a building used for that purpose is leased to profit-making organizations or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually and exclusively used in the work of associations and corporations organized exclusively for religious or charitable purposes; all buildings actually used in the work of associations and corporations organized exclusively for hospital purposes, provided that if any portion of a building used for hospital purposes is leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings owned or held by an association or corporation created for the purpose of holding the title to such buildings as are actually and exclusively used in the work of two or more associations or corporations organized exclusively for the moral and mental improvement of men, women and children; all buildings owned by a corporation created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and actually and exclusively used in the work of one or more associations or corporations organized exclusively for charitable or religious purposes, which associations or corporations may or may not pay rent for the use of the premises or the portions of the premises used by them; the buildings, not exceeding two, actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, together with the accessory buildings located on the same premises; the land whereon any of the buildings hereinbefore mentioned are erected, and which may be necessary for the fair enjoyment thereof, and which is devoted to the purposes above mentioned and to no other purpose and does not exceed five acres in extent; the furniture and personal property in said buildings if used in and devoted to the purposes above mentioned; all property owned and used by any nonprofit corporation in connection with its curriculum, work, care, treatment and study of feeble-minded, mentally retarded, or idiotic men, women, or children shall also be exempt from taxation, provided that such corporation conducts and maintains research or professional training facilities for the care and training of feeble-minded, mentally retarded, or idiotic men, women, or children; provided, in case of all the foregoing, the buildings, or the lands on which they stand, or the associations, corporations or institutions using and occupying them as aforesaid, are not conducted for profit, except that the exemption of the buildings and lands used for charitable, benevolent or religious purposes shall extend to cases where the charitable, benevolent or religious work therein carried on is supported partly by fees and charges received from or on behalf of beneficiaries using or occupying the buildings; provided the building is wholly controlled by and the entire income therefrom is used for said charitable, benevolent or religious purposes. The foregoing exemption shall apply only where the association, corporation or institution claiming the exemption owns the

property in question and is incorporated or organized under the laws of this State and authorized to carry out the purposes on account of which the exemption is claimed or where an educational institution, as provided herein, has leased said property to a historical society or association or to a corporation organized for such purposes and created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes.

As used in this section "hospital purposes" includes health care facilities for the elderly, such as nursing homes; residential health care facilities; assisted living residences; facilities with a Class C license pursuant to P.L.1979, c. 496 (C. 55:13B-1 et al.), the "Rooming and Boarding House Act of 1979"; similar facilities that provide medical, nursing or personal care services to their residents; and that portion of the central administrative or service facility of a continuing care retirement community that is reasonably allocable as a health care facility for the elderly.

#### NJ ST 54:4-3.7

The funds of all charitable and benevolent institutions and associations collected and held exclusively for the sick and disabled members thereof, or for the surviving spouses of deceased members, or for the education, support or maintenance of the children of deceased members, and all endowments and funds held and administered exclusively for charitable, benevolent, religious or hospital purposes within this State shall be exempt from taxation under this chapter.

#### NJ ST 54:4-3.9

Graveyards and burial grounds used or intended to be used for the interment of bodies of the dead or the ashes thereof not exceeding ten acres of ground, and cemeteries and buildings for cemetery use erected thereon, and all mausoleums, vaults, crypts or structures intended to hold or contain the bodies of the dead or the ashes thereof, and solely devoted to or held for that purpose shall be exempt from taxation under this chapter.

#### NJ ST 54:4-3.24

All real and personal property used for the purposes and in the work of 1 or more of the associations known as Young Men's Christian Associations, Young Women's Christian Associations, Young Men's and Young Women's Christian Associations, Young Men's Hebrew Associations, Young Women's Hebrew Associations or Young Men's and Young Women's Hebrew Associations or of the Boy Scouts of America or Girl Scouts of the United States of America in this State, whether incorporated or unincorporated, shall be exempt from taxation under this chapter if the legal or equitable ownership of such property is in 1 or more of said associations using said property and the land so exempt does not exceed 5 acres in extent or, in the case of improved land, the acreage limitation under section 54:4-3.6 of this Title. Any real property upon which construction of a building or other improvement has been begun for the purpose of putting the same to use for the work of such association shall be within the said exemption. The foregoing exemption shall not apply to any property or part thereof used for the purposes of pecuniary profit.

NJ ST 54:4-3.25

All real and personal property used in the work, for the support and for the purposes of one or more bona fide national war veterans' organizations or posts, or bona fide affiliated associations, whether incorporated or unincorporated, existing and established on June eighteenth, one thousand nine hundred and thirty-six, shall be exempt from taxation under this chapter if the legal or beneficial ownership of such property is in one or more of said organizations, or posts, or affiliated associations. No property shall lose its exemption or be denied an exemption from taxation under this section because of the use of the property for an income-producing activity that is not the organization's primary purpose so long as all net proceeds from that activity are utilized in furtherance of the primary purpose of the organization or for other charitable purposes.

NJ ST 54:4-3.26

All real and personal property used in the work and for the purposes of one or more fraternal organizations or lodges, or any association or society organized on the lodge plan, or affiliated associations, whether incorporated or unincorporated, shall be exempt from taxation under this chapter, if the legal or beneficial ownership of such property is in one or more of said organizations, lodges, associations or societies, and no part of such property is used for pecuniary profit, provided that each such organization, lodge, association or society is also organized and operated in substantial part for charitable or educational purposes and demonstrates these aims in its programs and activities.

NJ ST 54:4-3.64

All lands and the improvements thereon actually and exclusively used for conservation or recreation purposes, owned and maintained or operated for the benefit of the public by a nonprofit corporation or organization organized under the laws of this or any State of the United States authorized to carry out the purposes on account of which the exemption is claimed and which is qualified for exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code shall be exempt from taxation; provided, however, that the Commissioner of the Department of Environmental Protection certifies that the real property and the property owner are qualified under the terms of this act.

NJ ST 54:10A-3

The following corporations shall be exempt from the tax imposed by this act:

- (a) Corporations subject to a tax assessed upon the basis of gross receipts, or insurance premiums collected;
- (d) Cemetery corporations not conducted for pecuniary profit or any private shareholder or individual;
- (e) Nonprofit corporations, associations or organizations established, organized or chartered, without capital stock, under the provisions of Title 15, 16 or 17 of the Revised Statutes, Title 15A of the New Jersey Statutes or under a special charter or under any similar general or special law of this or any other State, and not conducted for pecuniary profit of any private shareholders or individual;
- (g) Nonstock corporations organized under the laws of this State or of any other state of the United States to provide mutual ownership housing under federal law by tenants, provided, however, that the exemption hereunder shall continue only so long as the

corporations remain subject to rules and regulations of the Federal Housing Authority and the Commissioner of the Federal Housing Authority holds membership certificates in the corporations and the corporate property is encumbered by a mortgage deed or deed of trust insured under the National Housing Act (48 Stat.1246) as amended by subsequent Acts of Congress. In order to be exempted under this subsection, corporations shall annually file a report on or before August 15 with the commissioner, in the form required by the commissioner, to claim such exemption, and shall pay a filing fee of \$25.00;

(h) Corporations not for profit organized under any law of this State where the primary purpose thereof is to provide for its shareholders or members housing in a retirement community as the same is defined under the provisions of the "Retirement Community Full Disclosure Act," P.L.1969, c. 215 (C.45:22A-1 et seq.);

(i) Corporations which are licensed as insurance companies under the laws of another state, including corporations which are surplus lines insurers declared eligible by the Commissioner of Banking and Insurance pursuant to section 11 of P.L.1960, c. 32 (C.17:22-6.45) to insure risks within this State; and

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Rule of strict statutory construction of law of tax exemptions applied to this section. *Town of Bloomfield v. Academy of Medicine of N. J.*, 87 N.J.Super. 595, 210 A.2d 420 (A.D.1965), certification granted 46 N.J. 56, 214 A.2d 707, reversed on other grounds 47 N.J. 358, 221 A.2d 15.

Each claim for property tax exemption applicable to hospitals, infirmaries, orphanages, asylums and other charitable institutions must be viewed individually and party claiming exemption must bear ultimate burden of proving both that it was organized exclusively for one of the purposes enumerated in this section and that the property, for which the exemption is claimed is actually and exclusively used for such purposes. *City of Long Branch v. Monmouth Medical Center*, 138 N.J.Super. 524, 351 A.2d 756 (A.D.1976), certification granted 70 N.J. 525, 361 A.2d 540, affirmed 73 N.J. 179, 373 A.2d 651.

### **B. Partial Exemptions.**

Nonprofit corporation's lease of only 35% of building to for-profit restaurant business did not entitle it to partial property tax exemption under this section providing exemption for property owner's nonprofit status; no traditional charitable or religious purpose was served by operation of restaurant facility in building. *Ironbound Educational & Cultural Center, Inc. v. City of Newark*, 220 N.J.Super. 346, 532 A.2d 258 (A.D.1987), certification denied 110 N.J. 200, 540 A.2d 192.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when the taxpayer files the appropriate paper work and the tax assessor determines that the property qualifies for the exemption.

### **B. Procedures for Retaining an Exemption.**

NJ ST 54:4-3.65

Each owner of real property claiming the tax exemption provided by this act shall file the original and one copy of its initial application for certification with the Commissioner of the Department of Environmental Protection on or before August 1 of the pretax year on such forms as the commissioner shall prescribe. Such application shall include, but not be limited to, the following information: the taxing district in which the real property is located, the block and lot number of the property, a physical description of the land and improvements, a plan for the use and preservation of the property, a statement of the uses which may be made of the property by the public, and a statement of the terms under which the public may gain access to and enjoy the use of such lands. The application shall be accompanied by documentation to establish the organization and purposes of the property owner and its entitlement to exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code.

The above statute is an example of the type of statute that follows each type of exemption. All pertinent parts of the above text applies to all exemptions.

### **C. Annual Certification.**

NJ ST 54:4-3.67

The Commissioner of the Department of Environmental Protection shall on or before September 15 of the pretax year certify that a property owner and the real property for which an exemption is claimed are qualified under the terms of this act and that a tax exemption would be in the public interest. The commissioner shall forthwith deliver such certification to the property owner and the tax assessor of the taxing district in which the real property is located.

The above statute is an example of the type of statute that follows each type of exemption. All pertinent parts of the above text applies to all exemptions.

### **D. Obligation to File Copies of Lease or Agreements.**

NJ ST 40A:21-11

d. Within 30 days after the execution of a tax agreement, a municipality shall forward a copy of the agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

## **E. Notification Requirements After Change in Use or Ownership.**

NJ ST 54:4-4.4

Each assessor may at any time inquire into the right of a claimant to the continuance of an exemption hereunder and for that purpose he may require the filing of a further statement or the submission of such proof as he shall deem necessary to determine the right of the claimant to continuance of the exemption. Such further statement shall be in such form as shall be prescribed by the director and shall set forth

(a) Whether there has been any change of use of any of such property initially determined as being entitled to exemption during any three-year period as aforesaid which would defeat the right of exemption therein, and

(b) Whether any new or additional property has been acquired for which a tax exemption is claimed and showing initially as to such new or additional property, the right to the exemption claimed.

The municipal tax assessor shall obtain the aforesaid statements in duplicate from the property owner, and the assessor shall file the duplicate copy thereof with the county board of taxation with his list of property exempt from taxation, on or before January 10 following.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

NJ ST 54:4-4.4

Every municipal tax assessor shall, on or before October 1, 1951, obtain from each owner of real property in his taxing district, for which a tax exemption is claimed, an initial statement under oath in such form as shall be prescribed by the Director of the Division of Taxation, showing the right to the exemption claimed. Thereafter, and on or before November 1 of each year, said assessor shall obtain an initial statement, if one has not theretofore been filed. When an initial statement has theretofore been filed, then not later than November 1, 1954, and thereafter not later than November 1 of every third succeeding year, said assessor shall obtain a further statement under oath from each owner of real property for which tax exemption is claimed, provided, however, that nothing herein contained shall require a further statement to be filed, in the same year in which an initial statement shall have been filed but that the further statement shall thereafter be filed at the time and in the years hereinabove required for the filing of further statements.

The provisions of this section shall not apply to any claim for tax exemption under Article VIII, Section I, paragraph 3, of the Constitution, or under any law enacted pursuant thereto, for the benefit of veterans, disabled veterans and the surviving spouses of those citizens and residents of this State who have met or may hereafter meet their deaths while on active duty in time of war in any branch of the Armed Forces of the United States.

## **B. Removal of Exemptions.**

An exemption is removed when the tax assessor determines that the property is no longer eligible for the exemption. The exemption can also be removed if the taxpayer fails to file the appropriate paperwork.

## **C. Assessment of Omitted Property.**

NJ ST 54:4-1

Property omitted from any assessment may be assessed by the county board of taxation, or otherwise, within such time and in such manner as shall be provided by law.

NJ ST 54:4-63.26

Whenever any real property is by law exempt from taxation and the right to such exemption ceases by reason of a change in use or ownership of such property, the same shall be assessable as omitted property as hereinafter provided. The county board of taxation shall, by resolution, cause such assessment to be made and entered upon the tax duplicate as in other cases of omitted property. Any such assessment shall be entered in the list known as the "Added Assessment List, 19...." of the municipality wherein said property is located.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

Taxpayers have full use of the courts to appeal tax decisions that have already been reviewed on appeal by the tax assessment board.

## NEW MEXICO

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

NM CONST Art. 8, s 3

The property of the United States, the state and all counties, towns, cities and school districts and other municipal corporations, public libraries, community ditches and all laterals thereof, all church property not used for commercial purposes, all property used for educational or charitable purposes, all cemeteries not used or held for private or corporate profit and all bonds of the state of New Mexico, and of the counties, municipalities and districts thereof shall be exempt from taxation.

Provided, however, that any property acquired by public libraries, community ditches and all laterals thereof, property acquired by churches, property acquired and used for educational or charitable purposes, and property acquired by cemeteries not used or held for private, or corporate profit, and property acquired by the Indian service and property acquired by the United States government or by the state of New Mexico by outright purchase or trade, where such property was, prior to such transfer, subject to the lien of any tax or assessment for the principal or interest of any bonded indebtedness shall not be exempt from such lien, nor from the payment of such taxes or assessments.

Exemptions of personal property from ad valorem taxation may be provided by law if approved by a three-fourths majority vote of all the members elected to each house of the legislature.

NM ST s 3-45-19

The real property of a housing project, as defined in Section 3-45-3 NMSA 1978, is declared to be public property used for essential public and governmental purposes and is property of a city of this state and is exempt from taxation until a deed conveying that property to a nonexempt entity is executed and delivered by the city.

NM ST s 3-60-32

A. All property of a municipality, including funds, owned or held by it for the purposes of the Community Development Law [3-60-1 to 3-60-37 NMSA 1978] shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same, nor shall judgment against a municipality be a charge or lien upon the property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to the Community Development Law by a municipality on its rents, fees, grants, land or revenues from community development projects.

B. The property of a municipality, acquired or held for the purposes of the Community Development Law, is declared to be public property used for essential public and governmental purposes and the property shall be exempt from all taxes of the municipality, the county, the state or any political subdivision thereof; provided that the tax exemption shall terminate when the municipality sells, leases or otherwise transfers

an interest in the property to a purchaser or lessee which is not a public body entitled to tax exemption with respect to the property.

NM ST s 7-2-4

No income tax shall be imposed upon:

- A. a trust organized or created in the United States and forming part of a stock bonus, pension or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries, which trust is exempt from taxation under the provisions of the Internal Revenue Code; or
- B. religious, educational, benevolent or other organizations not organized for profit which are exempt from income taxation under the Internal Revenue Code except to the extent that such income is subject to federal income taxation as "unrelated business income" under the Internal Revenue Code.

NM ST s 7-2A-4

No corporate income or franchise tax shall be imposed upon:

- A. insurance companies, reciprocal or inter-insurance exchanges which pay a premium tax to the state;
- B. a trust organized or created in the United States and forming part of a stock bonus, pension or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries, which trust is exempt from taxation under the provisions of the Internal Revenue Code; or
- C. religious, educational, benevolent or other organizations not organized for profit which are exempt from income taxation under the Internal Revenue Code unless the organization receives income which is subject to federal income taxation as "unrelated business income" under the Internal Revenue Code, in which case the organization is subject to the corporate franchise tax, and the corporate income tax applies to the unrelated business income.

NM ST s 7-9-15

Exempted from the compensating tax is the use of property by organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended or renumbered, in the conduct of functions described in Section 501(c)(3). The use of property as an ingredient or component part of a construction project is not a use in the conduct of functions described in Section 501(c)(3). This section does not apply to the use of property in an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1954, as amended or renumbered.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

It is the burden of the organization seeking an exemption to establish its right to that exemption. *United Veterans Organization v. New Mexico Property Appraisal Dep't*, 84 N.M. 114, 500 P.2d 199 (Ct. App. 1972).

Rule of construction in New Mexico is that of reasonable construction, without favor or prejudice to either the taxpayer or the state, to the end that the probable intent of the provision is effectuated and the public interests to be subserved thereby are furthered. *BPOE, Lodge 461 v. New Mexico Property Appraisal Dep't*, 83 N.M. 445, 493 P.2d 411 (1972); *Sisters of Charity v. County of Bernalillo*, 93 N.M. 42, 596 P.2d 255 (1979).

### **B. Partial Exemptions.**

No statute was found that specifically allows or prohibits partial exemptions.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

NM ST s 7-38-8.1

The division shall adopt regulations to insure that all real property owned by any nongovernmental entity and claimed to be exempt from property taxation under the provisions of Paragraph (1) of Subsection B of Section 7-36-7 NMSA 1978 shall be reported for valuation purposes to the appropriate valuation authority. These regulations shall include provisions for initial reporting of the property and claiming of the exempt status pursuant to Subsection C of Section 7-38-17 NMSA 1978.

### **B. Procedures for Retaining an Exemption.**

NM ST s 7-38-17

A. Subject to the requirements of Subsection F of this section, head-of- family exemptions claimed and allowed in the 1974 tax year or veteran exemptions claimed and allowed in the 1982 tax year need not be claimed for subsequent tax years if there is no change in eligibility for the exemption nor any change in ownership of the property against which the exemption was claimed. Head-of-family and veteran exemptions allowable under this subsection shall be applied automatically by county assessors in the subsequent tax years.

B. Subject to the requirements of Subsection F of this section, head-of- family exemptions not claimed and allowed in the 1974 tax year or veteran exemptions not claimed and allowed in the 1982 tax year must be claimed in a subsequent tax year in order to be allowed, but once an exemption is claimed and allowed in a subsequent tax year, it shall apply to all subsequent tax years without further claiming as long as there is

no change in eligibility for the exemption and no change in the ownership of the property.

C. Beginning with the 1983 tax year, other exemptions of real property specified under Section 7-36-7 NMSA 1978 for nongovernmental entities must be claimed in order to be allowed. Once such exemptions are claimed and allowed for a tax year, they need not be claimed for subsequent tax years if there is no change in eligibility. Exemptions allowable under this subsection shall be applied automatically by county assessors in subsequent tax years.

D. Any exemption required to be claimed under this section must be applied for no later than the last day of February of the tax year in which it is required to be claimed in order for it to be allowed for that tax year.

F. Exemptions may be claimed by filing proof of eligibility for the exemption with the county assessor. The proof shall be in a form prescribed by regulation of the division. Procedures for determining eligibility of claimants for any exemption shall be prescribed by regulation of the division, and these regulations shall include provisions for requiring the New Mexico veterans' service commission to issue certificates of eligibility for veteran exemptions in a form and with the information required by the division. The regulations shall also include verification procedures to assure that veteran exemptions in excess of the amount authorized under Section 7-37-5 NMSA 1978 are not allowed as a result of multiple claiming in more than one county or claiming against more than one property in a single tax year.

G. The division shall consult and cooperate with the New Mexico veterans' service commission in the development and promulgation of regulations under Subsection F of this section. The commission shall comply with the promulgated regulations. The commission shall collect a fee of five dollars (\$5.00) for the issuance of a duplicate certificate of eligibility to a veteran.

### **C. Annual Certification.**

NM ST s 7-38-17

C. Beginning with the 1983 tax year, other exemptions of real property specified under Section 7-36-7 NMSA 1978 for nongovernmental entities must be claimed in order to be allowed. Once such exemptions are claimed and allowed for a tax year, they need not be claimed for subsequent tax years if there is no change in eligibility. Exemptions allowable under this subsection shall be applied automatically by county assessors in subsequent tax years.

### **D. Obligation to File Copies of Lease or Agreements.**

NM ST s 3-60-32

B. The property of a municipality, acquired or held for the purposes of the Community Development Law, is declared to be public property used for essential public and governmental purposes and the property shall be exempt from all taxes of the municipality, the county, the state or any political subdivision thereof; provided that the tax exemption shall terminate when the municipality sells, leases or otherwise transfers an interest in the property to a purchaser or lessee which is not a public body entitled to tax exemption with respect to the property.

## **E. Notification Requirements After Change in Use or Ownership.**

NM ST s 7-38-17

E. Any person who has had an exemption applied to a tax year and subsequently becomes ineligible for the exemption because of a change in the person's status or a change in the ownership of the property against which the exemption was applied shall notify the county assessor of the loss of eligibility for the exemption by the last day of February of the tax year immediately following the year in which loss of eligibility occurs.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

NM ST s 7-38-17

F. Exemptions may be claimed by filing proof of eligibility for the exemption with the county assessor. The proof shall be in a form prescribed by regulation of the division. Procedures for determining eligibility of claimants for any exemption shall be prescribed by regulation of the division, and these regulations shall include provisions for requiring the New Mexico veterans' service commission to issue certificates of eligibility for veteran exemptions in a form and with the information required by the division. The regulations shall also include verification procedures to assure that veteran exemptions in excess of the amount authorized under Section 7-37-5 NMSA 1978 are not allowed as a result of multiple claiming in more than one county or claiming against more than one property in a single tax year.

### **B. Removal of Exemptions.**

Exemptions are removed when the tax assessor determines that the property no longer qualifies for the exemption. An exemption is also lost when ownership or use changes or when the taxpayer fails to file the proper paper work.

### **C. Assessment of Omitted Property.**

NM ST s 7-38-17

H. Any person who violates the provisions of this section by intentionally claiming and receiving the benefit of an exemption to which he is not entitled or who fails to comply with the provisions of Subsection E of this section is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000). Any county assessor or his employee who knowingly permits a claimant for an exemption to receive the benefit of an exemption to which he is not entitled is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) and shall also be automatically removed from office or dismissed from employment upon conviction under this subsection.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

### **NM ST s 7-38-21**

A. A property owner may protest the value or classification determined for his property for property taxation purposes, the allocation of value of his property to a particular governmental unit or a denial of a claim for an exemption either by:

- (1) filing a petition of protest with the director or the county assessor as provided in the Property Tax Code [Articles 35 to 38 of Chapter 7 NMSA 1978]; or
- (2) filing a claim for refund after paying his taxes as provided in the Property Tax Code.

B. The initiation of a protest under Paragraph (1) of Subsection A of this section is an election to pursue that remedy and is an unconditional and irrevocable waiver of the right to pursue the remedy provided under Paragraph (2) of Subsection A of this section.

C. A property owner may also protest the application to his property of any administrative fee adopted pursuant to Section 7-38-36.1 NMSA 1978 by filing a claim for refund after paying his taxes as provided in the Property Tax Code.

### **NM ST s 7-38-22**

A. A property owner may protest the value or classification determined by the division for his property for property taxation purposes or the division's allocation of value of his property to a particular governmental unit or the denial of a claim for an exemption by filing a petition with the director. Filing a petition in accordance with this section entitles a property owner to a hearing on his protest.

B. Petitions shall:

- (1) be filed with the division no later than thirty days after the mailing by the division of the notice of valuation;
- (2) state the property owner's name and address and the description of the property;
- (3) state why the property owner believes the value, classification, the allocation of value or denial of an exemption is incorrect and what he believes the correct value, classification, allocation of value or exemption to be;
- (4) state the value, classification, allocation of value or exemption that is not in controversy; and
- (5) contain such other information as the division may by regulation require.

C. The division shall notify the property owner by certified mail of the date, time and place that he may appear before the director to support his petition. The notice shall be mailed at least fifteen days prior to the hearing date.

D. The director may provide for an informal conference on the protest before the hearing.

### **NM ST s 7-38-24**

A. A property owner may protest the value or classification determined by the county assessor for his property for property taxation purposes, the assessor's allocation of value of his property to a particular governmental unit or denial of a claim for an exemption by filing a petition with the assessor. Filing a petition in accordance with this section entitles the property owner to a hearing on his protest.

B. Petitions shall:

(1) be filed with the county assessor on or before:

(a) the later of April 1 of the property tax year to which the notice applies or thirty days after the mailing by the assessor of the notice of valuation if the notice was mailed with the preceding year's tax bill in accordance with Section 7-38-20 NMSA 1978; or

(b) in all other cases, thirty days after the mailing by the assessor of the notice of valuation;

(2) state the property owner's name and address and the description of the property;

(3) state why the property owner believes the value, classification, allocation of value or denial of a claim of an exemption is incorrect and what he believes the correct value, classification, allocation of value or exemption to be; and

(4) state the value, classification, allocation of value or exemption that is not in controversy.

C. Upon receipt of the petition, the county assessor shall schedule a hearing before the county valuation protests board and notify the property owner by certified mail of the date, time and place that he may appear to support his petition. The notice shall be mailed at least fifteen days prior to the hearing date.

D. The assessor may provide for an informal conference on the protest before the hearing.

## **NEW YORK**

### **WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?**

#### **NY CONST Art. 16 § 1**

Exemptions from taxation may be granted only by general laws. Exemptions may be altered or repealed except those exempting real or personal property used exclusively for religious, educational or charitable purposes as defined by law and owned by any corporation or association organized or conducted exclusively for one or more of such purposes and not operating for profit.

#### **NY ART & CULT AFF § 20.33**

1. It is hereby determined that the creation of a trust pursuant to this article and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state, for the improvement of their health and welfare, and for the promotion of the economy; that said purposes are public purposes; and that a trust will perform an essential governmental function by exercising the powers conferred upon it by this article and by special law.

2. Notwithstanding any other provision of any other law to the contrary, the income, monies, operations and properties of a trust shall be exempt from taxation, including without limitation any and all state and local income, franchise, occupancy, transfer, recording, real property, sales and compensating use taxation. Any combined-use facility, including the non- institutional portion thereof, any facility for a not-for-profit cultural organization and any public television facility with respect to which a trust entered an agreement prior to January first, nineteen hundred ninety which has been developed by or on behalf of, or pursuant to an agreement with, or in whole or in part with the proceeds of a loan from a trust and any real property in or on which all or any part of any such facility prior to completion is designed to be and upon completion is developed shall be exempt from real property taxation from and after the date on which such real property has first been conveyed to the trust, or in the case of the development of a public television facility with respect to which a trust entered an agreement prior to January first, nineteen hundred ninety by a public television station or a facility for a not-for-profit cultural organization in whole or in part with proceeds of a loan from a trust, from and after the date on which such real property has first been conveyed to such station. In the case of a combined- use facility for a performing arts center with respect to which a trust entered an agreement prior to January first, nineteen hundred ninety, the non- institutional portion shall not be exempt from real property taxation from and after the date a trust conveys such non-institutional portion to any non-exempt third party.

#### **NY EDUC § 657**

1. The property, income, obligations and activities of the New York State Higher Education Services Corporation shall be exempt from all taxes and assessments.

#### **NY GEN MUN § 874**

(1) It is hereby determined that the creation of the industrial development agency and the

carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose, and the agency shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

#### NY INS § 4524

Every society organized or licensed under this article (Fraternal Benefit Societies) is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax, other than taxes on real estate and office equipment.

#### NY PUB HEALTH § 2864

The real property in a project of a limited-profit nursing home company shall be exempt from all local and municipal taxes, other than assessments for local improvements, to the extent of the value of the property included in any such project as represents an increase over the assessed valuation of the real property, both land and improvements, acquired for the project on the date of its acquisition by the limited-profit nursing home company. The tax exemption shall operate and continue so long as the mortgage loan by the New York state housing finance agency or the New York state medical care facilities finance agency, as the case may be, to the limited-profit nursing home company is outstanding but in no event for a period of more than thirty years, commencing in each instance from the date when the limited-profit nursing home company first acquired such property. If a project qualifying for a tax exemption pursuant to this section is sold, with the approval of the commissioner, to another limited-profit nursing home company, such successor company shall be entitled to all the benefits granted by this section. In the event that such sale is to a non-profit nursing home company, such successor company shall be entitled to all the benefits provided by section four hundred twenty-two of the real property tax law. Local and municipal taxes, for the purposes of this section, shall mean taxes levied by a county, city, village, town, school and special district but shall not include assessments for local improvements.

#### NY RP TAX § 400

1. Real property owned by the United States shall be exempt from taxation, except as otherwise provided by the laws of the United States.
2. Real property occupied exclusively or in part by the United States pursuant to the provisions of the public buildings purchase contract act of nineteen hundred fifty-four (Public Law 519, 83rd Congress) shall be exempt from taxation and exempt from special ad valorem levies and special assessments to the extent provided in section four hundred ninety of this chapter, during the period that the United States is required to make reimbursement for taxes payable on such property, provided that the United States enters into an agreement or agreements with the municipal corporation or corporations in which such properties are located, whereby it will undertake to pay a fair and reasonable sum annually on such property as taxes. Where a part of the property is so occupied by the United States, such part only shall be exempt and the remainder thereof shall be subject to taxation, special ad valorem levies and special assessments. The sums received by any

municipal corporation pursuant to this subdivision shall be devoted to purposes to which taxes may be applied.

#### NY RP TAX § 404

1. Real property owned by the state of New York or any department or agency thereof, including but not limited to real property described in subdivisions two and three of this section, whether heretofore or hereafter acquired or constructed, is and shall be deemed to have been and to be exempt from taxation and exempt from special ad valorem levies and special assessments to the extent provided in section four hundred ninety of this chapter, except as otherwise provided in title two of article five of this chapter.
2. Real property owned by the New York state employees' retirement system acquired or constructed pursuant to subdivision h of section thirteen of the retirement and social security law shall be exempt from taxation.
3. Real property owned by the New York state teachers' retirement system acquired or constructed pursuant to subdivision eight of section five hundred eight of the education law shall be exempt from taxation.

#### NY RP TAX § 406

1. Real property owned by a municipal corporation within its corporate limits held for a public use shall be exempt from taxation and exempt from special ad valorem levies and special assessments to the extent provided in section four hundred ninety of this chapter.
2. Real property owned by a municipal corporation not within its corporate limits while used for the provision of fire protection services provided that some fire protection services are available to the municipal corporation in which the real property is located, for a public park, public aviation field, highway or for flood control and soil conservation purposes as provided in section two hundred twenty-three of the county law shall be exempt from taxation by any municipal corporation in which it is located, provided the governing board thereof shall so agree in writing.
4. The aqueducts which are a part of the water supply system of the city of New York shall be entitled to the exemption provided by law.

#### NY RP TAX § 408

Notwithstanding any limitation contained in section four hundred six of this chapter, all real property owned by a school district or board of cooperative educational services and all improvements thereon leased by such a district or board provided that such leased improvements are used for educational purposes and provided, further, that such lease provides that such district or board is liable for all taxation, special ad valorem levies and special assessments levied upon such improvements shall be exempt from taxation and exempt from special ad valorem levies and special assessments to the extent provided in section four hundred ninety of this chapter.

#### NY RP TAX § 420-a

1. (a) Real property owned by a corporation or association organized or conducted exclusively for religious, charitable, hospital, educational, or moral or mental improvement of men, women or children purposes, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes either by the

owning corporation or association or by another such corporation or association as hereinafter provided shall be exempt from taxation as provided in this section.

(b) Real property such as specified in paragraph (a) of this subdivision shall not be exempt if any officer, member or employee of the owning corporation or association shall receive or may be lawfully entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes, or as proper beneficiaries of its strictly charitable purposes; or if the organization thereof for any such avowed purposes be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association or for any of its members or employees; or if it be not in good faith organized or conducted exclusively for one or more of such purposes.

5. Such real property owned and actually used for hospital purposes by a free public hospital which depends for maintenance and support upon voluntary charity, shall be so exempt from taxation although a portion thereof is leased or otherwise used for the purposes of income, if such income is necessary for and is actually applied to the maintenance and support of such hospital.

6. Such real property outside a city owned by a free public library or held in trust by an educational corporation for free library purposes shall be so exempt from taxation although a portion thereof is leased or otherwise used for purposes of income, if such income is necessary for and is actually applied to the maintenance and support of such library.

9. In addition to the exemption provided in this section, any stadium facility owned by a corporation organized exclusively for educational purposes which is constructed in whole or in substantial part with state funds shall be exempt from taxation notwithstanding its use by the state, by a municipal corporation for a public use, or by or for not-for-profit organizations.

#### NY RP TAX § 420-b

1. (a) Real property owned by a corporation or association which is organized exclusively for bible, tract, benevolent, missionary, infirmary, public playground, scientific, literary, bar association, medical society, library, patriotic or historical purposes, for the development of good sportsmanship for persons under the age of eighteen years through the conduct of supervised athletic games, for the enforcement of laws relating to children or animals, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes either by the owning corporation or association, or by another such corporation or association as hereinafter provided, shall be exempt from taxation; provided, however, that such property shall be taxable by any municipal corporation within which it is located if the governing board of such municipal corporation, after public hearing, adopts a local law, ordinance or resolution so providing. None of the following subdivisions of this section providing that certain properties shall be exempt under circumstances or conditions set forth in such subdivisions shall exempt such property from taxation by a municipal corporation whose governing board has adopted a local law, ordinance or resolution providing that such property shall be taxable pursuant to this subdivision.

5. Such real property outside a city owned by a free public library or held in trust by an educational corporation for free library purposes shall be so exempt from taxation

although a portion thereof is leased or otherwise used for purposes of income, if such income is necessary for and is actually applied to the maintenance and support of such library.

#### NY RP TAX § 420-c

1. In a city having a population of one million or more, real property owned by a corporation, partnership or limited liability company formed for the purpose of providing housing accommodations for persons and families of low income as defined in section two of the private housing finance law and used for such purpose, shall be exempt from local real property taxation, provided that such corporation, partnership or limited liability company:

(a) is organized as a non-profit housing development fund company pursuant to article eleven of the private housing finance law, or is a non-profit housing corporation as defined in article eleven of the private housing finance law which is not incorporated as a housing development fund company as defined in article eleven of the private housing finance law, or is a wholly-owned subsidiary of such a company or is a partnership or limited liability company the controlling interest of which is held by such a company or corporation or by a wholly owned subsidiary of such a company or by a corporation sponsored or formed by such a company or corporation;

(b) has received a loan from a municipality, the state or the housing trust fund corporation established pursuant to section forty-five-a of the private housing finance law or any successor corporation;

(c) enters into a regulatory agreement with the municipality, the state or the housing trust fund corporation established pursuant to section forty-five-a of the private housing finance law or any successor corporation guaranteeing the provision of housing accommodations for persons and families of low income;

(d) is a participant in the federal low income housing tax credit program established pursuant to section forty-two of the internal revenue code of nineteen hundred eighty-six, as amended. Any exemption pursuant to this section shall expire upon the expiration or termination of the regulatory agreement.

#### NY RP TAX § 438

1. Real property held by trustees named in a will or deed of trust or appointed by the supreme court of the state of New York for hospital, public playground and library purposes, as set forth in sections four hundred twenty-a and four hundred twenty-b of this article, shall be exempt from taxation and exempt from special ad valorem levies and special assessments to the extent provided in section four hundred ninety of this article, to the same extent and subject to the same conditions and exceptions as if owned by a corporation.

2. Real property held for hospital purposes in the name of a corporation organized for the purpose of managing and controlling a hospital for the use and benefit of a city shall be exempt from taxation and exempt from special ad valorem levies and special assessments to the extent provided in section four hundred ninety of this article, to the same extent and subject to the same conditions and exceptions as property of a corporation organized

exclusively for hospital purposes.

#### NY RP TAX § 446

1. Real property actually and exclusively used for cemetery purposes shall be exempt from taxation and exempt from special ad valorem levies and special assessments.
2. In addition to the exemption provided in subdivision one of this section, unimproved land, which is not presently used for cemetery purposes, but in which interments are reasonably and in good faith anticipated, shall be exempt from taxation, special ad valorem levies and special assessments. An exemption pursuant to this subdivision shall be granted only upon application by the owner of the property on a form prescribed by the state board. The application shall be filed with the assessor of the appropriate county, city, town or village on or before the taxable status date of such county, city, town or village.
3. The term "cemetery purposes", as used in this section shall mean land and buildings, whether privately or publicly owned or operated, used for the disposal or burial of deceased human beings, by cremation or in a grave, mausoleum, vault, columbarium or other receptacle. Such term shall also include land and buildings actually used and essential to the providing of cemetery purposes including, but not limited to, the on site residence of a full-time caretaker and a storage facility for necessary tools and equipment.
4. No real property shall be entitled to receive an exemption pursuant to this section if the owner or operator of such real property or any officer, member or employee thereof, shall receive or may be lawfully entitled to receive any pecuniary profit from the operations thereof, other than reasonable compensation for services performed, or, if the ownership or operation is a guise or pretense for directly or indirectly making any other pecuniary profit for such owner or operator or for any of its officers, members or employees.

In addition, many redevelopment companies are exempt from taxation while the company engages in the redevelopment project.

#### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

##### **A. Full Exemptions.**

#### NY STAT § 294

Tax exemption statutes are strictly construed.

#### COMMENT

Tax exemption statutes are in derogation of the sovereign authority of the state, and the courts do not favor them. On the contrary, the courts disfavor statutes granting tax exemptions, and strictly construe enactments creating them, for the reason that taxation is a common burden for defraying the expenses of government and it is appropriate that it should be generally and proportionately shared. It follows that such acts are to be construed against the property owner and in favor of the state, and where an exemption is not plainly expressed one will not be presumed.

A statutory exemption from the taxing power of the state will never be implied from

language which will admit of any other reasonable construction. Thus an exemption may not be read into a statute by implication, nor on the other hand may an exemption given by a statute be read out by implication. Moreover, all doubts are resolved against an exemption, and in favor of the taxing power.

The burden of establishing a right to an exemption from taxation is on the one who claims it. To be allowed, exemptions must appear to be undisputably within the intention of the Legislature, and they are allowed only so far as expressly authorized. The language of the statute creating the exemption must be clear and unambiguous, and immunity will not be recognized unless granted in terms too plain to be mistaken. Statutes granting exemptions, however, are not so literally construed as to defeat the intent of the Legislature, especially in relation to educational institutions; but exemptions cannot be extended by implication to taxpayers who do not come within the favored group.

The rule of strict construction of exemptions from taxation is the exact opposite of that accorded statutes imposing special taxes, but this does not necessarily make the two rules inconsistent. The strict construction of the exemption is applied in those cases where the exemption is claimed from the general burden of taxation, which is common upon all property or upon the people generally; and the rule for the strict construction of taxing statutes is especially applied where the tax sought to be imposed is not such a common burden but is a special tax reaching only to special cases and affecting only a special class of persons.

The fact that a tax exemption is in favor of some religious or charitable corporation or other benevolent enterprise does not affect its construction; the same strict rule is followed. However, statutes granting tax exemptions on bequests should be liberally construed. Every presumption is against any statutory construction that the Legislature intended to make an irrevocable grant of an exemption. Thus, a statute exempting a certain class from taxation, from motives of public policy, not founded upon any adequate consideration, is not a contract constitutionally protected, and is subject to repeal at the will of the Legislature. On the other hand, where a transfer of property in endowment of a charitable corporation is directly induced by a promise of exemption from taxation, which was acted upon, it will not be presumed that the Legislature, in passing a general tax law operative in repeal of prior exemptions, intended to repeal the exemption.

To be recipient of right of exemption under this section exempting from taxation real property of a corporation or association organized exclusively for educational, scientific, literary or library purposes, the corporation or association must be exclusively organized for scientific, educational, etc., purposes. *Kings County Pharmaceutical Soc. v. City of New York*, 1960, 204 N.Y.S.2d 803.

## **B. Partial Exemptions.**

NY RP TAX § 420-a

2. If any portion of such real property is not so used exclusively to carry out thereupon one or more of such purposes but is leased or otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be exempt;

provided, however, that such real property shall be fully exempt from taxation although it or a portion thereof is used (a) for purposes which are exempt pursuant to this section or sections four hundred twenty-b, four hundred twenty-two, four hundred twenty-four, four hundred twenty-six, four hundred twenty-eight, four hundred thirty or four hundred fifty of this chapter by another corporation which owns real property exempt from taxation pursuant to such sections or whose real property if it owned any would be exempt from taxation pursuant to such sections, (b) for purposes which are exempt pursuant to section four hundred eight of this chapter by a corporation which owns real property exempt from taxation pursuant to such section or if it owned any would be exempt from taxation pursuant to such section, (c) for purposes which are exempt pursuant to section four hundred sixteen of this chapter by an organization which owns real property exempt from taxation pursuant to such section or whose real property if it owned any would be exempt from taxation pursuant to such section or (d) for purposes relating to civil defense pursuant to the New York state defense emergency act, including but not limited to activities in preparation for anticipated attack, during attack, or following attack or false warning thereof, or in connection with drill or test ordered or directed by civil defense authorities; and provided further that such real property shall be exempt from taxation only so long as it or a portion thereof, as the case may be, is devoted to such exempt purposes and so long as any moneys paid for such use do not exceed the amount of the carrying, maintenance and depreciation charges of the property or portion thereof, as the case may be.

NY RP TAX § 420-b

2. If any portion of such real property is not so used exclusively to carry out thereupon one or more of the purposes listed in subdivision one of this section, but is (a) leased or (b) otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be exempt.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

In order to be entitled to exemption under this section providing tax-exempt status for certain nonprofit corporations, corporation must be organized primarily for one or more of the purposes enumerated in statute; its property must be used primarily in furtherance of those purposes; and no pecuniary profit, beyond reasonable compensation, may inure to benefit of any of its officers, members, or employees, nor may it simply be used as guise for profit-making operations. *University Auxiliary Services at Albany, Inc. v. Smith* (3 Dept. 1980) 78 A.D.2d 959, 433 N.Y.S.2d 270, affirmed 54 N.Y.2d 986, 446 N.Y.S.2d 41, 430 N.E.2d 917.

To determine whether a particular piece of land is exempt from real property taxation under this section, it is necessary to determine, first, whether the owner of the land is "organized or conducted" exclusively, or primarily, for an exempt purpose, and if the answer to that inquiry is in the affirmative, it then becomes necessary to determine whether the land for which the exemption is sought is itself primarily used for an exempt

purpose. *Mohonk Trust v. Board of Assessors of Town of Gardiner*, 1979, 47 N.Y.2d 476, 418 N.Y.S.2d 763, 392 N.E.2d 876.

Initial test for tax-exempt status is whether corporation or association is organized exclusively for tax-exempt purposes, and if it is not so organized, none of its property is entitled to tax exemption. *Chautauqua Institution v. Town of Chautauqua* (4 Dept. 1970) 35 A.D.2d 1, 312 N.Y.S.2d 364, appeal denied 27 N.Y.2d 485, 315 N.Y.S.2d 1025, 263 N.E.2d 563.

Test for purpose of determining whether organization is tax exempt is:

1. owner is organized or conducted exclusively for one or more of the purposes specified in this section;
2. property itself is used exclusively for one or more of those purposes;
3. no pecuniary profit inures to any of the organization's officers, members or employees, and property is not used as guise for profit-making operations.

*Syracuse Council of American Youth Hostels, Inc. v. Srogi*, 1982, 116 Misc.2d 394, 455 N.Y.S.2d 691, affirmed 90 A.D.2d 674, 455 N.Y.S.2d 1018, appeal denied 58 N.Y.2d 606, 460 N.Y.S.2d 1025, 447 N.E.2d 85. *New York Cardiac Center, Inc. v. Kondzielaski* (2 Dept. 1974) 46 A.D.2d 810, 361 N.Y.S.2d 201, decided after remand 53 A.D.2d 671, 384 N.Y.S.2d 864. *Young Womens Christian Ass'n of Rochester and Monroe County v. Wagner*, 1978, 96 Misc.2d 361, 409 N.Y.S.2d 167. *Lower East Side Action Project, Inc. v. Town of Liberty*, 1972, 70 Misc.2d 562, 334 N.Y.S.2d 333, amended 87 Misc.2d 860, 387 N.Y.S.2d 342. *Second Dist. Dental Soc. of N.Y. v. Boyland*, 1955, 139 N.Y.S.2d 123.

## **B. Procedures for Retaining an Exemption.**

NY RP TAX § 420-a

11. An exemption may be granted pursuant to this section upon application by the owner on a form prescribed by the state board or any comparable form, which application may be filed with the assessor of the appropriate county, city, town or village on or before the applicable taxable status date. Where the assessor receives no such application, the assessor may nevertheless grant the exemption provided the assessor personally inspects the property and certifies in writing that it satisfies all of the requirements for exemption set forth in this section. Where property is not granted an exemption pursuant to this section, the owner may seek judicial review pursuant to article seven of this chapter or article seventy-eight of the civil practice law and rules.

NY RP TAX § 420-b

7. An exemption may be granted pursuant to this section only upon application made by the owner of the property on a form prescribed by the state board. The application shall be filed with the assessor of the appropriate county, city, town or village on or before the taxable status date of such county, city, town or village.

## **C. Annual Certification.**

A state provided form must be filled out by the property owner in order to establish a tax exemption to begin with. Property is then assigned a taxable status date by which time the assessor must re-examine the property to see if the exemption is still valid. Some counties or municipalities may require that a form be filed by of before each taxable status date but not filing that form will not automatically withdraw the exemption. The assessor can choose to visit the property and make his/her own decision about the taxable status of the property and choose to allow the exemption to remain.

**D. Obligation to File Copies of Lease or Agreements.**

Nothing was found to indicate any special requirements to file leases or other agreements.

**E. Notification Requirements After Change in Use or Ownership.**

No notification statute was found.

**WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

**A. Monitoring Exemptions.**

Exemptions are monitored on a regular basis by the tax assessors. See annual filing requirements section.

**B. Removal of Exemptions.**

Exemptions are removed when either the assessor or the tax payer remove the exemption from the property in question. The tax payer can do this by reporting that the property is no longer exempt or by not challenging the assessor's view that the property is no longer exempt.

**C. Assessment of Omitted Property.**

NY RP TAX § 551

1. The assessor of any assessing unit, upon his own motion or upon the application of any taxpayer therein, shall enter on the assessment roll of the current year, prior to the tentative completion thereof, any parcel of real property shown to have been omitted from the assessment roll of the preceding year, at the valuation of that year, or if not then valued, at such valuation as the assessor shall determine for the preceding year. A special franchise assessment after apportionment thereof by the assessor, if necessary, or an assessment of state land subject to taxation for the preceding year which is less than the assessment thereof approved by the state board, shall be entered at the valuation determined by the state board.

2. Real property assessed pursuant to this section shall be taxed at the tax rate or tax rates for the preceding year. The amount of tax or taxes levied pursuant to this section shall be deducted from the aggregate amount of taxes to be levied for the current year.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

### **NY RP TAX § 420-a**

11. Where property is not granted an exemption pursuant to this section, the owner may seek judicial review pursuant to article seven of this chapter or article seventy-eight of the civil practice law and rules.

### **NY RP TAX § 706**

1. The grounds for reviewing an assessment shall be that the assessment to be reviewed is excessive, unequal or unlawful, or that real property is misclassified.

2. A proceeding to review an assessment shall be founded upon a petition setting forth the respect in which the assessment is excessive, unequal or unlawful, or the respect in which real property is misclassified and stating that the petitioner is or will be injured thereby.

Such petition shall be duly verified by the petitioner, an officer thereof, or by an agent thereof who has been authorized in writing to verify and file such petition and whose authorization is made a part of such petition. Such petition must show that a complaint was made in due time to the proper officers to correct such assessment. Two or more persons having real property assessed upon the same roll who assert the same grounds for review presenting a common question of law or fact, may unite in the same petition.

### **NY RP TAX § 524**

1. Complaints with respect to assessments may be filed with the assessor at any time prior to the hearing of the board of assessment review or with the board of assessment review at such hearing, but may not be filed with the board of assessment review at any adjourned hearing it may conduct. Where a complaint is filed within three business days preceding such hearing, the board of assessment review shall grant an assessor's request for an adjournment to permit the assessor to prepare a response to the complaint. Any complaint filed on or before the date established by law for the hearing of the board of assessment review shall be deemed timely.

2. The grounds for review of an assessment shall be that the assessment complained of is excessive, unequal or unlawful, or that real property is misclassified.

3. Notwithstanding the provisions of section five hundred twenty-eight of this title, and except in cities with a population of five million or more, a complaint with respect to an assessment shall be on a form prescribed by the state board and shall consist of a statement specifying the respect in which the assessment is excessive, unequal or unlawful, or the respect in which real property is misclassified, and the reduction in assessed valuation or taxable assessed valuation or change in class designation or allocation of assessed valuation sought. Such statement shall also contain an estimate of the value of the real property. *Such statement must be made by the person whose property is assessed, or by some person authorized in writing by the complainant or his officer or agent to make such statement who has knowledge of the facts stated therein.*

Such written authorization must be made a part of such statement and bear a date within the same calendar year during which the complaint is filed. (emphasis added)

## NORTH CAROLINA

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

NC CONST Art. 5, s 2

(3) Exemptions. Property belonging to the State, counties, and municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, cultural, charitable, or religious purposes, and, to a value not exceeding \$300, any personal property. The General Assembly may exempt from taxation not exceeding \$1,000 in value of property held and used as the place of residence of the owner. Every exemption shall be on a State-wide basis and shall be made by general law uniformly applicable in every county, city and town, and other unit of local government. No taxing authority other than the General Assembly may grant exemptions, and the General Assembly shall not delegate the powers accorded to it by this subsection.

NC ST s 105-274

(a) All property, real and personal, within the jurisdiction of the State shall be subject to taxation unless it is:

- (1) Excluded from the tax base by a statute of statewide application enacted under the classification power accorded the General Assembly by Article V, § 2(2), of the North Carolina Constitution, or
- (2) Exempted from taxation by the Constitution or by a statute of statewide application enacted under the authority granted the General Assembly by Article V, § 2(3), of the North Carolina Constitution.

(b) No provision of this Subchapter shall be construed to exempt from taxation any property situated in this State belonging to any foreign corporation unless the context of the provision clearly indicates a legislative intent to grant such an exemption.

NC ST s 105-278.1

(a) Real and personal property owned by the United States and, by virtue of federal law, not subject to State and local taxes shall be exempted from taxation.

(b) Real and personal property belonging to the State, counties, and municipalities is exempt from taxation.

(c) For purposes of this section:

- (1) A specified unit of government (federal, State, or local) includes its departments, institutions, and agencies.
- (2) By way of illustration but not by way of limitation, the following boards, commissions, authorities, and institutions are units of State government:
  - a. The State Marketing Authority established by G.S. 106-529.
  - b. The Board of Governors of the University of North Carolina incorporated under the provisions of G.S. 116-3 and known as "The University of North Carolina."
  - c. The North Carolina Museum of Art made an agency of the State under G.S. 140-1.

- (3) By way of illustration but not by way of limitation, the following boards, commissions, authorities, and institutions are units of local government of this State:
- a. An airport authority, board, or commission created as a separate and independent body corporate and politic by an act of the General Assembly.
  - b. An airport authority, board, or commission created as a separate and independent body corporate and politic by one or more counties or municipalities or combinations thereof under the authority of an act of the General Assembly.
  - c. A hospital authority created under G.S. 131-93.
  - d. A housing authority created under G.S. 157-4 or G.S. 157-4.1.
  - e. A municipal parking authority created under G.S. 160-477.
  - f. A veterans' recreation authority created under G.S. 165-26.

NC ST s 105-278.2

- (a) Real property set apart for burial purposes shall be exempted from taxation unless it is owned and held for purposes of (i) sale or rental or (ii) sale of burial rights therein.
- (b) Taxable real property set apart for human burial purposes is hereby designated a special class of property under authority of Article V, Section 2(2) of the North Carolina Constitution, and it shall be assessed for taxation taking into consideration the following:
- (1) The effect on its value by division and development into burial plots;
  - (2) Whether it is irrevocably dedicated for human burial purposes by plat recorded with the Register of Deeds in the county in which the land is located; and
  - (3) Whether the owner is prohibited or restricted by law or otherwise from selling, mortgaging, leasing or encumbering the same.
- (c) For purposes of this section, the term "real property" includes land, tombs, vaults, monuments, and mausoleums, and the term "burial" includes entombment.

NC ST s 105-278.3

- (a) Buildings, the land they actually occupy, and additional adjacent land reasonably necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:
- (1) Wholly and exclusively used by its owner for religious purposes as defined in subsection (d)(1), below; or
  - (2) Occupied gratuitously by one other than the owner and wholly and exclusively used by the occupant for religious, charitable, or nonprofit educational, literary, scientific, or cultural purposes.
- (b) Personal property shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:
- (1) Wholly and exclusively used by its owner for religious purposes; or
  - (2) Gratuitously made available to one other than the owner and wholly and exclusively used by the possessor for religious, charitable, or nonprofit educational, literary, scientific, or cultural purposes.
- (c) The following agencies, when the other requirements of this section are met, may obtain exemption for their properties:
- (1) A congregation, parish, mission, or similar local unit of a church or religious

body; or

(2) A conference, association, presbytery, diocese, district, synod, or similar unit comprising local units of a church or religious body.

(d) Within the meaning of this section:

(1) A religious purpose is one that pertains to practicing, teaching, and setting forth a religion. Although worship is the most common religious purpose, the term encompasses other activities that demonstrate and further the beliefs and objectives of a given church or religious body.

Within the meaning of this section, the ownership and maintenance of a general or promotional office or headquarters by an owner listed in subdivision (2) of subsection (c), above, is a religious purpose and the ownership and maintenance of residences for clergy, rabbis, priests or nuns assigned to or serving a congregation, parish, mission or similar local unit, or a conference, association, presbytery, diocese, district, synod, province or similar unit of a church or religious body or residences for clergy on furlough or unassigned, is also a religious purpose. However, the ownership and maintenance of residences for other employees is not a religious purpose for either a local unit of a church or a religious body or a conference, association, presbytery, diocese, district, synod, or similar unit of a church or religious body. Provided, however, that where part of property which otherwise qualifies for the exemption provided herein is made available as a residence for an individual who provides guardian, janitorial and custodial services for such property, or who oversees and supervises qualifying activities upon and in connection with said property, the entire property shall be considered as wholly and exclusively used for a religious purpose.

(2) A charitable purpose is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.

(3) An educational purpose is one that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons.

(4) A literary purpose is one that pertains to letters or literature (including drama), especially writing, publishing, and the study of literature.

(5) A cultural purpose is one that is conducive to the enlightenment and refinement of taste acquired through intellectual and aesthetic training, education, and discipline.

(6) A scientific purpose is one that yields knowledge systematically through research, experimentation or other work done in one or more of the natural sciences.

(f) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(g) Notwithstanding the exclusive-use requirement of subsection (a), above, any parking lot wholly owned by an agency listed in subsection (c), above, may be used for parking

without removing the tax exemption granted in this section; provided, the total charge for said uses shall not exceed that portion of the actual maintenance expenditures for the parking lot reasonably estimated to have been made on account of said uses. This subsection shall apply beginning with the taxable year that commences on January 1, 1978.

NC ST s 105-278.4

(a) Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation if:

- (1) Owned by an educational institution (including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution);
- (2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services;
- (3) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and
- (4) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution (as defined herein) and wholly and exclusively used by the occupant for nonprofit educational purposes.

(b) Land (exclusive of improvements); and improvements other than buildings, the land actually occupied by such improvements, and additional land reasonably necessary for the convenient use of any such improvement shall be exempted from taxation if:

- (1) Owned by an educational institution that owns real property entitled to exemption under the provisions of subsection (a), above;
- (2) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and
- (3) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution (as defined herein) and wholly and exclusively used by the occupant for nonprofit educational purposes.

(d) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(e) Personal property owned by a church, a religious body, or an educational institution (including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution) shall be exempted from taxation if:

- (1) The owner is not organized or operated for profit, and no officer, shareholder, member, or employee of the owner, or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services; and
- (2) Used wholly and exclusively for educational purposes by the owner or held

gratuitously by a church, religious body, or nonprofit educational institution (as defined herein) other than the owner, and wholly and exclusively used for nonprofit educational purposes by the possessor.

(f) An educational purpose within the meaning of this section is one that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons. The operation of a golf course, a tennis court, a sports arena, a similar sport property, or a similar recreational sport property for the use of students or faculty is also an educational purpose, regardless of the extent to which the property is also available to and patronized by the general public.

#### NC ST s 105-278.5

(a) Buildings, the land they actually occupy, and additional adjacent land reasonably necessary for the convenient use of any such building or for the religious educational programs of the owner, shall be exempted from taxation if:

- (1) Owned by a religious educational assembly, retreat, or similar organization;
- (2) No officer, shareholder, member, or employee of the owner, or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services; and
- (3) Of a kind commonly employed in those activities naturally and properly incident to the operation of a religious educational assembly such as the owner; and
- (4) Wholly and exclusively used for
  - a. Religious worship or
  - b. Purposes of instruction in religious education.

(c) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(d) Personal property owned by a religious educational assembly, retreat, or similar organization shall be exempted from taxation if it is exclusively maintained and used in connection with real property granted exemption under the provisions of subsection (a) or (b), above.

#### NC ST s 105-278.6

(a) Real and personal property owned by:

- (1) A Young Men's Christian Association or similar organization;
- (2) A home for the aged, sick, or infirm;
- (3) An orphanage or similar home;
- (4) A Society for the Prevention of Cruelty to Animals;
- (5) A reformatory or correctional institution;
- (6) A monastery, convent, or nunnery;
- (7) A nonprofit, life-saving, first aid, or rescue squad organization;
- (8) A nonprofit organization providing housing for individuals or families with low or moderate incomes shall be exempted from taxation if: (i) As to real property, it is actually and exclusively occupied and used, and as to personal property, it is entirely and completely used, by the owner for

charitable purposes; and (ii) the owner is not organized or operated for profit.

(b) A charitable purpose within the meaning of this section is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.

(c) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.

(e) Real property held by an organization described in subdivision (a)(8) is held for a charitable purpose under this section if it is held for no more than five years as a future site for housing for individuals or families with low or moderate incomes. The taxes that would otherwise be due on real property exempt under this subsection shall be a lien on the property as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit as deferred taxes and shall be payable five years after the tax year the exemption is first claimed unless the organization has constructed low- or moderate-income housing on the site. If this condition has not been met, the deferred taxes for the preceding five fiscal years shall be payable immediately, together with interest as provided in G.S. 105-360 for unpaid taxes that accrues on the deferred taxes as if they had been payable on the dates they would have originally become due. All liens arising under this subsection are extinguished upon one of the following:

(1) Payment of all deferred taxes under this subsection.

(2) Construction by the organization of low- or moderate-income housing on the site within five years after the tax year the exemption is first claimed.

#### NC ST s 105-278.7

(a) Buildings, the land they actually occupy, and additional adjacent land necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) Wholly and exclusively used by its owner for nonprofit educational, scientific, literary, or charitable purposes as defined in subsection (f), below; or

(2) Occupied gratuitously by an agency listed in subsection (c), below, other than the owner, and wholly and exclusively used by the occupant for nonprofit educational, scientific, literary, or charitable purposes.

(b) Personal property shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:

(1) Wholly and exclusively used by its owner for nonprofit educational, scientific, literary, or charitable purposes; or

(2) Gratuitously made available to an agency listed in subsection (c), below, other than the owner, and wholly and exclusively used by the possessor for nonprofit educational, scientific, literary, or charitable purposes.

(c) The following agencies, when the other requirements of this section are met, may obtain property tax exemption under this section:

(1) A charitable association or institution,

(2) An historical association or institution,

- (3) A veterans' organization or association,
  - (4) A scientific association or institution,
  - (5) A literary association or institution,
  - (6) A benevolent association or institution, or
  - (7) A nonprofit community or neighborhood organization.
- (e) The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, shall not defeat the exemption granted by this section.
- (f) Within the meaning of this section:
- (1) An educational purpose is one that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons.
  - (2) A scientific purpose is one that yields knowledge systematically through research, experimentation, or other work done in one or more of the natural sciences.
  - (3) A literary purpose is one that pertains to letters or literature (including drama), especially writing, publishing, and the study of literature.
  - (4) A charitable purpose is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose.

NC ST s 105-278.8

- (a) Real and personal property held for or owned by a hospital organized and operated as a nonstock, nonprofit, charitable institution (without profit to members or their successors) shall be exempted from taxation if actually and exclusively used for charitable hospital purposes.
- (c) Within the meaning of this section, a charitable hospital purpose is a hospital purpose that has humane and philanthropic objectives; it is a hospital activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. However, the fact that a qualifying hospital charges patients who are able to pay for services rendered does not defeat the exemption granted by this section.

NC ST s 131E-28

- (a) Hospital authorities shall be exempt from the payment of taxes or fees to the State or any of its subdivisions, or to any officer or employee of the State or any of its subdivisions.
- (b) Hospital authority property used for public purposes shall be exempt from all local and municipal taxes and for the purposes of this tax exemption, an authority shall be deemed to be a municipal corporation.
- (c) Bonds, notes, debentures, or other evidences of indebtedness of a hospital authority issued under the Local Government Revenue Bond Act, Chapter 159 of the General Statutes, Article 5, or issued pursuant to the bond and revenue anticipation provisions of Chapter 159 of the General Statutes, Article 9, or issued pursuant to G.S. 131E-26(b) or

contracted pursuant to G.S. 131E-32 shall at all times be free from taxation by the State or any of its subdivisions, except for inheritance or gift taxes, income taxes on the gain from the transfer of the instruments, and franchise taxes. The interest on the instruments is not subject to taxation as income.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Statutes enacted by the General Assembly exempting specific property from taxation, because of the purposes for which such property is held and used, are and should be construed strictly, when there is room for construction against exemption and in favor of taxation. *Salisbury Hosp. v. Rowan County*, 205 N.C. 8, 169 S.E. 805 (1933); *Piedmont Mem. Hosp. v. Guilford County*, 218 N.C. 673, 12 S.E.2d 265 (1940); *Harrison v. Guilford County*, 218 N.C. 718, 12 S.E.2d 269 (1940).

### **B. Partial Exemptions.**

NC ST s 105-278.3

(e) Notwithstanding the exclusive-use requirement of subsection (a), above, if part of a property that otherwise meets that subsection's requirements is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

NC ST s 105-278.4

(c) Notwithstanding the exclusive-use requirements of subsections (a) and (b), above, if part of a property that otherwise meets the requirements of one of those subsections is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

NC ST s 105-278.5

(b) Notwithstanding the exclusive-use requirement of subsection (a), above, if part of a property that otherwise meets the subsection's requirements is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

NC ST s 105-278.6

(d) Notwithstanding the exclusive-use requirements of this section, if part of a property that otherwise meets the section's requirements is used for a purpose that would require exemption under subsection (a), above, if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

NC ST s 105-278.7

(d) Notwithstanding the exclusive-use requirements of subsection (a), above, if part of a property that otherwise meets the subsection's requirements is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

NC ST s 105-278.8

(b) Notwithstanding the exclusive-use requirements of subsection (a), above, if part of a property that otherwise meets that subsection's requirements is used for a purpose that would require exemption under that subsection if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

NC ST s 105-282.1

(a) Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled thereto. Except as provided below, an owner claiming exemption or exclusion shall annually file an application for exemption or exclusion during the listing period. If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

(1) The United States government, the State of North Carolina and the counties and municipalities of the State are exempted from the requirement that owners file applications for exemption.

(2) Owners of the special classes of property excluded from taxation under G.S. 105-275(5), (15), (16), (26), (31), (32a), (33), (34), or (40), or exempted under G.S. 105-278.2 are not required to file applications for the exclusion or exemption of that property.

(3) After an owner of property entitled to exemption under G.S. 105- 278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105- 278.8 or exclusion under G.S. 105-275(3), (7), (8), (12), (17) through (19), (21) or (39), G.S. 105-277.1, or G.S. 105-278 has applied for exemption or exclusion and the exemption or exclusion has been approved, the owner is not required to file an application in subsequent years except in the following circumstances:

- a. New or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property; or
- b. There is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or

exclusion.

(4) After an owner of property entitled to exclusion under G.S. 105-277.10 has applied for the exclusion and the exclusion has been approved, the owner is not required to apply for the exclusion in subsequent years so long as the classified property, including classified property acquired after the application is approved, is used or held for use directly in manufacturing or processing as part of industrial machinery.

(5) Upon a showing of good cause by the applicant for failure to make a timely application, an application for exemption or exclusion filed after the close of the listing period may be approved by the Department of Revenue, the board of equalization and review, the board of county commissioners, or the governing body of a municipality, as appropriate. An untimely application for exemption or exclusion approved under this subdivision applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

(b) The Department of Revenue or the assessor to whom an application for exemption or exclusion is submitted shall review the application and either approve or deny the application. Approved applications shall be filed and made available to all taxing units in which the exempted or excluded property is situated. If the Department denies an application for exemption or exclusion, it shall notify the taxpayer, who may appeal the denial to the Property Tax Commission.

If an assessor denies an application for exemption or exclusion, he shall notify the owner of his decision in time for him to appeal to the board of equalization and review and from the county board to the Property Tax Commission. If the notice of denial covers property located within a municipality, the assessor shall send a copy of the notice and a copy of the application to the governing body of the municipality. The municipal governing body shall then advise the owner whether it will adopt the decision of the county board or require the owner to file a separate appeal with the municipal governing body. In the event the owner is required to appeal to the municipal governing body and that body renders an adverse decision, the owner may appeal to the Property Tax Commission. Nothing in this section shall prevent the governing body of a municipality from denying an application which has been approved by the assessor or by the county board provided the owner's rights to notice and hearing are not abridged. Applications handled separately by a municipality shall be filed in the office of the person designated by the governing body, or in the absence of such designation, in the office of the chief fiscal officer of the municipality.

(c) When an owner of property that may be eligible for exemption or exclusion neither lists the property nor files an application for exemption or exclusion, the assessor or the Department of Revenue, as appropriate, shall proceed to discover the property. If, upon appeal, the owner demonstrates that the property meets the conditions for exemption or exclusion, the body hearing the appeal may approve the exemption or exclusion. Discovery of the property by the Department or the county shall automatically constitute a discovery by any taxing unit in which the property has a taxable situs.

(d) The county assessor shall prepare and maintain a roster of all property in the county that is granted tax relief through classification or exemption. As to affected real and personal property, the roster shall set forth:

- (1) The name of the owner of the property.
- (2) A brief description of the property.
- (3) A statement of the use to which the property is put.
- (4) A statement of the value of the property.
- (5) The total value of exempt property in the county and in each municipality therein.

(e) A duplicate copy of the roster shall be forwarded to the Department of Revenue on or before November 1, 1974. In subsequent years, on or before November 1, a report shall be filed with the Department of Revenue showing all changes since the last report.

## **B. Procedures for Retaining an Exemption.**

NC ST s 105-285

(a) All property subject to ad valorem taxation shall be listed annually.

(b) Except as otherwise provided in this Chapter, the value, ownership, and place of taxation of personal property, both tangible and intangible, shall be determined annually as of January 1.

(d) The value of real property shall be determined as of January 1 of the years prescribed by G.S. 105-286 and G.S. 105-287. The ownership of real property shall be determined annually as of January 1, except in the following situation: When any real property is acquired after January 1, but prior to July 1, and the property was not subject to taxation on January 1 on account of its exempt status, it shall be listed for taxation by the transferee as of the date of acquisition and shall be appraised in accordance with its true value as of January 1 preceding the date of acquisition; and the property shall be taxed for the fiscal year of the taxing unit beginning on July 1 of the year in which it is acquired. The person in whose name such property is listed shall have the right to appeal the listing, appraisal, and assessment of the property in the same manner as that provided for listings made as of January 1.

In the event real property exempt as of January 1 is, prior to July 1, acquired from a governmental unit that by contract is making payments in lieu of taxes to the taxing unit for the fiscal period beginning July 1 of the year in which the property is acquired, the tax on such property for the fiscal period beginning on July 1 immediately following acquisition shall be one half of the amount of the tax that would have been imposed if the property had been listed for taxation as of January 1.

## **C. Annual Certification.**

NC ST s 105-282.1

(a) Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled thereto. Except as provided below, an owner claiming exemption or exclusion shall annually file an application for exemption or exclusion during the listing period. If

the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated.

NC ST s 105-285

(a) All property subject to ad valorem taxation shall be listed annually.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found that requires copies of leases or agreements be filed.

#### **E. Notification Requirements After Change in Use or Ownership.**

NC ST s 105-285

(d) ...The ownership of real property shall be determined annually as of January 1, except in the following situation: When any real property is acquired after January 1, but prior to July 1, and the property was not subject to taxation on January 1 on account of its exempt status, it shall be listed for taxation by the transferee as of the date of acquisition and shall be appraised in accordance with its true value as of January 1 preceding the date of acquisition; and the property shall be taxed for the fiscal year of the taxing unit beginning on July 1 of the year in which it is acquired....

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

NC ST s 105-325

(a) After the board of equalization and review has finished its work and the changes it effected or ordered have been entered on the abstracts and tax records as required by G.S. 105-323, the board of county commissioners shall not authorize any changes to be made on the abstracts and tax records except as follows:

(1) To give effect to decisions of the Property Tax Commission on appeals taken under G.S. 105-290.

(2) To add to the tax records any valuation certified by the Department of Revenue for property appraised in the first instance by the Department or to give effect to corrections made in such appraisals by the Department.

(3) Subject to the provisions of subdivisions (a)(3)a and (a)(3)b, below, to correct the name of any taxpayer appearing on the abstract or tax records erroneously; to substitute the name of the person who should have listed property for the name appearing on the abstract or tax records as having listed the property; and to correct an erroneous description of any property appearing on the abstract or tax records.

a. Any correction or substitution made under the provisions of this subdivision (a)(3) shall have the same force and effect as if the name of the taxpayer or

description of the property had been correctly listed in the first instance, but the provisions of this subdivision (a)(3)a shall not be construed as a limitation on the taxation and penalization of discovered property required by G.S. 105-312.

b. If a correction or substitution under this subdivision (a)(3) will adversely affect the interests of any taxpayer, he shall be given written notice thereof and an opportunity to be heard before the change is entered on the abstract or tax records.

(4) To correct appraisals, assessments, and amounts of taxes appearing erroneously on the abstracts or tax records, as the result of clerical or mathematical errors. (If the clerical or mathematical error was made by the taxpayer, his agent, or an officer of the taxpayer and if the correction demonstrates that the property was listed at a substantial understatement of value, quantity, or other measurement, the provisions of G.S. 105-312 shall apply.)

(5) To add to the tax records and abstracts or to correct the tax records and abstracts to include property discovered under the provisions of G.S. 105-312 or property exempted or excluded from taxation pursuant to G.S. 105-282.1(a)(4).

(6) Subject to the provisions of subdivisions (a)(6)a, (a)(6)b, (a)(6)c, and (a)(6)d, below, to appraise or reappraise property when the assessor reports to the board that, since adjournment of the board of equalization and review, facts have come to his attention that render it advisable to raise or lower the appraisal of some particular property of a given taxpayer in the then current calendar year.

a. The power granted by this subdivision (a)(6) shall not authorize appraisal or reappraisal because of events or circumstances that have taken place or arisen since the day as of which property is to be listed.

b. No appraisal or reappraisal shall be made under the authority of this subdivision (a)(6) unless it could have been made by the board of equalization and review had the same facts been brought to the attention of that board.

c. If a reappraisal made under the provisions of this subdivision (a)(6) demonstrates that the property was listed at a substantial understatement of value, quantity, or other measurement, the provisions of G.S. 105-312 shall apply.

d. If an appraisal or reappraisal made under the provisions of this subdivision (a)(6) will adversely affect the interests of any taxpayer, he shall be given written notice thereof and an opportunity to be heard before the appraisal or reappraisal shall become final.

(7) To give effect to decisions of the board of county commissioners on appeals taken under G.S. 105-322(a).

(b) The board of county commissioners may give the assessor general authority to make any changes authorized by subsection (a), above, except those permitted under subdivision (a)(6), above.

(c) Orders of the board of county commissioners and actions of the assessor upon delegation of authority to him by the board that are made under the provisions of this section may be appealed to the Property Tax Commission under the provisions of G.S. 105-290.

## **B. Removal of Exemptions.**

Exemptions are removed when the assessor determines that the exemption no longer applies. An exemption can also be lost when the taxpayer fails to file the appropriate paper work.

### **C. Assessment of Omitted Property.**

No statutes were found that discuss omitted property.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

North Carolina Rules of Appellate Procedure, Rule 15

(a) Either prior to or following determination by the Court of Appeals of an appeal docketed in that court, any party to the appeal may in writing petition the Supreme Court upon any grounds specified in G.S. 7A-31 to certify the cause for discretionary review by the Supreme Court; except that a petition for discretionary review of an appeal from the Industrial Commission, the North Carolina State Bar, the Property Tax Commission, the Board of State Contract Appeals, or the Commissioner of Insurance may only be made following determination by the Court of Appeals; and except that no petition for discretionary review may be filed in any post-conviction proceeding under G.S. Chap. 15A, Art. 89, or in valuation of exempt property under G.S. Chap. 1C.

(b) A petition for review prior to determination by the Court of Appeals shall be filed with the Clerk of the Supreme Court and served on all other parties within 15 days after the appeal is docketed in the Court of Appeals. A petition for review following determination by the Court of Appeals shall be similarly filed and served within 15 days after the mandate of the Court of Appeals has been issued to the trial tribunal. Such a petition may be contained in or filed with a notice of appeal of right, to be considered by the Supreme Court in the event the appeal is determined not to be of right, as provided in Rule 14(a). The running of the time for filing and serving a petition for review following determination by the Court of Appeals is terminated as to all parties by the filing by any party within such time of a petition for rehearing under Rule 31 of these rules, and the full time for filing and serving such a petition for review thereafter commences to run and is computed as to all parties from the date of entry by the Court of Appeals of an order denying the petition for rehearing. If a timely petition for review is filed by a party, any other party may file a petition for review within 10 days after the first petition for review was filed.

(c) The petition shall designate the petitioner or petitioners and shall set forth plainly and concisely the factual and legal basis upon which it is asserted that grounds exist under G.S. 7A-31 for discretionary review. The petition shall state each question for which review is sought, and shall be accompanied by a copy of the opinion of the Court of Appeals when filed after determination by that court. No supporting brief is required; but supporting authorities may be set forth briefly in the petition.

(d) A response to the petition may be filed by any other party within 10 days after service of the petition upon him. No supporting brief is required, but supporting authorities may

be set forth briefly in the response. If, in the event that the Supreme Court certifies the case for review, the respondent would seek to present questions in addition to those presented by the petitioner, those additional questions shall be stated in the response.

(e) Certification by Supreme Court; How Determined and Ordered.

(1) The determination by the Supreme Court whether to certify for review upon petition of a party is made solely upon the petition and any response thereto and without oral argument.

(2) The determination by the Supreme Court whether to certify for review upon its own initiative pursuant to G.S. 7A-31 is made without prior notice to the parties and without oral argument.

(3) Any determination to certify for review and any determination not to certify made in response to petition will be recorded by the Supreme Court in a written order. The Clerk of the Supreme Court will forthwith enter such order, deliver a copy thereof to the Clerk of the Court of Appeals, and mail copies to all parties. The cause is docketed in the Supreme Court upon entry of an order of certification by the Clerk of the Supreme Court.

(f) Record on Appeal.

(1) The record on appeal filed in the Court of Appeals constitutes the record on appeal for review by the Supreme Court. However, the Supreme Court may note de novo any deficiencies in the record on appeal and may take such action in respect thereto as it deems appropriate, including dismissal of the appeal.

(2) When an order of certification is filed with the Clerk of the Court of Appeals, he will forthwith transmit the original record on appeal to the Clerk of the Supreme Court. The Clerk of the Supreme Court will procure or reproduce copies thereof for distribution as directed by the Court. If it is necessary to reproduce copies, the Clerk may require a deposit of the petitioner to cover the costs thereof.

(g) Filing and Service of Briefs.

(1) When a case is certified for review by the Supreme Court before being determined by the Court of Appeals, the times allowed the parties by Rule 13 to file their respective briefs are not thereby extended. If a party has filed his brief in the Court of Appeals and served copies before the case is certified, the Clerk of the Court of Appeals shall forthwith transmit to the Clerk of the Supreme Court the original brief and any copies already reproduced by him for distribution, and if filing was timely in the Court of Appeals this constitutes timely filing in the Supreme Court. If a party has not filed his brief in the Court of Appeals and served copies before the case is certified, he shall file his brief in the Supreme Court and serve copies within the time allowed and in the manner provided by Rule 13 for filing and serving in the Court of Appeals.

(2) When a case is certified for review by the Supreme Court of a determination made by the Court of Appeals, the appellant shall file a new brief prepared in conformity with Rule 28 in the Supreme Court and serve copies upon all other parties within 30 days after the case is docketed in the Supreme Court by entry of its order of certification. The appellee shall file a new brief in the Supreme Court and serve copies upon all other parties within 30 days after a copy of appellant's brief is served upon him. If permitted by Rule 28(h), the appellant may serve and

file a reply brief within 14 days after service of the brief of the appellee.

(3) A party need file or the Clerk of the Court of Appeals transmit, but a single copy of any brief required by this Rule 15 to be filed in the Supreme Court upon certification for discretionary review. The Clerk of the Supreme Court will thereupon procure from the Court of Appeals or will himself reproduce copies for distribution as directed by the Supreme Court. The Clerk may require a deposit of any party to cover the costs of reproducing copies of his brief.

In civil appeals in forma pauperis a party need not pay the deposit for reproducing copies, but at the time of filing his original new brief shall also deliver to the clerk two legible copies thereof reproduced by typewriter carbon or other means.

(4) If an appellant fails to file and serve his brief within the time allowed by this Rule 15, the appeal may be dismissed on motion of an appellee or upon the Court's own initiative. If an appellee fails to file and serve his brief within the time allowed by this Rule 15, he may not be heard in oral argument except by permission of the Court.

(h) interlocutory order by the Court of Appeals, including an order for a new trial or for further proceedings in the trial tribunal, will be certified for review by the Supreme Court only upon a determination by the Court that failure to certify would cause a delay in final adjudication which would probably result in substantial harm to a party.

(i) Appellant, Appellee Defined. As used in this Rule 15, the terms "appellant" and "appellee" have the following meanings:

(1) With respect to the Supreme Court Review prior to determination by the Court of Appeals, whether on petition of a party or on the Court's own initiative, "appellant" means a party who appealed from the trial tribunal; "appellee," a party who did not appeal from the trial tribunal.

(2) With respect to Supreme Court review of a determination of the Court of Appeals, whether on petition of a party or on the Court's own initiative, "appellant" means the party aggrieved by the determination of the Court of Appeals; "appellee," the opposing party. Provided, that in its order of certification, the Supreme Court may designate either party appellant or appellee for purposes of proceeding under this Rule 15.

## NORTH DAKOTA

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

ND ST 23-18.2-26

The property of an authority is declared to be public property used for essential public and governmental purposes and is exempt from all taxes and special assessments of the city, the county, the state, or any political subdivision thereof. In lieu of such taxes or special assessments, an authority may agree to make payments to the city, county, state, or any such political subdivision for improvements, services, and facilities furnished thereby for the benefits of a nursing home project, but in no event may such payments exceed the estimated cost to such city, county, or political subdivision of the improvements, services, or facilities to be so furnished.

ND ST 40-01-07

Lands, houses, moneys, claims receivable, and property and assets of every kind and description belonging to a municipality shall be exempt from taxation and from sale on execution.

ND ST 57-02-08

All property described in this section to the extent herein limited shall be exempt from taxation:

1. All property owned exclusively by the United States except any such property which the state and its political subdivisions are authorized by the laws of the United States to tax.
2. All property owned by this state, but no lands contracted to be sold by the state shall be exempt.
3. All property belonging to any political subdivision.
4. Property of Indians where the title of such property is inalienable without the consent of the United States secretary of the interior.
5. All lands used exclusively for burying grounds or cemeteries.
6. All property belonging to schools, academies, colleges, or other institutions of learning, not otherwise used with a view to profit, and all dormitories and boarding halls, including the land upon which they are situated, owned and managed by any religious corporation for educational or charitable purposes for the use of students in attendance upon any educational institution, if such dormitories and boarding halls are not managed or used for the purpose of making a profit over and above the cost of maintenance and operation.
7. All houses used exclusively for public worship, and lots or parts of lots upon which such buildings are erected, and any dwellings belonging to religious organizations intended and ordinarily used for the residence of the bishop, priest, rector, or other minister in charge of the services of the church, together with the lots upon which the same are situated.
8. All buildings belonging to institutions of public charity, including public hospitals and nursing homes licensed pursuant to section 23-16-01 under the control of religious or

charitable institutions, used wholly or in part for public charity, together with the land actually occupied by such institutions not leased or otherwise used with a view to profit, and this includes any dormitory, dwelling, or residential-type structure, together with necessary land on which such structure is located, owned by a religious or charitable organization recognized as tax exempt under section 501(c) (3) of the United States Internal Revenue Code which is occupied by members of said organization who are subject to a religious vow of poverty and devote and donate substantially all of their time to the religious or charitable activities of the owner.

9. All real property, not exceeding two acres [.81 hectare] in extent, owned by any religious corporation or organization, upon which there is a building used for the religious services of the organization, or upon which there is a dwelling with usual outbuildings, intended and ordinarily used for the residence of the bishop, priest, rector, or other minister in charge of services, must be deemed to be property used exclusively for religious services, and exempt from taxation, whether the real property consists of one tract or more. The exemption for a building used for the religious services of the owner continues to be in effect if the building in whole, or in part, is rented to another otherwise tax-exempt corporation or organization, provided no profit is realized from the rent. All real property owned by any religious corporation or organization and used as a parking lot by persons attending religious services is exempt from taxation. All taxes assessed or levied on any of the property, while the property is used for religious purposes, are void.

10. Property of an agricultural fair association duly incorporated for the purpose of holding agricultural fairs, and not conducted for the profit of any of its members or stockholders; provided, that all property described in this subsection shall be subject to taxation for the cost of fire protection services furnished by any municipal corporation in which said property is located.

11. Property owned by lodges, chapters, commanderies, consistories, farmers' clubs, commercial clubs, and like organizations, and associations, grand or subordinate, not organized for profit, and used by them for places of meeting and for conducting their business and ceremonies, and all property owned by any fraternity, sorority, or organization of college students if such property is used exclusively for such purposes; provided, further, that any portion of such premises not exclusively used for places of meeting and conducting the business and ceremonies of such organization shall be subject to taxation.

Provided, further, that if any such organization as contemplated by this subsection is licensed for the sale of alcoholic beverages as defined by the statutes of the state of North Dakota, such portion of such premises where such alcoholic beverages are consumed or sold shall be deemed not to be so used exclusively for conduct of its business and meeting if such beverages are sold at a profit.

Provided, further, that if food other than that served at lodge functions and banquets and food sold or consumed in any fraternity or sorority house, is sold at a profit on the premises, that portion of the premises where such food is sold at a profit shall be deemed not to be used exclusively for places of meeting or conducting the business and ceremonies of such organization; provided, that all property described in this subsection shall be subject to taxation for the cost of fire protection services furnished by any municipal corporation in which said property is located.

13. All land used as a public park or monument ground belonging to any military

organization, and not used for gain.

16. Property now owned, or hereafter acquired, by a corporation organized, or hereafter created, under the laws of this state for the purpose of promoting athletic and educational needs and uses at any state educational institution in this state, and not organized for profit.

29. Property to which title is held by a city pursuant to chapter 40-57 which is leased to an entity described in subsection 8 and used by the entity as provided in subsection 8 or subleased to a public school district for educational purposes; provided, that the entity is qualified as an exempt organization under section 501(c) (3) of the United States Internal Revenue Code of 1954, as amended.

30. Property, but not including property used for residential purposes, owned by an organization described in subsection 9 and leased to a public school district for educational purposes; provided, that the property had previously been owned and occupied by the organization for an exempt purpose described in subsection 9 for a period of at least five years.

31. All group homes owned by nonprofit corporations, not organized with a view to profit and recognized as tax exempt under section 501(c) (3) of the United States Internal Revenue Code [26 U.S.C. 501(c) (3)], including those for persons with developmental disabilities as defined in section 25-01.2-01, and the real property upon which they are located during the period in which the group homes are under construction or in a remodeling phase and while they are used as group homes. For the purposes of this subsection, the term "group home" means a community-based residential home which provides room and board, personal care, habilitation services, or supervision in a family environment, and which, once established is licensed by the appropriate North Dakota licensing authority.

33. Property used for athletic or recreational activities when owned by a political subdivision and leased to a nonprofit corporation organized for the purpose of promoting public athletic or recreational activities.

34. Any building located on land owned by the state if the building is used at least in part for academic or research purposes by students and faculty of a state institution of higher education.

37. The governing body of the city, for property within city limits, or of the county, for property outside city limits, may grant a property tax exemption for the portion of fixtures, buildings, and improvements, used primarily to provide early childhood services by a corporation, limited liability company, or organization licensed under chapter 50-11.1 or used primarily as an adult day care center. However, this exemption is not available for property used as a residence.

#### ND ST 26.1-17-10

Every nonprofit health service corporation is a charitable and benevolent organization and is exempt from taxation by the state or any political subdivision thereof, except that the tax imposed by section 26.1-03-17 is applicable to a corporation subject to this chapter and the real property of a nonprofit health service corporation is subject to ad valorem taxes and special assessments for special improvements. Except as otherwise provided in this chapter, the laws of this state relating to and affecting nonprofit charitable and benevolent corporations are applicable to all nonprofit health service

corporations writing health service contracts.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Burden is on claimant of a tax exemption to establish exempt status of property. North Dakota Soc'y for Crippled Children & Adults v. Murphy, 94 N.W.2d 343 (N.D. 1959).

The determination of whether an institution falls within the exemption of subsection 8 of this section is, essentially, a two-step process in which it must be determined whether the organization claiming the exemption is in fact a charitable one, and whether the property on which the exemption is claimed is being devoted to charitable purposes. Riverview Place, Inc. v. Cass County ex rel. Cass County Bd. of Comm'rs, 448 N.W.2d 635 (N.D. 1989).

### **B. Partial Exemptions.**

No statutes were found that specifically allow partial exemptions. However, the statutes noted above do include references to "lots or parts of lots" when discussing the tax exempt status of property.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

ND ST 57-02-14.1

Any person, corporations, limited liability companies, associations, or organizations owning real property located within a municipality which claims that such real property is exempt from assessment and taxation shall file with the assessor and with the county auditor a certificate setting out all facts on which the claim for exemption is based, including the names of owners, the date such property was acquired, the legal description, the use to which the property was put during the twelve months preceding the assessment date, and any other information which the assessor may request. This certificate shall be filed with the assessor and the county auditor each year before the assessment date. If the certificate is not filed as provided herein, the assessor shall regard the property as nonexempt property and shall assess it as such. The provisions of this section shall not apply in any case where the real property is owned by the United States or the state of North Dakota or any of its departments, institutions, agencies, or political subdivisions.

### **B. Procedures for Retaining an Exemption.**

ND ST 26.1-34.1-01

A domestic or foreign corporation organized and operated exclusively as, or for the purpose of aiding, an educational, religious, charitable, scientific, or philanthropic

institution and which is organized as a nonprofit organization without profit to any person, may apply to the commissioner for a certificate of exemption to receive gifts of money or other property conditioned upon, or in return for, its agreement to pay an annuity to a donor or nominee or both. The corporation shall include with its application any documents or information the commissioner reasonably requires, including:

1. Its name, location, and organization;
2. Evidence that it possesses a current tax-exempt status under the laws of the United States;
3. A designation form appointing the commissioner as its attorney upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an annuitant or beneficiary arising out of any annuity contract;
4. A statement of the financial condition, management, and affairs of the organization including an accurate and complete financial statement consisting of a balance sheet and income and expense statement, showing the current financial condition of the corporation and sworn to by the officer of the corporation having the responsibility for preparing such statement; and
5. A filing fee of one hundred dollars coincident with its application.

#### **C. Annual Certification.**

Request for an exemption must be filled annually before the assessment date assigned to the property.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found that requires that copies of leases or agreements be filed.

#### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found that requires notification of a change in use or ownership.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

ND ST 57-02-14

At the time of making the assessment of real property, the assessor shall enter in a separate list each description of property exempt by law and shall value it in the same manner as other property, designating in each case to whom such property belongs and for what purpose used. This section does not apply to property of the United States, this state, or a political subdivision of this state or farm buildings or farm residences exempt from property taxes by law.

#### **B. Removal of Exemptions.**

An exemption is removed when the tax assessor determines that the property no longer qualifies for an exemption. An exemption is also lost when the taxpayer fails to file the appropriate paper work.

### **C. Assessment of Omitted Property.**

ND ST 57-14-01

Whenever the county auditor discovers that:

1. Taxable real property has been omitted in whole or in part in the assessment of any year or years;
2. Any building or structure has been listed and assessed against a lot or tract of land other than the true site or actual location of such building;
3. The assessor has not returned the full amount of all property required to be listed in the district, or has omitted property subject to taxation; or
4. The assessor has made a clerical error in valuing real property, provided the assessor furnishes the county auditor with a written statement describing the nature of the error, which statement the county auditor shall keep on file, the county auditor shall proceed to correct the assessment books and tax lists in accordance with the facts in the case and shall correct such error or omission in assessment, and shall add such omitted property and assess it at its true and full value, and if a building or other structure, assessed as real estate in the assessment thereof, is described as though situated upon a lot or tract of land other than that upon which it in fact is situated, the county auditor shall correct the description and add the assessment thereof to the assessment of the lot upon which it actually is located, if the rights of a purchaser for value without actual or constructive notice of such error or omission is not prejudiced by such correction, addition, or assessment.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

No statute was found that outlines how any appeals can be made.

# OHIO

## **WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?**

### OH CONST Art. XII, § 2

Without limiting the general power, subject to the provisions of Article I of this constitution, to determine the subjects and methods of taxation or exemptions therefrom, general laws may be passed to exempt burying grounds, public school houses, houses used exclusively for public worship, institutions used exclusively for charitable purposes, and public property used exclusively for any public purpose, but all such laws shall be subject to alteration or repeal; and the value of all property so exempted shall, from time to time, be ascertained and published as may be directed by law.

### OH ST § 1721.01

If a cemetery company or association is incorporated not for profit, all personal property, including the income therefrom, owned or held by it, or for its use, for cemetery purposes and with no view to profit, shall be exempt from execution, from being appropriated for any public purpose, and from taxation, and no tax shall be assessed upon any personal property or the income therefrom expressly exempted under this section.

This chapter does not authorize the exemption of real property used for a funeral home or any other activity not permitted to be conducted by a cemetery association exempt from taxation under section 501(c)(13) of the "Internal Revenue Code of 1954," 26 U.S.C.A. 501, or any successor provision.

### OH ST § 3313.44

Real or personal property vested in any board of education shall be exempt from taxation and from sale on execution or other writ or order in the nature of an execution.

### OH ST § 3345.17

All property, personal, real, or mixed of the boards of trustees and of the housing commissions of the state universities, the medical college of Ohio at Toledo, the northeastern Ohio universities college of medicine, and of the state held for the use and benefit of any such institution, which is used for the support of such institution, is exempt from taxation so long as such property is used for the support of such university or college.

### OH ST § 3354.15

A community college district shall not be required to pay any taxes or assessments upon any real or personal property acquired, owned, or used by it pursuant to provisions of sections 3354.01 to 3354.18, inclusive, of the Revised Code, or upon the income therefrom, and the bonds issued pursuant to provisions of such sections and the transfer of the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation within the state.

OH ST § 3377.12

Higher education facilities are exempt from taxation.

OH ST § 3381.20

A regional arts and cultural district created under this chapter shall be exempt from and shall not be required to pay any taxes on property, both real and personal, belonging to any such district, which is used exclusively for any public purpose; provided, such exemption shall not apply to any property belonging to any district while a private enterprise, other than an arts or cultural organization, is a lessee of such property under written lease providing for tenancy for longer than one year.

OH ST § 3921.24

Every fraternal benefit society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds are exempt from all state, county, district, municipal, and school taxes other than franchise taxes and taxes on real estate.

OH ST § 5709.04

Money, credits, investments, deposits, and other intangible property belonging, either legally or beneficially, to corporations, trusts, associations, funds, foundations, or community chests, organized and operated exclusively for religious, charitable, scientific, literary, health, hospital, educational, or public purposes, exclusively for the prevention of cruelty to children or animals, exclusively for a home for the aged, as defined in section 5701.13 of the Revised Code, or exclusively for contributing financial support to any such purposes, no part of the net earnings of which inures to the benefit of any private shareholder member or other individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, shall not be subject to taxation.

OH ST § 5709.07

(A) The following property shall be exempt from taxation:

- (1) Public schoolhouses, the books and furniture in them, and the ground attached to them necessary for the proper occupancy, use, and enjoyment of the schoolhouses, and not leased or otherwise used with a view to profit;
- (2) Houses used exclusively for public worship, the books and furniture in them, and the ground attached to them that is not leased or otherwise used with a view to profit and that is necessary for their proper occupancy, use, and enjoyment;
- (3) Real property owned and operated by a church that is used primarily for church retreats or church camping, and that is not used as a permanent residence. Real property exempted under division (A)(3) of this section may be made available by the church on a limited basis to charitable and educational institutions if the property is not leased or otherwise made available with a view to profit.
- (4) Public colleges and academies and all buildings connected with them, and all lands connected with public institutions of learning, not used with a view to profit.

OH ST § 5709.08

Real or personal property belonging to the state or United States used exclusively for a public purpose, and public property used exclusively for a public purpose, shall be exempt from taxation. Real and personal property, when devoted to public use and not held for pecuniary profit, owned by an adjoining state or any political subdivision or agency of such adjoining state, which would be exempt from taxation if owned by the state of Ohio or a political subdivision or agency thereof, shall be exempt from taxation providing that such adjoining state exempts from taxation real and personal property devoted to public use and not held for pecuniary profit, owned by the state of Ohio or any political subdivision or agency thereof, which would be exempt from taxation if owned by the adjoining state or political subdivision or agency thereof.

OH ST § 5709.10

Property used exclusively for public purposes shall be exempt from taxation.

OH ST § 5709.12

(A) As used in this section, "independent living facilities" means any residential housing facilities and related property that are not a nursing home, residential care facility, or adult care facility as defined in division (A) of section 5701.13 of the Revised Code.

(B) Lands, houses, and other buildings belonging to a county, township, or municipal corporation and used exclusively for the accommodation or support of the poor, or leased to the state or any political subdivision for public purposes shall be exempt from taxation. Real and tangible personal property belonging to institutions that is used exclusively for charitable purposes shall be exempt from taxation. All property owned and used by a nonprofit organization exclusively for a home for the aged, as defined in section 5701.13 of the Revised Code, also shall be exempt from taxation.

(D) A private corporation established under federal law, defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as amended, the objects of which include encouraging the advancement of science generally, or of a particular branch of science, the promotion of scientific research, the improvement of the qualifications and usefulness of scientists, or the increase and diffusion of scientific knowledge is conclusively presumed to be a charitable or educational institution. A private corporation established as a nonprofit corporation under the laws of a state, that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and has as its principal purpose one or more of the foregoing objects, also is conclusively presumed to be a charitable or educational institution.

(E) Real property held by an organization organized and operated exclusively for charitable purposes as described under section 501(c)(3) of the Internal Revenue Code and exempt from federal taxation under section 501(a) of the Internal Revenue Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose of constructing or rehabilitating residences for eventual transfer to qualified low-income families through sale, lease, or land installment contract, shall be exempt from taxation.

OH ST § 5709.121

Real property and tangible personal property belonging to a charitable or educational institution or to the state or a political subdivision, shall be considered as used

exclusively for charitable or public purposes by such institution, the state, or political subdivision, if it meets one of the following requirements:

(A) It is used by such institution, the state, or political subdivision, or by one or more other such institutions, the state, or political subdivisions under a lease, sublease, or other contractual arrangement:

(1) As a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein;

(2) For other charitable, educational, or public purposes;

(B) It is made available under the direction or control of such institution, the state, or political subdivision for use in furtherance of or incidental to its charitable, educational, [sic] or public purposes and not with the view to profit.

(C) It is used by an organization described in division (D) of section 5709.12 of the Revised Code.

OH ST § 5709.13

Property used solely for the support of institutions used exclusively as homes for poor children shall be exempt from taxation.

OH ST § 5709.14

Land used exclusively as graveyards or other burying grounds held not for profit shall be exempt from taxation.

OH ST § 5709.72

A nonprofit corporation conducting research and furnishing services to a library shall be exempt from taxation.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

OH ST § 5713.04

Each separate parcel of real property shall be valued at its taxable value, excluding the value of the crops, deciduous and evergreen trees, plants, and shrubs growing thereon, and taking into account the diminution in value as the result of the existence of any conservation easement created under sections 5301.67 to 5301.69 of the Revised Code. The price for which such real property would sell at auction or forced sale shall not be taken as the criterion of its value. If the fee of the soil of a tract, parcel, or lot of land is in any person, natural or artificial, and the right to minerals therein in another, the land shall be valued and listed in accordance with such ownership in separate entries, specifying the interest listed, and be taxed to the parties owning the different interests.

### **B. Partial Exemptions.**

OH ST § 5713.04

If a separate parcel of improved or unimproved real property has a single ownership and

is so used so that part thereof, if a separate entity, would be exempt from taxation, and the balance thereof would not be exempt from taxation, the listing thereof shall be split, and the part thereof used exclusively for an exempt purpose shall be regarded as a separate entity and be listed as exempt, and the balance thereof used for a purpose not exempt shall, with the approaches thereto, be listed at its taxable value and taxed accordingly. The county auditor shall deduct from the value of each separate parcel of real property the amount of land occupied and used by a canal or used as a public highway at the time of such assessment.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

OH ST § 319.29

On or before the first Monday of August, annually, the county auditor shall compile and make up, in tabular form and alphabetical order, separate lists of the names of the several persons, companies, firms, partnerships, associations, and corporations in whose names personal property required to be entered on the general tax list and duplicate has been listed and assessed as shown on the returns and in the preliminary and final assessment certificates in the hands of the auditor pursuant to sections 5711.01 to 5711.36 and 5727.29 of the Revised Code, in each township, municipal corporation, special district, or separate school district or part of either in his county. He shall place in an appropriate column opposite each name, the aggregate value of such personal property as listed and assessed in such lists. On or before the third Monday of August in each year the auditor shall correct such lists in accordance with the additions and deductions ordered by the department of taxation, and shall certify and deliver one copy of such corrected lists to the county treasurer. The copies prepared by the auditor shall constitute the auditor's general tax list and treasurer's general duplicate of personal property for the current year.

### **B. Procedures for Retaining an Exemption.**

OH ST § 5713.08

(A) The county auditor shall make a list of all real and personal property in his county, including money, credits, and investments in bonds, stocks, or otherwise, which is exempted from taxation. Such list shall show the name of the owner, the value of the property exempted, and a statement in brief form of the ground on which such exemption has been granted. It shall be corrected annually by adding thereto the items of property which have been exempted during the year, and by striking therefrom the items which in the opinion of the auditor have lost their right of exemption and which have been reentered on the taxable list. No additions shall be made to such exempt lists and no additional items of property shall be exempted from taxation without the consent of the tax commissioner as is provided for in section 5715.27 of the Revised Code, but when any personal property or endowment fund of an institution has once been held by the commissioner to be properly exempt from taxation, it is not necessary to obtain the commissioner's consent to the exemption of additional property or investments of the same kind belonging to the same institution, but such property shall appear on the

abstract filed annually with the commissioner. The commissioner may revise at any time the list in every county so that no property is improperly or illegally exempted from taxation. The auditor shall follow the orders of the commissioner given under this section. An abstract of such list shall be filed annually with the commissioner, on a form approved by him, and a copy thereof shall be kept on file in the office of each auditor for public inspection.

The commissioner shall not consider an application for exemption of property unless the application has attached thereto a certificate executed by the county treasurer certifying either of the following:

- (1) That all taxes, assessments, interest, and penalties levied and assessed against the property sought to be exempted have been paid in full to the date upon which the application for exemption is filed, except for such taxes, interest, and penalties that may be remitted under division (B) of this section; or
  - (2) That the applicant has entered into a valid undertaking with the county treasurer pursuant to division (A) of section 323.31 of the Revised Code to pay all of the delinquent taxes, assessments, interest, and penalties charged against the property, except for such taxes, interest, and penalties that may be remitted under division (B) of this section. If the auditor receives notice under section 323.31 of the Revised Code that such a written undertaking has become void, he shall strike such property from the list of exempted property and reenter such property on the taxable list. If property is removed from the exempt list because a written undertaking has become void, current taxes shall first be extended against that property on the general tax list and duplicate of real and public utility property for the tax year in which the auditor receives the notice required by division (A) of section 323.31 of the Revised Code that the undertaking has become void or, if that notice is not timely made, for the tax year in which falls the latest date by which the treasurer is required by such section to give such notice. A county auditor shall not remove from any tax list and duplicate the amount of any unpaid delinquent taxes, assessments, interest, or penalties owed on property that is placed on the exempt list pursuant to this division.
- (B) Any taxes, interest, and penalties which have become a lien after the property was first used for the exempt purpose, but in no case prior to the date of acquisition of the title to the property by the applicant, may be remitted by the commissioner, except as is provided in section 5713.081 of the Revised Code.
- (C) Real property acquired by the state in fee simple is exempt from taxation from the date of acquisition of title or date of possession, whichever is the earlier date, provided that all taxes, interest, and penalties as provided in the apportionment provisions of section 319.20 of the Revised Code have been paid to the date of acquisition of title or date of possession by the state, whichever is earlier. The proportionate amount of taxes that are a lien but not yet determined, assessed, and levied for the year in which the property is acquired, shall be remitted by the county auditor for the balance of the year from date of acquisition of title or date of possession, whichever is earlier. This section shall not be construed to authorize the exemption of such property from taxation or the remission of taxes, interest, and penalties thereon until all private use has terminated.

### **C. Annual Certification.**

#### **OH ST § 5711.02**

Except as otherwise provided by section 5711.13 of the Revised Code, each taxpayer shall make a return, annually, to the county auditor of each county in which any taxable property, which the taxpayer must return, is required by this chapter to be listed and shall truly and correctly list therein all taxable property so required to be listed, including property exempt under division (C)(3) of section 5709.01 of the Revised Code. Such returns shall be made on the blanks prescribed by the tax commissioner, which the auditor shall supply at his office along with blanks of the kind required for the county supplemental return required by section 5711.131 of the Revised Code for the use of taxpayers. The auditor shall mail or distribute such blanks prior to the fifteenth day of February to all persons known to him to be taxpayers and to all persons to whom the commissioner may direct blanks of either type to be mailed or distributed, and he may place listing and county supplemental blanks at convenient places in his county. The failure of a taxpayer to receive or procure blanks shall not excuse him from making any return or county supplemental return. The individual required to make the return shall furnish all statements and documents, give all information required, answer all questions asked on the required blanks, and subscribe to the truth and correctness of all matters contained therein.

#### **OH ST § 5711.27**

No taxpayer shall fail to make a return within the time prescribed by law, or as extended pursuant to section 5711.04 of the Revised Code, nor fail to list in a return or disclose on an accompanying balance sheet or in other information filed with the return any item of taxable property which he is required by sections 5711.01 to 5711.36 of the Revised Code, to list therein.

If any taxpayer does so fail the following shall apply:

(A) In the case of a taxpayer who fails to make a timely return, the assessor shall add to the taxpayer's assessment as a penalty, one-half of the taxpayer's taxable value that is exempt from taxation under division (C)(3) of section 5709.01 of the Revised Code. If the taxpayer's taxable value that is exempt from taxation under division (C)(3) of section 5709.01 of the Revised Code is located in more than one taxing district, the penalty assessment shall be applied among taxing districts as if only five thousand dollars, or one-half of the taxpayer's taxable valuation, whichever is less, had been exempt from taxation under such division.

(B) In the case of a taxpayer who fails to make a timely return, or fails to list or disclose any item he is required to return, the assessor shall add to the assessment of each class or item of taxable property which the taxpayer failed to return, list or disclose and to any amount added under division (A) of this section, a penalty of up to fifty per cent thereof; but if such taxpayer makes, within sixty days after the expiration of the time prescribed by such sections, a return or an amended or supplementary return and lists therein or discloses on an accompanying balance sheet or in other information filed with the return all items of taxable property which he is required by such sections to list, and in all cases

in which the taxpayer's only default is his failure to pay the amounts specified in section 5719.02 of the Revised Code within the time therein specified, such penalty shall be five per cent of the assessment, and, if the assessment certificate has been issued, an amended assessment certificate shall be issued and substituted therefor.

Either or both of the penalties provided in this section may be abated in whole or in part by the assessor when it is shown that such failure is due to reasonable cause. The penalty assessment shall be entered on the proper tax list and duplicate, and taxes shall be levied thereon the same as on the assessment itself.

If any taxpayer does so fail with respect to a return required to be filed for tax year 1982 or any prior year, the assessor shall add to the assessment of each class or item of taxable property which the taxpayer failed to return, list or disclose in addition to the penalties provided by law, an additional charge at the rate of one-half of one per cent per month from the date such property should have been returned or disclosed until the same is assessed, provided that said additional charge shall not be added to an assessment for any period of time in excess of ten years previous to the date of the assessment.

A fiduciary against whom a penalty assessment is made shall be personally liable for the amount of taxes levied in respect to such penalty assessment and any additional charge, and in case of fraud or intent to evade taxes, such fiduciary shall have no right of reimbursement against the property held by him as such fiduciary nor against the person for whose benefit the same is held.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found requiring that leases or agreements be filed with the tax assessment board.

#### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found to require notification after change in use except that which can be inferred from the omitted property statutes. See omitted property section.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

OH ST § 319.35

From time to time the county auditor shall correct all clerical errors the auditor discovers in the tax lists and duplicates in the name of the person charged with taxes or assessments, the description of lands or other property, the valuation or assessment of property or when property exempt from taxation has been charged with tax, or in the amount of such taxes or assessment, and shall correct the valuations or assessments on the tax lists and duplicates agreeably to amended, supplementary, or final assessment certificates. If the correction is made after a duplicate is delivered to the county treasurer, it shall be made on the margin of such list and duplicate without changing any name, description, or figure in the duplicate, as delivered, or in the original tax list, which shall

always correspond exactly with each other.

## **B. Removal of Exemptions.**

Exemptions are removed when annual assessments prove that the exemption is no longer valid or when the property changes hands and no new petition for exemption is filed.

## **C. Assessment of Omitted Property.**

### OH ST § 319.40

When the county auditor is satisfied that lots or lands on the tax list or duplicate have not been charged with either the county, township, municipal corporation, or school district tax, he shall charge against it all such omitted tax for the preceding years, not exceeding five years, unless in the meantime such lands or lots have changed ownership, in which case only the taxes chargeable since the last change of ownership shall be so charged.

### OH ST § 5713.20

If the county auditor discovers that any building, structure, or tract of land or any lot or part of either, has been omitted from the list of real property, he shall add it to the list, with the name of the owner, and ascertain the taxable value thereof and place it opposite such property. The county auditor shall compute the sum of the simple taxes for the preceding years in which such property was omitted from the list of real property, not exceeding five years, unless in the meantime the property has changed ownership, in which case only the taxes chargeable since the last change of ownership shall be computed. No penalty or interest shall be added to the amount of taxes so computed.

The county auditor shall order the county treasurer to correct the duplicate of real property accordingly, and shall certify to the county treasurer the sum of taxes determined by the county auditor under this section to be due on the omitted property.

The county treasurer thereupon shall notify the owner by certified mail, return receipt requested, of the sum of taxes due, and inform the owner that he may enter into a written undertaking with the county treasurer to pay the taxes in installments, or that the owner, if he desires, may pay the amount of such taxes into the county treasury.

A written undertaking entered into under this section for the payment of taxes in installments shall require that the installments be payable at the times and in the amounts specified by the county treasurer in the undertaking. The owner may request, and the treasurer shall allow, an undertaking providing for payment in installments over no fewer than two years; however, the treasurer shall not permit an undertaking to provide for payment in installments over more than five years. Each installment payment shall be apportioned among the several funds for which the taxes on the omitted property would have been assessed had the property not been omitted, and shall be applied to the items of taxes charged in the order in which they became due. If an installment payment is not received by the county treasurer when due, the undertaking becomes void, and the county treasurer shall order payment of the entire outstanding balance of taxes determined to be due under this section in one lump sum payment.

See also, section on annual certification.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

### **OH ST § 5717.01**

An appeal from a decision of a county board of revision may be taken to the board of tax appeals within thirty days after notice of the decision of the county board of revision is mailed as provided in section 5715.20 of the Revised Code. Such an appeal may be taken by the county auditor, the tax commissioner, or any board, legislative authority, public official, or taxpayer authorized by section 5715.19 of the Revised Code to file complaints against valuations or assessments with the auditor. Such appeal shall be taken by the filing of a notice of appeal, either in person or by certified mail, with the board of tax appeals and with the county board of revision. If notice of appeal is filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal employee to whom the notice of appeal is presented shall be treated as the date of filing. Upon receipt of such notice of appeal such county board of revision shall by certified mail notify all persons thereof who were parties to the proceeding before such county board of revision, and shall file proof of such notice with the board of tax appeals. The county board of revision shall thereupon certify to the board of tax appeals a transcript of the record of the proceedings of the county board of revision pertaining to the original complaint, and all evidence offered in connection therewith. Such appeal may be heard by the board of tax appeals at its offices in Columbus or in the county where the property is listed for taxation, or the board of tax appeals may cause its examiners to conduct such hearing and to report to it their findings for affirmation or rejection. The board of tax appeals may order the appeal to be heard on the record and the evidence certified to it by the county board of revision, or it may order the hearing of additional evidence, and it may make such investigation concerning the appeal as it deems proper.

### **OH ST § 5717.02 – 5717.05**

These sections allow for additional appeals from the tax assessment by the board all the way up to the Supreme Court of the state of Ohio.

## OKLAHOMA

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

OK CONST Art. 10, s 6

(a) Except as otherwise provided in subsection (b) of this section, all property used for free public libraries, free museums, public cemeteries, property used exclusively for nonprofit schools and colleges, and all property used exclusively for religious and charitable purposes, and all property of the United States except property for which a federal agency obtains title through foreclosure, voluntary or involuntary liquidation or bankruptcy unless the taxation of such property is prohibited by federal law; all property of this state, and of counties and of municipalities of this state; household goods of the heads of families, tools, implements, and livestock employed in the support of the family, not exceeding One Hundred Dollars (\$100.00) in value, and all growing crops, shall be exempt from taxation: Provided, that all property not herein specified now exempt from taxation under the laws of the Territory of Oklahoma, shall be exempt from taxation until otherwise provided by law.

All property owned by the Murrow Indian Orphan Home, located in Coal County, and all property owned by the Whitaker Orphan Home, located in Mayes County, so long as the same shall be used exclusively as free homes or schools for orphan children, and for poor and indigent persons, and all fraternal orphan homes, and other orphan homes, together with all their charitable funds, shall be exempt from taxation, and such property as may be exempt by reason of treaty stipulations, existing between the Indians and the United States government, or by federal laws, during the force and effect of such treaties or federal laws. The Legislature may authorize any incorporated city or town, by a majority vote of its electors voting thereon, to exempt manufacturing establishments and public utilities from municipal taxation, for a period not exceeding five (5) years, as an inducement to their location.

OK ST T. 8 s 7

All the property of every such benevolent corporation, and the lots sold by it to individual proprietors, shall be exempt from taxation, assessment, lien, attachment, and from levy and sale upon execution; and all such real property shall be exempt from appropriation for streets, roads, or any other public uses or purposes.

OK ST T. 63 s 1066

The property and funds of a housing authority are declared to be used for charitable purposes and to be public property used for essential public and governmental purposes, and such property and the authority are exempt from all taxes, including sales and use taxes and special assessments of the state or any state or local public body. In lieu of taxes on its property an authority shall agree to make such payments to the state or any state or local public body as the governing body of the city or county finds consistent with the maintenance of the low-rent character of housing projects and the achievement of the purposes of this act, provided that not less than one-half (1/2) of the annual amount of such payment in lieu of taxes shall be paid to the school district within which the

property of the housing authority is located. The amount of money collected under the provisions of this act shall not be considered as chargeable income to the district receiving such funds. The tax exemption provided by this section does not apply to any portion of a project used by a profit-making enterprise, but in taxing such portions appropriate allowance shall be made for any expenditure by an authority for utilities or other public services which it provides to serve the property.

OK ST T. 68 s 2887

The following property shall be exempt from ad valorem taxation:

1. All property of the United States, and such property as may be exempt by reason of treaty stipulations existing at statehood between the Indians and the United States government, or by reason of federal laws in effect at statehood, during the time such treaties or federal laws are in force and effect. In instances where a federal agency has obtained title to property through foreclosure, voluntary or involuntary liquidation or bankruptcy, which was previously subject to ad valorem taxation, the property may continue to be assessed for ad valorem taxes if such federal agency has agreed to pay such taxes;
2. All property of this state, and of the counties, school districts, and municipalities of this state, including property acquired for the use of such entities pursuant to the terms of a lease-purchase agreement which provides for the passage of title or the release of security interest, if applicable, upon payment of all rental payments and an additional nominal amount;
3. All property of any college or school, provided such property is devoted exclusively and directly to the appropriate objects of such college or school within this state and all property used exclusively for nonprofit schools and colleges;
4. The books, papers, furniture and scientific or other apparatus pertaining to any institution, college or society referred to in paragraph 3 of this section, and devoted exclusively and directly for the purpose above contemplated, and the like property of students in any such institution or college, while such property is used for the purpose of their education;
5. All fraternal orphan homes and other orphan homes;
6. All property used for free public libraries, free museums, public cemeteries, or free public schools;
7. All property used exclusively and directly for fraternal or religious purposes within this state. For purposes of administering the exemption authorized by this section and in order to determine whether a single family residential property is used exclusively and directly for fraternal or religious purposes, the fair cash value of a single family residential property, for which an exemption is claimed as authorized by this subsection, in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) for the applicable assessment year shall not be exempt from taxation;
8. All property of any charitable institution organized or chartered under the laws of this state as a nonprofit or charitable institution, provided the net income from such property is used exclusively within this state for charitable purposes and no part of such income inures to the benefit of any private stockholder;
9. All property used exclusively and directly for charitable purposes within this state, provided the charity using said property does not pay any rent or remuneration to the

owner thereof unless the owner is a charitable institution described in Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), or a veterans' organization described in Section 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(19);

10. All property of any hospital established, organized and operated by any person, partnership, association, organization, trust, or corporation, as a nonprofit and charitable hospital, provided the property and net income from such hospital are used directly, solely, and exclusively within this state for charitable purposes and that no part of such income shall inure to the benefit of any individual, person, partner, shareholder, or stockholder, and provided further that such hospital facilities shall be open to the public without discrimination as to race, color or creed and regardless of ability to pay, and that such hospital is licensed and otherwise complies with the laws of this state relating to the licensing and regulation of hospitals;

11. All libraries and office equipment of ministers of the Gospel actively engaged in ministerial work in the State of Oklahoma, where said libraries and office equipment are being used by said ministers in their ministerial work, shall be deemed to be used exclusively for religious purposes and are declared to be within the meaning of the term "religious purposes" as used in Article X, Section 6 of the Constitution of the State of Oklahoma.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Statutes exempting property from taxation are to be strictly construed against exemptions. *London Square Village, Inc. v. Oklahoma County Equalization and Excise Bd., Okla.*, 559 P.2d 1224 (1976).

### **B. Partial Exemptions.**

OK ST T. 63 s 1066

The tax exemption provided by this section does not apply to any portion of a project used by a profit-making enterprise, but in taxing such portions appropriate allowance shall be made for any expenditure by an authority for utilities or other public services which it provides to serve the property.

Opinion of Supreme Court changing its previous construction of this section so as to render property used partly for exempt purposes and partly for nonexempt purposes proportionately exempt from and subject to ad valorem taxation, and overruling prior decisions entirely exempting from taxation property income from which is used for such purposes operates, prospectively only, so as to make such property subject to ad valorem taxation and assessment therefor only in future years. *Board of Equalization of Tulsa County v. Tulsa Pythian Benev. Ass'n of Tulsa, Okla.*, 195 Okla. 458, 158 P.2d 904 (1945).

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when a taxpayer files the appropriate paper work and the tax assessor determines that the property meets the criteria for an exemption.

### **B. Procedures for Retaining an Exemption.**

No statutes were found outlining how to apply for an exemption. The closest statute found was OK ST T. 68 s 2892 which outlined how to apply for a homestead exemption not a charitable property tax exemption.

### **C. Annual Certification.**

OK ST T. 18 s 552.5

A. Every charitable organization subject to the provisions of this act [FN1] which has received contributions during the previous calendar year shall file a statement with the Secretary of State, executed and signed by a party duly authorized to act on behalf of the charitable organization, which contains the most recent information, as follows:

1. The name, street address, and telephone number of the charitable organization;
2. The gross amount of the contributions pledged or collected;
3. The gross amount given or to be given to the charitable purpose represented;
4. The aggregate amount paid and to be paid for the expenses of solicitation; and
5. The aggregate amount paid to and to be paid to professional fundraisers and solicitors.

B. The financial statement prescribed in subsection A of this section shall be submitted with the initial registration, and with each annual renewal, thereafter.

### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found that requires copies of leases or agreements be filed.

### **E. Notification Requirements After Change in Use or Ownership.**

OK ST T. 68 s 2817

E. The transfer of real property without a change in its use classification shall not require a reassessment thereof based exclusively upon the sale value of the property. However, if the county assessor determines:

1. That by reason of the transfer of a property there is a change in the actual use or classification of the property; or
2. That by reason of the amount of the sales consideration it is obvious that the use classification prior to the transfer of the property is not commensurate with and would not justify the amount of the sales consideration of the property;

then the assessor shall, in either event, reassess the property for the new use classification for which the property is being used, or, the highest and best use classification for which

the property may, by reason of the transfer, be classified for use.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

OK ST T. 68 s 2817

A. All taxable personal property, except intangible personal property, personal property exempt from ad valorem taxation, or household personal property, shall be listed and assessed each year at its fair cash value, estimated at the price it would bring at a fair voluntary sale, as of January 1.

The Ad Valorem Division of the Tax Commission shall be responsible for the promulgation of rules which shall be followed by each county assessor of the state, for the purposes of providing for the equitable use valuation of locally assessed real property in this state. Agricultural land and nonresidential improvements necessary or convenient for agricultural purposes shall be assessed for ad valorem taxation based upon the highest and best use for which the property was actually used, or was previously classified for use, during the calendar year next preceding January 1 on which the assessment is made.

F. When the term "fair cash value" or the language "fair cash value, estimated at the price it would bring at a fair voluntary sale" is used in the Ad Valorem Tax Code, in connection with and in relation to the assessment of real property, it is defined to mean and shall be given the meaning ascribed and assigned to it in this section and when the term or language is used in the Code in connection with the assessment of personal property it shall be given its ordinary or literal meaning.

H. If any real property shall become taxable after January 1 of any year, the county assessor shall assess the same and place it upon the tax rolls for the next ensuing year. When any building is constructed upon land after January 1 of any year, the value of the building shall be added by the county assessor to the assessed valuation of the land upon which the building is constructed at the fair cash value thereof for the next ensuing year. However, the building shall be deemed to have a value for assessment purposes of the fair cash value of the materials used in such building only, until the building and the land on which the building is located shall have been conveyed to a bona fide purchaser or shall have been occupied or used for any purpose other than as a sales office by the owner thereof, or shall have been leased, whichever event shall first occur. The county assessor shall continue to assess the building based upon the fair market value of the materials used therein until the building and land upon which the building is located shall have been conveyed to a bona fide purchaser or is occupied or used for any purpose other than as a sales office by the owner thereof, or is leased, whichever event shall first occur. However, the fair cash value of a lot in any platted addition or a subdivision in a city, town or county zoned for residential, commercial, industrial or other use shall be deemed to be the total purchase price paid by the developer of the addition or subdivision for the land comprising the platted addition or subdivision divided by the number of lots contained in the addition or subdivision until the lot with building or buildings located thereon shall have been conveyed to a bona fide purchaser or shall have been occupied other than as a sales office by the owner thereof, or shall have been leased, whichever

event shall first occur. The cost of any land or improvements to any real property required to be dedicated to public use, including, but not limited to, streets, curbs, gutters, sidewalks, storm or sanitary sewers, utilities, detention or retention ponds, easements, parks or reserves shall not be utilized by the county assessor in the valuation of any real property for assessment purposes.

### **B. Removal of Exemptions.**

An exemption is removed when the tax assessor determines that the property no longer merits the tax exemption. An exemption is also lost when the tax payer fails to file the appropriate paper work.

### **C. Assessment of Omitted Property.**

OK ST T. 68 s 2844

A. If any real, personal, railroad, air carrier or public service corporation property is omitted in the assessment of any prior year or years, and the property thereby escapes just and proper taxation, at any time and as soon as such omission is discovered, the county assessor or the county board of equalization, or the State Board of Equalization in the case of public service corporation property or railroad and air carrier property, whose duty it is to assess the class of property which has been omitted, shall at any time cause such property to be entered on the assessment rolls and tax rolls for the year or years omitted, not to exceed the last fifteen (15) years as to real property and the last three (3) years as to personal property, and shall, after reasonable notice to the parties affected, in order that they be heard, assess such omitted property for said periods and cause to be extended against the same on the tax rolls for the current year all arrearage of taxes properly accruing against it, including therein interest thereon at the rate of twelve percent (12%) per annum from the time such tax should have become delinquent.

B. If any tax on property subject to taxation is prevented from being collected for any year or years by reason of any erroneous proceedings, or failure to give notice, or otherwise, the amount of such tax which such property should have paid or should have been paid thereon shall be added to the tax on such property for the current year, and if for want of sufficient time or for any cause such assessment cannot be entered, and the tax thereon extended on the tax rolls for the current year, the same shall be done the following year.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

OK ST T. 68 s 2885

A. The proceedings before the county assessor, boards of equalization and appeals therefrom shall be the sole method by which assessments or equalizations shall be corrected or taxes abated. Equitable remedies shall be resorted to only where the aggrieved party has no taxable property within the tax district of which complaint is made.

B. Appeals taken from all boards of equalization shall have precedence in the court to

which they are taken.

OK ST T. 68 s 2877

A. Upon receipt of an appeal from action by the county assessor the secretary of the county board of equalization shall fix a date of hearing, at which time said board shall be authorized and empowered to take evidence pertinent to said appeal; and for that purpose, is authorized to compel the attendance of witnesses and the production of books, records, and papers by subpoena, and to confirm, correct, or adjust the valuation of real or personal property or to cancel an assessment of personal property added by the assessor not listed by the taxpayer if the personal property is not subject to taxation or if the taxpayer is not responsible for payment of ad valorem taxes upon such property. The secretary of the board shall fix the dates of the hearings provided for in this section in such a manner as to ensure that the board is able to hear all complaints within the time provided for by law. The county board of equalization shall be required to follow the procedures prescribed by the Ad Valorem Tax Code or administrative rules and regulations promulgated pursuant to such Code governing the valuation of real and personal property. The county board of equalization shall not modify a valuation of real or personal property as established by the county assessor unless such modification is explained in writing upon a form prescribed by the Oklahoma Tax Commission. Each decision of the county board of equalization shall be explained in writing upon a form prescribed by the Oklahoma Tax Commission. The county board of equalization shall make a record of each proceeding involving an appeal from action by the county assessor either in transcribed or tape recorded form.

B. In all cases where the county assessor has, without giving the notice required by law, increased the valuation of property as listed by the taxpayer, and the taxpayer has knowledge of such adjustment or addition, the taxpayer may at any time prior to the adjournment of the board, file an appeal in the form and manner provided for in Section 2876 of this title. Thereafter, the board shall fix a date of hearing, notify the taxpayer, and conduct the hearing as required by this section.

## OREGON

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

#### OR ST s 307.115

(1) Subject to approval by the appropriate granting authority under subsection (4) of this section, the following real or personal property owned or being purchased under contract by any nonprofit corporation meeting the requirements of subsection (2) of this section shall be exempt from taxation:

(a) The real or personal property, or proportion thereof, as is actually and exclusively occupied or used for public park or public recreation purposes.

(b) The real or personal property, or proportion thereof, as is held for public parks or public recreation purposes if the property is not used for the production of income, for investment, or for any trade or business or commercial purpose, or for the benefit or enjoyment of any private stockholder or individual, but only if the articles of incorporation of the nonprofit corporation prohibit use of property owned or otherwise held by the corporation, or of proceeds derived from the sale of that property, except for public park or public recreation purposes.

(2) Any nonprofit corporation shall meet the following requirements:

(a) The corporation shall be organized for the principal purpose of maintaining and operating a public park and public recreation facility or acquiring interest in land for development for public parks or public recreation purposes;

(b) No part of the net earnings of the corporation shall inure to the benefit of any private stockholder or individual; and

(c) Upon liquidation, the assets of the corporation shall be applied first in payment of all outstanding obligations, and the balance remaining, if any, in cash and in kind, shall be distributed to the State of Oregon or to one or more of its political subdivisions for public parks or public recreation purposes.

#### OR ST s 307.130

(1) Upon compliance with ORS 307.162, the following property owned or being purchased by art museums or incorporated literary, benevolent, charitable and scientific institutions shall be exempt from taxation:

(a) Except as provided in ORS 748.414, only such real or personal property, or proportion thereof, as is actually and exclusively occupied or used in the literary, benevolent, charitable or scientific work carried on by such institutions.

(b) Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for no fewer than 355 days during the tax year.

(c) All real or personal property of a rehabilitation facility or any retail outlet thereof, including inventory. As used in this subsection, "rehabilitation facility" means either those facilities defined in ORS 344.710 or facilities which provide physically, mentally or emotionally disabled individuals with occupational rehabilitation activities of an educational or therapeutic nature, even if remuneration is received by the individual.

(d) All real and personal property of a retail store dealing exclusively in donated

- inventory, where the inventory is distributed without cost as part of a welfare program or where the proceeds of the sale of any inventory sold to the general public are used to support a welfare program. As used in this subsection, "welfare program" means the providing of food, shelter, clothing or health care, including dental service, to needy persons without charge.
- (e) All real and personal property of a retail store if:
    - (A) The retail store deals primarily and on a regular basis in donated and consigned inventory;
    - (B) The individuals who operate the retail store are all individuals who work as volunteers; and
    - (C) The inventory is either distributed without charge as part of a welfare program, or sold to the general public and the sales proceeds used exclusively to support a welfare program. As used in this paragraph, "primarily" means at least one-half of the inventory.
  - (f) The real and personal property of an art museum that is used in conjunction with the public display of works of art or used to educate the public about art, but not including any portion of the art museum's real or personal property that is used to sell, or hold out for sale, works of art, reproductions of works of art or other items to be sold to the public.
- (2) An art museum or institution shall not be deprived of an exemption under this section solely because its primary source of funding is from one or more governmental entities.
  - (3) An institution shall not be deprived of an exemption under this section because its purpose or the use of its property is not limited to relieving pain, alleviating disease or removing constraints.
  - (4) As used in this section:
    - (a) "Art museum" means a nonprofit corporation organized to display works of art to the public.
    - (b) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, 1998.
    - (c) "Nonprofit corporation" means a corporation that:
      - (A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter 65; or
      - (B) Is organized and operated as described under section 501(c) of the Internal Revenue Code.

#### OR ST s 307.136

Upon compliance with ORS 307.162, the following property owned or being purchased by fraternal organizations shall be exempt from taxation:

- (1) All the real or personal property, or portion thereof, which is actually occupied or used in fraternal or lodge work or for entertainment and recreational purposes by one or more fraternal organizations, except that property or portions of property of a fraternal organization rented or leased by it at any time to other persons for sums greater than reasonable expenses for heat, light, water, janitorial services and supplies and facility repair and rehabilitation shall be subject to taxation.
- (2) Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for no fewer than 355 days during the tax year.

OR ST s 307.140

Upon compliance with ORS 307.162, the following property owned or being purchased by religious organizations shall be exempt from taxation:

(1) All houses of public worship and other additional buildings and property used solely for administration, education, literary, benevolent, charitable, entertainment and recreational purposes by religious organizations, the lots on which they are situated, and the pews, slips and furniture therein. However, any part of any house of public worship or other additional buildings or property which is kept or used as a store or shop or for any purpose other than those stated in this section shall be assessed and taxed the same as other taxable property.

(2) Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for no fewer than 355 days during the tax year.

(3) Land and the buildings thereon held or used solely for cemetery or crematory purposes, including any buildings solely used to store machinery or equipment used exclusively for maintenance of such lands.

OR ST s 307.150

(1) Upon compliance with ORS 307.162, the following property shall be exempt from taxation:

(a) All burial grounds, tombs and rights of burial, and all lands and the buildings thereon, not exceeding 30 acres, owned and actually occupied by any crematory association incorporated under the laws of this state, used for the sole purpose of a crematory and burial place to incinerate remains.

(b) All lands used or held exclusively for cemetery purposes, not exceeding 600 acres, owned and actually occupied by any cemetery association incorporated under the laws of this state.

(c) Any burial lots or space for burial of incinerate remains in buildings or grounds sold by a cemetery or crematory association which lots or space are used or held exclusively for burial purposes.

(d) Any buildings on land described in paragraph (a) or (b) of this subsection that are used to store machinery or equipment used exclusively for maintenance of burial grounds.

(e) All personal property used by a cemetery corporation or crematory corporation.

(2) The statement required under ORS 307.162 shall be filed by the cemetery or crematory association that owns or sells the property described in subsection (1) of this section.

(3) Any property exclusively occupied and used as a family burial ground is exempt from ad valorem taxation.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Statutes exempting property are strictly construed against the one claiming the exemption. *Ev. Lutheran Good Samaritan Soc. v. Dept. of Rev.*, 5 OTR 14 (1972), *aff'd* 263 Or 287, 502 P2d 251

### **B. Partial Exemptions.**

OR CONST Art. XI, s 11

(2) The maximum assessed value of property that is assessed under a partial exemption or special assessment law shall be determined by applying the percentage reduction of paragraph (a) and the limit of paragraph (b) of subsection (1) of this section, or if newly eligible for partial exemption or special assessment, using a ratio developed in a manner consistent with paragraph (c) of subsection (1) of this section to the property's partially exempt or specially assessed value in the manner provided by law. After disqualification from partial exemption or special assessment, any additional taxes authorized by law may be imposed, but in the aggregate may not exceed the amount that would have been imposed under this section had the property not been partially exempt or specially assessed for the years for which the additional taxes are being collected.

OR ST s 307.115

(d) The granting authority may approve the application for exemption with respect to only part of the property which is the subject of the application. However, if any part of the application is denied, the applicant may withdraw the entire application.

Where evidence did not demonstrate which portion of entire parcel was devoted to exempt activities, no partial exemption could be allowed. *Golden Writ of God v. Dept. of Rev.*, 300 Or 479, 713 P2d 605 (1986)

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when the taxpayer files the appropriate paper work as required by the statute and that tax assessor approves the exemption requested.

### **B. Procedures for Retaining an Exemption.**

OR ST s 307.162

(1) Before any real or personal property may be exempted from taxation under ORS 307.115, 307.118, 307.130 to 307.140, 307.145, 307.147, 307.150, 307.160 or 307.580 for any tax year, the institution or organization claiming the exemption shall file with the county assessor, on or before April 1 of the assessment year, a statement verified by the

oath or affirmation of the president or other proper officer of the institution or organization, listing all real or personal property claimed to be exempt and showing the purpose for which such property is used. However:

(a) If the ownership of all property included in the statement filed with the county assessor for a prior year remains unchanged, a new statement shall not be required.

(b) When the property designated in the claim for exemption is acquired after March 1 and before July 1, the claim for that year shall be filed within 30 days from the date of acquisition of the property.

(c) As used in this subsection, "ownership" means legal and equitable title.

(2) Notwithstanding subsection (1) of this section, a statement may be filed under this section on or before December 31 of the assessment year for which exemption is first desired. However, any statement filed after the time for filing the statement specified in subsection (1) of this section must be accompanied by a late filing fee of the greater of \$200, or one-tenth of one percent of the assessed value of the property to which the statement pertains, as determined for the assessment year by the assessor for this purpose. If the statement is not accompanied by the late filing fee or if the late filing fee is not otherwise paid, no exemption shall be allowed for the tax year based upon a statement filed pursuant to this subsection. A statement may be filed under this section notwithstanding that there are no grounds for hardship as required for late filing under ORS 307.475. The value of the property used to determine the late filing fee under this section is appealable in the same manner as other acts of the county assessor. Any filing fee collected under this section shall be deposited to the county general fund.

(3) Additions or improvements to the exempt property.

(a) Notwithstanding subsection (1) of this section, if an institution or organization owns property that is exempt from taxation under a provision of law listed in subsection (1) of this section and fails to make a timely application for exemption under subsection (1) of this section for additions or improvements to the exempt property, the additions or improvements may nevertheless qualify for exemption.

(b) The organization must file an application with the county assessor to have the additions or improvements to the exempt property be exempt from taxation. The application shall:

(A) Describe the additions or improvements to the exempt property

(B) Describe the current use of the property that is the subject of the application;

(C) Identify the tax year and any preceding tax years for which the exemption is sought;

(D) Contain any other information required by the Department of Revenue; and

(E) Be accompanied by a late filing fee equal to the product of the number of tax years for which exemption is sought multiplied by the greater of \$200 or one-tenth of one percent of the real market value, as of the most recent assessment date, of the property that is the subject of the application.

(c) Upon the county assessor's receipt of a completed application and late filing fee, the assessor shall determine if the property that is the subject of the application, for each tax year for which exemption is sought, would have qualified

for exemption had a timely statement been filed under subsection (1) of this section. Any property that would have qualified for exemption had a timely statement under subsection (1) of this section been filed shall be exempt from taxation for each tax year for which the property would have so qualified.

(d) An application for exemption under this subsection may be filed only for tax years for which the time for filing a statement under subsections (1) and (2) of this section has expired. An application filed under this subsection, however, may serve as the statement required under subsection (1) of this section for the current assessment year.

(e) For each tax year for which an exemption granted pursuant to this subsection applies:

(A) Any tax, or interest attributable thereto, that was paid with respect to the property that is declared exempt from taxation, shall be refunded. Refunds shall be made from the unsegregated tax collections account established under ORS 311.385.

(B) Any tax, or interest attributable thereto, that remains unpaid as of the date the exemption is granted, shall be abated.

(f) A late filing fee collected under this subsection shall be deposited in the county general fund.

### **C. Annual Certification.**

OR ST s 307.115

(3) If any property which is exempt under this section subsequently becomes disqualified for such exemption or the exemption is not renewed as provided in subsection (4) of this section, it shall be added to the next general property tax roll for assessment and taxation in the manner provided by law.

(4) Application.

(a) Real or personal property shall not be exempt under this section except upon approval of the appropriate granting authority obtained in the manner provided under this subsection.

(b) Before any property shall be exempt under this section, on or before April 1 of any year the corporation owning or purchasing such property shall file an application for exemption with the county assessor. The provisions of ORS 307.162 shall apply as to the form, time and manner of application. Within 10 days of filing in the office of the assessor, the assessor shall refer each application for classification to the granting authority, which shall be the governing body of a county for property located outside the boundaries of a city and the governing body of the city for property located within the boundaries of the city. Within 60 days thereafter, the application shall be granted or denied and written notice given to the applicant and to the county assessor. In determining whether an application made for exemption under this section should be approved or disapproved, the granting authority shall weigh the benefits to the general welfare of granting the proposed exemption to the property which is the subject of the application against the potential loss in revenue which may result from granting the application.

(c) The granting authority shall not deny the application solely because of the

potential loss in revenue if the granting authority determines that granting the exemption to the property will:

- (A) Conserve or enhance natural or scenic resources;
  - (B) Protect air or streams or water supplies;
  - (C) Promote conservation of soils, wetlands, beaches or tidal marshes;
  - (D) Conserve landscaped areas which enhance the value of abutting or neighboring property;
  - (E) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, natural reservations, sanctuaries or other open spaces;
  - (F) Enhance recreation opportunities;
  - (G) Preserve historic sites;
  - (H) Promote orderly urban or suburban development;
  - (I) Promote the reservation of land for public parks, recreation or wildlife refuge purposes; or
  - (J) Affect any other factors relevant to the general welfare of preserving the current use of the property.
- (d) The granting authority may approve the application for exemption with respect to only part of the property which is the subject of the application. However, if any part of the application is denied, the applicant may withdraw the entire application.

(e) The exemption shall be granted for a 10-year period and may be renewed by the granting authority for additional periods of 10 years each at the expiration of the preceding period, upon the filing of a new application by the corporation with the county assessor on or before April 1 of the year following the 10th year of exemption. The assessor shall refer the application to the governing body as provided in paragraph (b) of this subsection, and within 30 days thereafter, the governing body shall determine if renewing the exemption will continue to serve one of the purposes of paragraph (c) of this subsection. Within 30 days after referral, written notice shall be given to the applicant and to the county assessor of the determination made by the governing body.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statutes were found that require copies of leases or agreements be filed.

#### **E. Notification Requirements After Change in Use or Ownership.**

OR ST s 307.162

(4) If an institution or organization owns property that is exempt from taxation under a provision of law listed in subsection (1) of this section and changes the use of the property to a use that would not entitle the property to exemption from taxation, the institution or organization shall notify the county assessor of the change to a taxable use within 30 days of the change in use.

## OR ST s 311.410

(1) Real property or personal property which is subject to taxation on July 1 shall remain taxable and taxes levied thereon for the ensuing tax year shall become due and payable, notwithstanding any subsequent transfer of the property to an exempt ownership or use. Taxes that are unpaid as of the termination of a lease, lease purchase agreement or other instrument resulting in the taxation of the property shall remain a lien on the property as of the day prior to the termination of the lease, lease purchase agreement or other instrument. Real or personal property exempt from taxation on July 1 shall remain exempt for the ensuing tax year, notwithstanding any transfer within such year to a taxable ownership or use.

(2) No sale or transfer of personal property or any part thereof shall affect the lien under ORS 311.405 (3)(a)(A). Taxes on personal property transferred from a tax exempt to a taxable ownership or use shall be a lien on any and all of the personal property assessed to the person and on any and all of the taxable personal property of the person assessed from and including the date of transfer until paid. Such liens shall be in all other respects subject to the provisions of this section and ORS 311.405 relating to liens on personal property.

(3) Real or personal property is exempt if it is transferred or changed from a taxable to an exempt ownership or use at any time before July 1 of any year. However, if such property is exempted under any provision of ORS 307.010 to 307.691, which requires the filing of a claim for exemption, the transfer shall not operate to render such property exempt from taxation for the ensuing tax year unless the required claim for exemption is filed on or before the date specified in the applicable statute or within 30 days after the date of acquisition or, if relevant under the applicable exemption statute, the change of use of the property, whichever is later. This section is not intended to limit other statutes that prescribe filing dates for claiming an exemption.

(4) Real property which is the subject of eminent domain proceedings instituted by a public body shall, for the purposes of this section, be deemed to have been transferred as of the date of payment therefore, the date of entry into possession by the public body or the date of entry of judgment in such proceedings, whichever is earlier.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

Exemptions are monitored by the board of assessors in manner described in the annual filing section and the procedures for retaining an exemption section.

### **B. Removal of Exemptions.**

An exemption is removed the tax assessor determines that the property no longer qualifies for the exemption or when the taxpayer fails to file the appropriate paper work.

### **C. Assessment of Omitted Property.**

OR ST s 311.223

(1) If the person or party notified as provided in ORS 311.219 does not appear or if the person or party appears and fails to show any good and sufficient cause why the assessment shall not be made, the assessor shall proceed to correct the assessment or tax roll or rolls from which the property was omitted. The assessor shall add the property thereto, with the proper valuation, and extend thereon taxes at the consolidated rate under ORS 310.147 that is applicable in the code area in which the property was located for each year as to which it was omitted. To carry out the correction of a tax roll or rolls the assessor shall send a written statement to the tax collector instructing the tax collector to make the necessary changes on the tax roll. The statement shall contain all of the information needed by the tax collector to make the changes in the roll and it shall be dated and signed by the assessor or the deputy of the assessor. The tax collector shall then correct the tax roll.

(2) Immediately after the assessor corrects the assessment or tax roll the assessor shall file in the office of the assessor a statement of the facts or evidence on which the assessor based the correction and notify the taxpayer by written notice, sent by certified mail to the taxpayer's last-known address, of the date and amount of the correction.

(3) To enable the assessor to comply with this subsection, the assessor is invested with all the powers of the county clerk under the law in force during the years for which correction may be made under ORS 311.216 to 311.232 and thereafter.

(4) Any person aggrieved by an assessment made under ORS 311.216 to 311.232 may appeal to the tax court within 90 days after the correction of the roll by giving notice to the assessor or the Department of Revenue, whichever is applicable, and otherwise proceeding in the manner provided for appeals from the board of property tax appeals. No appeal of the value assigned under this section may be made to the board of property tax appeals under ORS 309.100.

### **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

OR ST s 307.115

(5) Any nonprofit corporation aggrieved by the refusal of the granting authority to grant or renew an exemption under subsection (4) of this section may, within 60 days after written notice has been sent to the corporation, appeal from the determination of the granting authority to the Oregon Tax Court. The appeal should be perfected in the manner provided in ORS 305.560. The provisions of ORS 305.405 to 305.494 shall apply to the appeals.

## PENNSYLVANIA

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

#### 72 P.S. § 5020-204.

##### **Exemptions from taxation**

(a) The following property shall be exempt from all county, city, borough, town, township, road, poor and school tax, to wit:

(1) All churches, meeting-houses, or other actual places of regularly stated religious worship, with the ground thereto annexed necessary for the occupancy and enjoyment of the same;

(2) All actual places of burial, when used or held by a person or organization deriving no private or corporate profit therefrom and no substantial part of whose activity consists of selling personal property in connection therewith;

(3) All hospitals, universities, colleges, seminaries, academies, associations and institutions of learning, benevolence, or charity, including fire and rescue stations. Provided, That the entire revenue derived by the same be applied to the support and to increase the efficiency and facilities thereof;

(4) All schoolhouses belonging to any county, borough or school district, with the ground thereto annexed and necessary for the occupancy and enjoyment of the same;

(5) All courthouses, jails and poorhouses, with the ground thereto annexed and necessary for the occupancy and enjoyment of the same;

(6) All public parks when owned and held by trustees for the benefit of the public, and used for amusements, recreation, sports and other public purposes without profit;

(7) All other public property used for public purposes, with the ground thereto annexed and necessary for the occupancy and enjoyment of the same, but this shall not be construed to include property otherwise taxable which is owned or held by an agency of the Government of the United States;

(8) All real and personal property owned, occupied, and used by any branch, post or camp of honorably discharged servicemen or servicewomen and actually and regularly used for benevolent, charitable or patriotic purposes;

(9) All real property owned by one or more institutions of purely public charity, used and occupied partly by such owner or owners and partly by other institutions of purely public charity, and necessary for the occupancy and enjoyment of such institutions so using it;

(10) All playgrounds, with the equipments and grounds thereto annexed, necessary for the occupancy and enjoyment of the same, founded, endowed, or maintained by public or private charity;

(11) All buildings owned and occupied by free, public, nonsectarian libraries, and the land on which they stand and that which is immediately and necessarily appurtenant thereto. Provided, That the net receipts of such corporation or association from rentals shall be used solely for the purpose of maintaining the said library;

(12) All property, including buildings and the land reasonably necessary thereto, provided and maintained by public or private charity, and used exclusively for public libraries, museums, art galleries, or concert music halls, and not used for private or corporate profit, so long as the said public use continues: Provided, however, That in the case of concert music halls used partly for exempt purposes and partly for non-exempt purposes, that part measured either in area or in time, whichever is the lesser, which is used for non-exempt purposes, shall be valued, assessed and subject to taxation;

(13) All fire and rescue stations which are founded, endowed and maintained by public or private charity, together with the grounds thereto annexed and necessary for the occupancy and enjoyment of the same, and social halls and grounds owned and occupied by fire and rescue stations, used on a regular basis for activities which contribute to the support of fire and rescue stations: Provided, That the net receipts from such activities are used solely for the charitable purposes of the fire and rescue stations.

(b) Except as otherwise provided in clauses (11) and (13) of this section, all property real or personal, other than that which is actually and regularly used and occupied for the purposes specified in this section, and all such property from which any income or revenue is derived, other than from recipients of the bounty of the institution or charity, shall be subject to taxation, except where exempted by law for State purposes, and nothing herein contained shall exempt same therefrom.

(c) Except as otherwise provided in clause (10) of this section, all property, real and personal, actually and regularly used and occupied for the purposes specified in this section shall be subject to taxation, unless the person or persons, associations or corporation, so using and occupying the same, shall be seized of the legal or equitable title in the realty and possessor of the personal property absolutely.

(d) Each county, city, borough, incorporated town, township and school district may, by ordinance or resolution, exempt any person whose total income from all sources is less than five thousand dollars (\$5,000), per annum from its per capita, or similar head tax, occupation tax and occupational privilege tax or any portion thereof. Each taxing authority may adopt regulations for the processing of claims for the exemption.

**72 P.S. § 7204.**

**Exclusions from tax.**

The tax imposed by section 202 shall not be imposed upon:

(10) The sale at retail to or use by

(i) any charitable organization, volunteer firemen's organization or nonprofit educational institution, or

(ii) a religious organization for religious purposes of tangible personal property or services other than pursuant to a construction contract

Provided, however, That the exclusion of this clause shall not apply with respect to any tangible personal property or services used in any unrelated trade or business carried on by such organization or institution or with respect to any materials, supplies and equipment used and transferred to such organization or institution in the construction, reconstruction, remodeling, renovation, repairs and maintenance of any real estate structure, other than building machinery and equipment, except materials and supplies when purchased by such organizations or institutions for routine maintenance and repairs.

(49) The sale at retail or use of food and beverages by nonprofit associations which support sports programs. For purposes of this clause, the phrases:

(i) "nonprofit association" means an entity which is organized as a nonprofit corporation or nonprofit unincorporated association under the laws of this Commonwealth or the United States or any entity which is authorized to do business in this Commonwealth as a nonprofit corporation or unincorporated association under the laws of this Commonwealth, including, but not limited to, youth or athletic associations, volunteer fire, ambulance, religious, charitable, fraternal, veterans, civic, or any separately chartered auxiliary of the foregoing, if organized and operated on a nonprofit basis;

**PA CONST Art. 8, § 2.**

**Exemptions and special provisions**

(a) The General Assembly may by law exempt from taxation:

(i) Actual places of regularly stated religious worship;

(ii) Actual places of burial, when used or held by a person or organization deriving no private or corporate profit therefrom and no substantial part of whose activity consists of selling personal property in connection therewith;

(iii) That portion of public property which is actually and regularly used for public purposes;

(iv) That portion of the property owned and occupied by any branch, post or camp of honorably discharged servicemen or servicewomen which is actually and regularly used for benevolent, charitable or patriotic purposes; and

(v) Institutions of purely public charity, but in the case of any real property tax exemptions only that portion of real property of such institution which is actually and regularly used for the purposes of the institution.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

10 P.S. § 202. Charitable organization; definition

For purposes of this act, the term "charitable organization" means any corporation, trust, or other instrumentality governed by Pennsylvania law, including:

(1) any trust described in section 4947(a)(1) or (2) of the Internal Revenue Code of 1986, which is or is treated as a private foundation under section 509 of that code; or

(2) any trust governed by Pennsylvania law that is or is treated as a pooled income fund under section 642(c)(5) of that code.

### **26 U.S.C.A. § 4947.**

#### **Application of taxes to certain nonexempt trusts**

(a) Application of tax.--

(1) Charitable trusts.--For purposes of part II of subchapter F of chapter 1 (other than section 508(a), (b), and (c)) and for purposes of this chapter, a trust which is not exempt from taxation under section 501(a), all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 (or the corresponding provisions of prior law), shall be treated as an organization described in section 501(c)(3). For purposes of section 509(a)(3)(A), such a trust shall be treated as if organized on the day on which it first becomes subject to this paragraph.

(2) Split-interest trusts.--In the case of a trust which is not exempt from tax under section 501(a), not all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which has amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, section 507 (relating to termination of private foundation status), section 508(e) (relating to governing instruments) to the extent applicable to a trust described in this paragraph, section 4941 (relating to taxes on self-dealing), section 4943 (relating to taxes on excess business holdings) except as provided in subsection (b)(3), section 4944 (relating to investments which jeopardize charitable purpose) except as provided in subsection (b)(3), and section 4945 (relating to taxes on taxable expenditures) shall apply as if such trust were a private foundation. This paragraph shall not apply with respect to—

(A) any amounts payable under the terms of such trust to income beneficiaries, unless a deduction was allowed under section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B),

(B) any amounts in trust other than amounts for which a deduction was allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such other amounts are segregated from amounts for which no deduction was allowable, or

(C) any amounts transferred in trust before May 27, 1969.

## **26 U.S.C.A. 501**

### **Internal Revenue Code section 501:**

§ 501. Exemption from tax on corporations, certain trusts, etc.

(a) Exemption from taxation.--An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(c) List of exempt organizations.--The following organizations are referred to in subsection (a):

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

### **10 P.S. § 375. Criteria for institutions of purely public charity**

(a) General rule.--An institution of purely public charity is an institution which meets the criteria set forth in subsections (b), (c), (d), (e) and (f). An institution which meets the criteria specified in this section shall be considered to be founded, endowed and maintained by public or private charity.

(b) Charitable purpose.--The institution must advance a charitable purpose.

(c) Private profit motive.--The institution must operate entirely free from private profit motive.

(d) Community service.—

(1) The institution must donate or render gratuitously a substantial portion of its services.

(e) Charity to persons.--

(1) The institution must benefit a substantial and indefinite class of persons who are legitimate subjects of charity.

(f) Government service.--The institution must relieve the government of some of its burden.

#### **Qualifications:**

- the organization holding or leasing the property must advance a charitable purpose
- the organization must donate or render gratuitously a substantial portion of its services
- the organization must benefit a substantial and indefinite class of persons who are legitimate subjects of charity
- the organization must relieve the government of some of its burden in providing for the class of persons served by the organization

- the organization must operate entirely free from private profit motive

To receive charitable tax exemption, organization must first qualify as an institution of purely public charity. *Community General Osteopathic Hosp. v. Dauphin County Bd. of Assessment Appeals*, 706 A.2d 383, Cmwlt.1998, reargument denied.

Once entity seeking tax exemption establishes that it is a purely public charity within meaning of Constitution, it must also establish that it meets the statutory requirements to qualify for tax exemption. *Appeal of Northwestern Corp. from Dauphin County Bd. of Assessment Appeals*, 665 A.2d 856, Cmwlt.1995.

Institution qualifies for charitable exemption from real estate taxes if: (1) institution is one of purely public charity; (2) it has been founded by public or private charity; and (3) it is maintained by public or private charity. *Saint Joseph Hosp. v. Berks County Board of Assessment Appeals*, 709 A.2d 928, Cmwlt.1998.

In determining whether entity constitutes purely public charity exempt from property tax, courts consider whether entity (1) advances charitable purpose; (2) donates or renders gratuitously substantial portion of its services; (3) benefits substantial and indefinite class of persons who are legitimate subjects of charity; (4) relieves government of some of its burden; and (5) operates entirely free from private profit motive. *Mars Area School Dist. v. United Presbyterian Women's Ass'n of North America*, 721 A.2d 360, Sup.1998.

Since hospital qualified as purely public charity entitled to exemption from real estate taxes, physical therapy clinic that was not financially distinct from hospital was also exempt from real estate taxes. *Saint Joseph Hosp. v. Berks County Board of Assessment Appeals*, 709 A.2d 928, Cmwlt.1998.

## **B. Partial Exemptions.**

Partial exemptions are allowed under the statute. The qualifications for the exempt portion of the charitable organization are the same qualifications as for a full exemption. The level of taxation will be based on the portion of taxable property which is a part of the whole.

When the property of a charitable or religious institution is exempt in part only, the assessor, in the first instance, and then the board of revision, or the jury on appeal, should determine the value of the exempt and non-exempt portions, *American Sunday School Union v. Philadelphia*, 29 A. 26, 161 Pa. 307

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

Must meet criteria under 72 P.S. 5020-204 and 10 P.S. 375.

Pertinent texts printed above.

Qualifying as purely public charity does not by itself establish that applicant is eligible for charitable real estate tax exemption; rather, organization must also satisfy requirements of exemption statute. *Community General Osteopathic Hosp. v. Dauphin County Bd. of Assessment Appeals*, 706 A.2d 383, Cmwlt.1998, reargument denied.

## **B. Procedures for Retaining an Exemption.**

### **10 P.S. § 379.**

#### **Accountability and disclosure**

(a) Reporting.--An institution of purely public charity that does not register with the Department of State shall file an annual report with the bureau. The report shall be filed within 135 days after the close of the institution's fiscal year unless an extension is granted by the department. The report shall be in a format approved by the department and shall include:

- (1) A copy of the annual return filed or required to be filed with the Internal Revenue Service.
- (2) The date the institution of purely public charity was organized under applicable law.
- (3) Any revocation of tax-exempt status by the Internal Revenue Service.
- (4) The following information on each affiliate of the institution of purely public charity:
  - (i) The name and type of organization.
  - (ii) Whether the affiliate is organized on a for-profit or nonprofit basis.
  - (iii) The relationship of each affiliate to the institution of purely public charity making the report.
- (5) The relationship of the institution of purely public charity with any other nonprofit corporation or unincorporated association if the relationship involves formal governance or the sharing of revenue.

(b) Regulations.--The department shall promulgate regulations to require institutions of purely public charity which register under section 5 of the Solicitation of Funds for Charitable Purposes Act to include the information set forth in subsection (a).

(c) Amendments to annual returns.--An institution of purely public charity which files an amended annual return with the Internal Revenue Service shall file a copy of the amended annual return with the bureau within ten days of its filing with the Internal Revenue Service.

(d) Exemption from filing.--Each of the following institutions of purely public charity shall be exempt from the reporting requirements of this section:

- (1) A bona fide duly constituted religious institution and such separate groups or corporations which form an integral part of a religious institution and are exempt from filing an annual return pursuant to the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).
- (2) An institution of purely public charity which receives contributions of less than \$25,000 per year provided that the institution's program service revenue does not equal or

exceed \$5,000,000.

(e) Filing fee.--An institution of purely public charity which is required to file a report under subsection (a) shall pay an annual filing fee of \$15. All fees collected under this act and under the Solicitation of Funds for Charitable Purposes Act shall be deposited in the State Treasury. The amount of the filing fee under this subsection may be adjusted by the department by regulation. All fines, penalties, attorney fees and costs of investigation collected under this act and under the Solicitation of Funds for Charitable Purposes Act shall be paid as follows:

- (1) Amounts collected by the bureau shall be paid to the State Treasury.
- (2) Amounts collected by the action or litigation of another government agency shall be paid directly to that agency.

Charity qualifies for exemption from real estate taxes if: (1) institution is one of purely public charity; (2) it was founded by public or private charity; and (3) it is maintained by public or private charity. *Appeal of Community General Hosp.*, 708 A.2d 124, *Cmwlth.*1998.

Whether institution is purely public charity for purposes of receiving real property tax exemption is mixed question of law and fact on which trial court's decision is binding absent abuse of discretion or lack of supporting evidence. *Mars Area School Dist. v. United Presbyterian Women's Ass'n of North America*, 693 A.2d 1002, *Cmwlth.*1997, *appeal granted* 710 A.2d 1137, 551 Pa. 427, *affirmed* 721 A.2d 360.

### **C. Annual Certification.**

See Procedures for Retaining an Exemption.  
See also Monitoring Exemptions.

### **D. Obligation to File Copies of Lease or Agreements.**

No information was found to create an obligation to file copies of a lease or agreements.

### **E. Notification Requirements After Change in Use or Ownership.**

The only information found on notification of change in status or ownership is presented in the Procedures for Retaining an Exemption section above.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

#### **10 P.S. § 379.**

#### **Accountability and disclosure**

(g) Retention of records.--The department shall retain the reporting information required

by this section for three years from the date the reports are required to be filed.

(h) Utilization of reports.--The department shall make reports submitted under this section available for public inspection to the extent that the information is available for public inspection under section 6104 of the Internal Revenue Code of 1986 (26 U.S.C. § 6104). The department shall provide any government agency a copy of the report filed under this section upon request. Nothing in this subsection shall prevent a government agency from requiring any institution seeking exemption as an institution of purely public charity to provide the information described in subsection (a) to that agency as part of a determination of the tax-exempt status of the institution.

(i) Administrative penalty.--The department may impose an administrative penalty not to exceed \$500 for any of the following:

(1) Knowingly failing to file the report required by this section.

(2) Knowingly making a false statement which is material in a report required by this section.

### **10 P.S. § 376. Presumption process**

(a) Presumption determination.--An institution of purely public charity possessing a valid exemption from the tax imposed by Article II of the act of March 4, 1971 (P.L. 6, No. 2), [FN1] known as the Tax Reform Code of 1971, shall be entitled to assert a rebuttable presumption regarding that institution's compliance with the criteria set forth in section 5.

(b) Burden of proof.--If an institution of purely public charity asserts a presumption under subsection (a), a political subdivision challenging that institution before a government agency or court shall bear the burden, by a preponderance of the evidence, of proving that the institution of purely public charity does not comply with the requirements of section 5.

(c) Issuance of written order.--The department shall furnish a written order to any institution applying for exemption under section 204(10) of the Tax Reform Code of 1971 approving or denying the exemption. An order denying an exemption shall include specific information concerning that institution's failure to comply with at least one of the criteria under section 5.

### **B. Removal of Exemptions.**

Failure to follow retaining procedures will result in losing tax exempt status. An exemption can also be removed if it is successfully challenged by a taxpayer.

### **C. Assessment of Omitted Property.**

No information was found on this topic.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

### **10 P.S. § 376. Presumption process**

(b) Burden of proof.--If an institution of purely public charity asserts a presumption under subsection (a), a political subdivision challenging that institution before a government agency or court shall bear the burden, by a preponderance of the evidence, of proving that the institution of purely public charity does not comply with the requirements of section 5.

Provision exempting property from taxation as a charitable institution is subject to strict construction. *Wilson Area School Dist. v. Easton Hosp.*, 708 A.2d 835, *Cmwlth.*1998, *appeal granted in part* 713 A.2d 1143, 552 Pa. 200.

To qualify for tax exemption, owner of property for which exemption is sought must prove that property and its use were entirely within statutory exemption during entire tax year in question. *Appeal of Archdiocese of Philadelphia*, 617 A.2d 821, 151 Pa.*Cmwlth.* 480, *Cmwlth.*1992, *appeal withdrawn* 624 A.2d 112, 533 Pa. 653.

\* Some of the statutes included above have been edited to only include the applicable portions of the statute.

## **RHODE ISLAND**

### **WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?**

RI ST § 44-3-3

- (1) Property belonging to the state except as provided in section 44-4-4.1;
- (2) Lands ceded or belonging to the United States;
- (3) The bonds and other securities issued and exempted from taxation by the government of the United States, or of this state;
- (4) Real estate, used exclusively for military purposes, owned by chartered or incorporated organizations approved by the adjutant general, and composed members of the national guard, the naval militia, or the independent chartered military organizations;
- (5) Buildings for free public schools, buildings for religious worship, and the land upon which they stand and immediately surrounding them, to an extent not exceeding five (5) acres so far as the buildings and land are occupied and used exclusively for religious or educational purposes;
- (6) Dwellings houses and the land on which they stand, not exceeding one acre in size, or the minimum lot size for zone in which the dwelling house is located, whichever is the greater, owned by or held in trust for any religious organization and actually used by its officiating clergy, to an amount not exceeding one hundred fifty thousand dollars (\$150,000) for each house and land so owned and used except in Bristol where the property described above shall be exempt to an amount not exceeding five hundred thousand dollars (\$500,000) provided also, dwelling houses and the land on which they stand in Bristol, not exceeding one acre in size, or the minimum lot size for zone in which the dwelling house is located, whichever is the greater, owned by or held in trust for any religious organization and actually used as a convent or nunnery by its religious order, to an amount not exceeding five hundred thousand dollars (\$500,000) for each house and land so owned and used;
- (7) The intangible personal property owned by, or held in trust for, any religious or charitable organization, if the principal or income shall be used or appropriated for religious or charitable purposes;
- (8) The buildings and personal estate owned by any corporation used for a school, academy, or seminary of learning, and of any incorporated public charitable institution, and the land upon which the buildings stand and immediately surrounding them to an extent not exceeding one acre, so far as they are used exclusively for educational purposes, but no property or estate whatever shall hereafter be exempt from taxation in any case where any part of the income or profits thereof or of the business carried on thereon is divided among its owners or stockholders;
- (9) The estates, persons, and families of the president and professors for the time being of Brown University for not more than ten thousand dollars (\$10,000) for each officer, the officer's estate, person, and family included, but only to the extent that any person had claimed and utilized the exemption prior to, and for a period ending either on or after December 31, 1996;
- (10) Property especially exempt by charter unless the exemption shall have been waived in whole or in part;

- (11) Lots of land used exclusively for burial grounds;
- (12) The property, real and personal, held for or by an incorporated library, society, or any free public library, or any free public library society, so far as the property shall be held exclusively for library purposes, or for the aid or support of the aged poor, or for the aid or support of poor friendless children, or for the aid or support of the poor generally, or for a hospital for the sick or disabled;
- (13) The real or personal estate belonging to or held in trust for the benefit of incorporated organizations of veterans of any war in which the United States has been engaged, the parent body of which has been incorporated by act of congress, to the extent of two hundred and fifty thousand dollars (\$250,000) if actually used and occupied by the association; provided, however, that the city council of the city of Cranston may by ordinance exempt the real or personal estate as described above located within the city of Cranston to the extent of five hundred thousand dollars (\$500,000);
- (14) The property real and personal, held for or by the fraternal corporation, association, or body created to build and maintain a building or buildings for its meetings or the meetings of the general assembly of its members, or subordinate bodies of the fraternity, and for the accommodation of other fraternal bodies or associations, the entire net income of which real and personal property is exclusively applied or to be used to build, furnish, and maintain an asylum or asylums, a home or homes, a school or schools, for the free education or relief of the members of the fraternity, or the relief, support, and care of worthy and indigent members of the fraternity, their wives, widows, or orphans, and any fund given or held for the purpose of public education, almshouses, and the land and buildings used in connection therewith;
- (15) The real estate and personal property of any incorporated volunteer fire engine company in active service;
- (25) Subject to authorization by formal action of the council of any city or town, any real or personal property owned by, held in trust for, or leased to an organization incorporated under chapter 6 of title 7, as amended, or an organization meeting the definition of "charitable trust" set out in section 18-9-4, as amended, or an organization incorporated under the not for profits statutes of another state or the District of Columbia, the purpose of which is the conserving of open space, as that term is defined in title 45, chapter 36, as amended, provided the property is used exclusively for the purposes of the organization;
- (28) The real and personal property of Providence performing arts center, a Rhode Island non-business corporation as of December 31, 1986.
- (29) The tangible personal property owned by, and used exclusively for the purposes of, any religious organization located in the city of Cranston.

RI ST s 45-13-5.1

(a) In lieu of the amount of local real property tax on real property owned by any private nonprofit institution of higher education, or any nonprofit hospital facility, or any state owned and operated hospital, veterans' residential facility, or correctional facility occupied by more than 100 residents which may have been or will be exempted from taxation by applicable state law, exclusive of any such facility operated by the federal government, the state of Rhode Island, or any subdivision thereof, the general assembly shall annually appropriate for payment to the several cities and towns in which the property lies a sum equal to twenty-seven percent (27%) of all tax that would have been

collected had the property been taxable.

(b) As used in this section, "private nonprofit institution of higher education" means any institution engaged primarily in education beyond the high school level, the property of which is exempt from property tax under any of the subdivisions, and "nonprofit hospital facility" means any nonprofit hospital licensed by the state and which is used for the purpose of general medical, surgical, or psychiatric care and treatment.

(c) The grant payable to any municipality under the provision of this section shall be equal to twenty-seven percent (27%) of the property taxes which, except for any exemption to any institution of higher education or general hospital facility, would have been paid with respect to that exempt real property on the assessment list in the municipality for the assessment date of December 31, 1986 and with respect to such exempt real property appearing on an assessment list in the municipality on succeeding assessment dates.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Laws exempting property from taxation are to be strictly construed. *Woonsocket Hosp. v. Quinn*, 54 R.I. 424, 173 A. 550 (1934); *Knights of Columbus Bldg. Ass'n v. Gorham*, 67 R.I. 423, 24 A.2d 899 (1942).

If doubt or ambiguity exists in a statute granting a tax exemption, such doubt must be resolved in favor of taxation. *City of Providence v. Killoran*, 447 A.2d 369 (R.I. 1982).

### **B. Partial Exemptions.**

Building used partly as a residence for teachers was not exempt as an educational building. *In re Pawtucket*, 24 R.I. 86, 52 A. 679 (1902); *Sisterhood of the Holy Nativity v. Tax Assessors*, 73 R.I. 445, 57 A.2d 184 (1948).

The words "so far as the same is used exclusively" are words of extent so that unless the property is used exclusively for religious and educational purposes it is not exempt from taxation. *In re Pawtucket*, 24 R.I. 86, 52 A. 679 (1902).

Even though a portion of the property owned by the hospital is leased to private entities, since the rental income is deposited in the general accounts and used for operating and maintenance expenses of the hospital, the entire property is exempt from taxation by virtue of the hospital charter. *Rhode Island Hosp. v. City of Providence*, 693 A.2d 1040 (R.I. 1997).

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when the taxpayer files the appropriate paper work and the tax assessor determines that the property deserves the exemption.

### **B. Procedures for Retaining an Exemption.**

No statute was found that describes the procedures or filing process necessary to retain an exemption.

### **C. Annual Certification.**

RI ST § 44-5-26

FILING AN ACCOUNT. RI General Law section 44-5-15 requires the annual filing of a true and exact account of all ratable estate owned or possessed by every person and corporate body. The time to file is between December 31, and January 31, of intention to submit declaration by March 15. Failure to file a true and full account, within the prescribed time, eliminates the right to appeal. No amended returns will be accepted after March 15th. Such notice of your intention must be sent by certified mail, postage prepaid, postmark no later than 12 o'clock midnight of the last day, January 31. No extensions beyond March 15th can be granted. The form for filing such account may be obtained from the city or town assessor.

### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found that requires copies of leases or agreements be filed.

### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found that requires notification of a change in use or ownership.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

RI ST s 44-3-24

The city and town councils of the various cities and towns may provide by ordinance for the adjustment of the tax exemption for all persons entitled thereto pursuant to this chapter in any year that the city or town has a real property reevaluation. The adjustment shall be made to reflect the same monetary savings that appeared on the property tax bill that existed for the year prior to reevaluation of the real property. If any provision of this section is held invalid, the remainder of this section and the application of its provisions shall not be affected thereby.

## **B. Removal of Exemptions.**

An exemption is normally removed when the tax assessor determines that the property no longer qualifies for the exemption. However, no documentation was found to support that this is how an exemption is removed in Rhode Island.

## **C. Assessment of Omitted Property.**

No statute was found that discusses the assessment of omitted property.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

RI ST § 44-5-26

(a) Any person aggrieved on any ground whatsoever by any assessment of taxes against him or her in any city or town, or any tenant or group of tenants, of real estate paying rent therefrom, and under obligation to pay more than one-half of the taxes thereon, may within ninety (90) days from the date the first tax payment is due, file an appeal in the local office of tax assessment, provided however, if the person to whom a tax on real estate is assessed chooses to file an appeal, the appeal filed by a tenant or group of tenants will be void. For the purposes of this section, the tenant(s) has the burden of proving financial responsibility to pay more than one-half of the taxes. The assessor shall have forty-five (45) days to review the appeal, render a decision and notify the taxpayer of the decision. The taxpayer, if still aggrieved, may appeal the decision of the tax assessor to the local tax board of review, or in the event that the assessor does not render a decision, the taxpayer may appeal to the local tax board of review at the expiration of the forty-five (45) day period. Appeals to the local tax board of review shall be filed not more than thirty (30) days after the assessor renders a decision and notifies the taxpayer, or if the assessor does not render a decision within forty-five (45) days of the filing of the appeal, not more than ninety (90) days after the expiration of the forty-five (45) day period. The local tax board of review shall, within ninety (90) days of the filing of the appeal, hear the appeal, and render a decision within thirty (30) days of the date that the hearing was held. Provided, however, a city or town may request and receive an extension from the director of the Rhode Island Department of Administration.

You may apply for an abatement if your property is: (1) OVERVALUED (assessed value is more than the fair market value as of December 31 for any reason, including clerical and data processing errors. (2) disproportionately assessed in comparison with other properties. (3) classified incorrectly as residential, commercial, industrial or open space, farm or forest. (4) illegal tax partially or fully exempt.

**WHO MAY FILE AN APPLICATION:** You may file an application if you are (1) the assessed or subsequent (acquiring title after December 31) owner of the property. (2) the owner's administrator or executor. (3) a tenant or group of tenants of real estate paying rent therefrom, and under obligations to pay more than one-half of the taxes thereon. (4) a person owning or having an interest in or possession of the property; or (5) a

mortgagee if the assessed owner has not applied. In some cases, you must pay all or a portion of the tax before you can file.

**WHEN AND WHERE APPLICATION MUST BE FILED.** Your application must be filed with the local office of tax assessment within 90 days from the date the first tax payment is due. **THESE DEADLINES CANNOT BE EXTENDED OR WAIVED BY THE ASSESSOR FOR ANY REASON. IF YOUR APPLICATION IS NOT FILED ON TIME, YOU LOSE ALL RIGHTS TO AN ABATEMENT AND THE ASSESSOR CANNOT BY LAW GRANT YOU ONE. AN APPLICATION IS FILED WHEN RECEIVED BY THE ASSESSOR'S OFFICE.**

**PAYMENT OF TAX.** Filing an application does not stay the collection of your taxes. In some cases, you must pay the tax when due to appeal the assessors disposition of your application. Failure to pay the tax assessed when due may also subject you to interest charges and collection action. To avoid any loss of rights or additional charges, you should pay the tax as assessed. If an abatement is granted and you have already paid the entire year's tax as abated, you will receive a refund of any overpayment.

**ASSESSOR'S DISPOSITION.** Upon applying for an abatement, you may be asked to provide the assessor with further written information about the property and to permit them to inspect it. Failure to provide the information or permit an inspection within 30 days of the request may result in the loss of your appeal rights.

**APPEAL.** The assessor shall have forty-five (45) days to review the appeal, render a decision and notify the taxpayer of the decision. The taxpayer, if still aggrieved, may appeal the decision of the tax assessor to the local tax board of review, or in the event that the assessor does not render a decision, the taxpayer may appeal to the local tax board of review at the expiration of the forty-five (45) day period. Appeals to the local tax board of review shall be filed not more than thirty (30) days after the assessor renders a decision and notifies the taxpayer, or if the assessor does not render a decision within forty-five (45) days of the filing of the appeal, not more than ninety (90) days after the expiration of the forty-five (45) day period.

Any person still aggrieved on any ground whatsoever by an assessment of taxes against him or her in any city or town may, within thirty (30) days of the tax board of review decision notice, file a petition in the superior court for the county in which the city or town lies for relief from the assessment, to which petition the assessors of taxes of the city or town in office at the time the petition is filed shall be made parties respondent, and the clerk shall thereupon issue a citation substantially in a prescribed form.

(b) Provided, however, that in case the person has not filed an account, or filed an appeal first within the local tax board of review, that person shall not have the benefit of the remedy provided in this section and in sections 44- 5-27 --44-5-31, unless (1) that person's real estate has been assessed at a value in excess of the value at which it was assessed on the last preceding assessment day, whether then owned by that person or not, and has been assessed, if assessment has been made at full and fair cash value, at a value in excess of its full and fair cash value, or, if assessment has purportedly been made at a uniform percentage of full and fair cash value, at a percentage in excess of the uniform percentage, or (2) the tax assessed is illegal in whole or in part; and that person's remedy shall be limited to a review of the assessment on the real estate or to relief with respect to the illegal tax, as the case may be.

RI ST s 44-11-35

Appeals from administrative orders or decisions made pursuant to any provisions of this chapter shall be to the sixth division district court pursuant to chapter 8 of title 8. The taxpayer's right to appeal shall be expressly made conditional upon prepayment of all taxes, interest, and penalties unless the taxpayer moves for and is granted an exemption from the prepayment requirement pursuant to § 8-8-26. If the court, after appeal, holds that the taxpayer is entitled to a refund, the taxpayer shall also be paid interest on the amount at the rate provided in § 44-1-7.1.

## **SOUTH CAROLINA**

### **WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?**

SC CONST Art. X, s 1

The General Assembly shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe regulations to secure a just valuation for taxation of all property, real, personal and possessory, except mines and mining claims, the products of which alone shall be taxed; and also excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious or charitable purposes: Provided, however, That the General Assembly may impose a capitation tax upon such domestic animals as from their nature and habits are destructive of other property: And provided, further, That the General Assembly may provide for a graduated tax on incomes, and for a graduated license on occupations and business. Provided, Further, That the General Assembly may provide by law for the assessment of all intangible personal property, including moneys, credits, bank deposits, corporate stocks, and bonds, at its true value for taxation for State, County and municipal purposes or either thereof: Provided, That the total rate of taxation imposed thereon shall never exceed one-half of one per centum of the actual value of such intangible property: Provided, Further, That such intangible personal property shall not be subject to the three mill levy provided by Section 10, Article 11, of this instrument or to any other general or special tax levy, except such as is especially provided by the General Assembly by the authority and within the limitation of this provision; nor shall such intangible personal property be considered a part of "taxable property," as such term is used in this instrument, of the State or any subdivision thereof.

SC CONST Art. X, s 3

There shall be exempt from ad valorem taxation:

- (a) all property of the State, counties, municipalities, school districts and other political subdivisions, if the property is used exclusively for public purposes;
- (b) all property of all schools, colleges and other institutions of learning and all charitable institutions in the nature of hospitals and institutions caring for the infirmed, the handicapped, the aged, children and indigent persons, except where the profits of such institutions are applied to private use;
- (c) all property of all public libraries, churches, parsonages and burying grounds;
- (d) all property of all charitable trusts and foundations used exclusively for charitable and public purposes;

The exemptions provided in subitems (c) and (d) for real property shall not extend beyond the buildings and premises actually occupied by the owners of such real property. In addition to the exemptions listed in this section, the General Assembly may provide for exemptions from the property tax, by general laws applicable uniformly to property throughout the State and in all political subdivisions, but only with the approval of two-thirds of the members of each House. All exemptions not specifically provided for or authorized in this article shall be repealed March 1, 1978. The General Assembly shall provide for methods and procedures in applying for the exemption of any property as is

described in this section.

SC CONST Art. X, s 4

There shall be exempted from taxation all county, township and municipal property used exclusively for public purposes and not for revenue, and the property of all schools, colleges and institutions of learning, all charitable institutions in the nature of asylums for the infirm, deaf and dumb, blind, idiotic and indigent persons, except where the profits of such institutions are applied to private uses; all public libraries, churches, parsonages and burying grounds; but property of associations and societies, although connected with charitable objects, shall not be exempt from State, county or municipal taxation:

Provided, That as to real estate this exemption shall not extend beyond the buildings and premises actually occupied by such schools, colleges, institutions of learning, asylums, libraries, churches, parsonages and burial grounds, although connected with charitable objects.

Provided, further, the General Assembly may by act provide homestead tax exemptions.

SC ST s 13-17-90

It is found and declared that the project authorized by this chapter is in all respects for the benefit of all the people of the State, for the improvement of their welfare and material prosperity, and is a public purpose and being a corporation owned completely by the people of the State. The authority shall pay no taxes or assessments including, but not limited to, income tax, sales and use tax, and property tax upon any of the property acquired by it or upon any of its activities; except that the authority is entitled to the above- referenced sales and use tax exemption only in (1) transactions to obtain tangible personal property for the authority's own use or consumption, (2) transactions related to authority contracts with governmental entities and nonprofit entities, and (3) transactions related to authority contracts with private, for profit entities doing business in South Carolina, where these contracts do not place these entities in competition with other private, for profit entities doing business in South Carolina. The securities and other obligations issued by the authority, their transfer, and the income is free from taxation. After payment of necessary operating expenses and all annual debt requirements, the authority shall reinvest net earnings furthering the purposes of this chapter.

SC ST s 12-37-220

(A) Pursuant to the provisions of Section 3 of Article X of the State Constitution and subject to the provisions of Section 12-4-720, there is exempt from ad valorem taxation:

- (1) all property of the State, counties, municipalities, school districts, Water and Sewer Authorities and other political subdivisions, if the property is used exclusively for public purposes, and it shall be the duty of the Department of Revenue and county assessor to determine whether such property is used exclusively for public purposes;
- (2) all property of all schools, colleges, and other institutions of learning and all charitable institutions in the nature of hospitals and institutions caring for the infirmed, the handicapped, the aged, children and indigent persons, except where the profits of such institutions are applied to private use;
- (3) all property of all public libraries, churches, parsonages, and burying grounds,

but this exemption for real property does not extend beyond the buildings and premises actually occupied by the owners of the real property;

(4) all property of all charitable trusts and foundations used exclusively for charitable and public purposes, but this exemption for real property does not extend beyond the buildings and premises actually occupied by the owners of the real property;

(B) In addition to the exemptions provided in subsection (A), the following classes of property are exempt from ad valorem taxation subject to the provisions of Section 12-4-720:

(5) All property of the American Legion, the Veterans of Foreign Wars, the Spanish American War Veterans, the Disabled American Veterans, and Fleet Reserve Association or any similar Veterans Organization chartered by the Congress of the United States, whether belonging to the department or to any of the Posts in this State when used exclusively for the purpose of such organization and not used for any purpose other than club rooms, offices, meeting places or other activities directly in keeping with the policy stated in the National Constitution of such organization, and such property is devoted entirely to its own uses and not held for "pecuniary profit". For the purposes of this item "pecuniary profit" refers to income received from the sale of alcoholic beverages to persons other than bona fide members and their bona fide guests, or any income, any part of which inures to the benefit of any private individual. Where any structure or parcel of land is used partly for the purposes of such organization and partly for such pecuniary profits, the area for pecuniary profits shall be assessed separately and that portion shall be taxed.

(6) All property owned and used or occupied by any Young Women's Christian Association, Young Men's Christian Association or the Salvation Army in this State and used for the purpose of or in support of such organizations but the exemption herein provided shall not apply to such portions of any such property rented for purposes not related to the functions of the organization.

(7) All property owned and used or occupied by The Boy's or Girl's Scouts of America and used exclusively for the purposes of those organizations.

(8) Properties of whatever nature or kind owned within the State and used or occupied by the Palmetto Junior Homemakers Association, the New Homemakers of South Carolina, the South Carolina Association of Future Farmers of America and the New Farmers of South Carolina, so long as such properties are used exclusively to promote vocational education or agriculture, better business methods and more effective organization for farming or to encourage thrift or provide recreation for persons studying agriculture or home economics in the public schools.

(11) Nonprofit housing corporations.

(a) All property of nonprofit housing corporations devoted exclusively to providing below-cost housing for the aged or for handicapped persons or for both aged and handicapped persons as authorized by Section 202 of the Housing Act of 1959 and regulated in part by 24 CFR Part 885.

(b) All property of nonprofit housing corporations devoted exclusively to

providing below-cost supportive housing for elderly persons or households as authorized by Section 202 of the Housing Act of 1959 as amended under Section 801 of the National Affordable Housing Act of 1990 and regulated in part by 24 CFR Part 889.

(c) All property of nonprofit housing corporations devoted exclusively to providing below-cost supportive housing for persons with disabilities as authorized by Section 811 of the National Affordable Housing Act of 1990 and regulated in part by 24 CFR Part 890.

(d) all property of nonprofit housing corporations devoted exclusively to providing rental or cooperative housing and related facilities for elderly or handicapped persons or families of low or moderate income as authorized by Section 515 of Title V of the Housing Act of 1949.

(12) The property of any fraternal society, corporation or association, when the property is used primarily for the holding of its meetings and the conduct of its business and no profit or benefit therefrom shall inure to the benefit of any private stockholders or individuals.

(16) Property used primarily for holding meetings belonging to an above exempted organization.

(a) The property of any religious, charitable, eleemosynary, educational, or literary society, corporation, or other association, when the property is used by it primarily for the holding of its meetings and the conduct of the business of the society, corporation, or association and no profit or benefit therefrom inures to the benefit of any private stockholder or individual.

(b) The property of any religious, charitable, or eleemosynary society, corporation, or other association when the property is acquired for the purpose of building or renovating residential structures on it for not-for-profit sale to economically disadvantaged persons. The total properties for which the religious, charitable, or eleemosynary society, corporation, or other association may claim this exemption in accordance with this paragraph may not exceed fifty acres per county within the State.

(18) Real property leased on a nonprofit basis, to a state agency, county, municipality or other political subdivision so long as it is used for a general public purpose; provided, however, this exemption shall not apply to property used for office space or warehousing.

(19) All property owned by Volunteer Fire Departments and Rescue Squads used exclusively for the purposes of such departments and squads.

(20) All property of nonprofit museums which is used exclusively for such purpose.

(22) All community owned recreation facilities opened to the general public and operated on a nonprofit basis.

(23) Notwithstanding any other provision of law, property heretofore exempt from ad valorem taxation by reason of the imposition upon such property or the owner of such property of a tax other than an ad valorem tax pursuant to the provisions of Section 12-11-30, Section 12-13-50 or Section 12-21- 1080 shall continue to be entitled to such exemption.

(24) All property of nonprofit or eleemosynary community theater companies,

symphony orchestras, county and community arts councils and commissions and other such companies, which is used exclusively for the promotion of the arts.

(25) All personal property loaned or leased on a nonprofit basis to a state agency, county, municipality, or other political subdivision, or to an organization exempt from federal income tax under Internal Revenue Code Section 501 through 514 as defined in item (11) of Section 12-7-20, for at least thirty days during the tax year, so long as such personal property is used solely for the purpose of public display and not for the use of such state agency, county, municipality, or other political subdivision, or exempt organization.

(31) All real property of churches which extends beyond the buildings and premises actually occupied by the churches which own the real property if no profit or benefit from any operation on the churches' real property inures to the benefit of any private stockholder or individual and no income producing ventures are located on the churches' real property. This exemption does not change any exemption provided for churches or other entities in item (3) of subsection A of this section and item (c), Section 3 of Article X of the Constitution of this State but is an additional exemption for churches as provided in this item.

(42) All real property of charitable trusts and foundations held for historic preservation of forts and battlegrounds which extends beyond the buildings and premises actually occupied by the charitable trusts and foundations which own the real property if no profit or benefit from any operation on the charitable trusts' and foundations' real property inures to the benefit of any private stockholder or individual and no income producing ventures are located on the charitable trusts' and foundations' real property. This exemption does not change any exemption provided for charitable trusts and foundations in item (4) of subsection (A) of this section and item (d), Section 3, Article X of the Constitution of this State but is an additional exemption for charitable trusts and foundations for historic preservation as provided in this item.

(C) Upon approval by the governing body of the county, the five-year partial exemption allowed pursuant to subsections (A)(7) and (B)(32) is extended to an unrelated purchaser who acquires the facilities in an arms-length transaction and who preserves the existing facilities and existing number of jobs. The partial exemption applies for the purchaser for five years if the purchaser otherwise meets the exemption requirements.

SC ST s 38-37-840

Every fraternal benefit association organized or licensed under this chapter is declared to be a charitable and benevolent institution, and all of its funds are exempt from every state, county, district, municipal, and school tax, other than taxes on real estate and office equipment and other than agents' license fees.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Exemptions of private property are strictly construed because in such cases taxation is the

rule and exemption the exception. *Town of Myrtle Beach v. Holliday* (S.C. 1943) 203 S.C. 25, 26 S.E.2d 12.

Exemptions of municipal property. Exemptions of the property of municipal corporations are liberally construed, for exemptions of such property is the rule and taxation the exception. Municipal corporations are merely agencies of the State for governmental purposes, and it has never been the policy of this State to tax its own agencies or instrumentalities of government. *Town of Myrtle Beach v. Holliday* (S.C. 1943) 203 S.C. 25, 26 S.E.2d 12.

## **B. Partial Exemptions.**

Approximately 13 acres of a 17.5-acre tract owned by a church was not "actually occupied" by the church under the last sentence of § 12-37-220A, where the summary of the proceedings before a county Tax Exempt Board included statements by church members that a large portion of the tract had not been cleared and was not used by the church, and therefore the finding of the South Carolina Tax Commission that the church "actually occupied" only 4.5 acres of the land was supported by substantial evidence. *Westview Baptist Church v. Rembert* (S.C.App. 1985) 286 S.C. 30, 331 S.E.2d 382.

Partial exemptions are also discussed in the statutes noted above.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

SC ST s 12-4-720

(A) Applications for property exemptions, other than the exemption provided by Section 12-37-220(A)(9), must be filed as follows:

- (1) Except as otherwise provided any property owner whose property may qualify for property exemption shall file an application for exemption with the department within the period provided in Section 12-54-85(F) for claims for refund. This item does not relieve the taxpayer of any responsibility to file timely and accurate property tax returns.
- (2) Owners of property exempt under Section 12-37-220A(8) shall file an application for exemption before the first penalty date for payment of property taxes.
- (3) Applications for exemption are not required for properties owned by the United States Government or those exempt properties enumerated in Section 12-37-220(A)(1), (5), (6), (10), and (B)(9), (13), (14), (15), (17), (23), (25), and (30).

(B) If a taxpayer files a property tax return listing property as exempt, that listing is considered an application for exemption from property taxes.

(C) A taxpayer who is required to file property tax returns with the department shall claim any exemption on the return each year the property is exempt.

(D) Except for the requirement in subsection (C), the owner is not required to file more

than one application for each exemption, unless there is a change in the status of the property as reported in the initial application or unless requesting an exemption for property which was not included in the initial or subsequent application.

**B. Procedures for Retaining an Exemption.**

SC ST s 12-4-740

(A) An owner of tax-exempt property or a property owner requesting tax exemption shall furnish information and records requested by the commission. The commission and its agents may examine portions of the financial records of the owners of real and personal property as necessary to determine if the property qualifies for tax-exempt status.

(B) The commission and its authorized agents may enter the premises upon reasonable notice and inspect them for tax exemption purposes.

**C. Annual Certification.**

SC ST s 12-4-720

(C) A taxpayer who is required to file property tax returns with the department shall claim any exemption on the return each year the property is exempt.

(D) Except for the requirement in subsection (C), the owner is not required to file more than one application for each exemption, unless there is a change in the status of the property as reported in the initial application or unless requesting an exemption for property which was not included in the initial or subsequent application.

**D. Obligation to File Copies of Lease or Agreements.**

No statute was found that requires copies of leases or agreements be filed.

**E. Notification Requirements After Change in Use or Ownership.**

SC ST s 12-4-720

(D) Except for the requirement in subsection (C), the owner is not required to file more than one application for each exemption, unless there is a change in the status of the property as reported in the initial application or unless requesting an exemption for property which was not included in the initial or subsequent application.

**WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

**A. Monitoring Exemptions.**

SC ST s 12-4-730

The commission, upon receipt of an application and upon proper investigation, may declare the real and personal property of a property owner qualifying for an exemption from ad valorem taxation identified in this chapter as exempt and shall certify the exemption to the auditor's office in the county in which the property is located. Upon

certification by the commission, the auditor shall void any tax notice applicable to the property.

#### SC ST s 12-37-90

The assessor is responsible for the operations of his office and shall:

- (a) maintain a continuous record of recorded deed sales transactions, building permits, tax maps, and other records necessary for a continuing reassessment program;
- (b) diligently search for and discover all real property not previously returned by the owners or their agents or not listed for taxation by the county auditor, and list such property for taxation in the name of the owner or person to whom it is taxable;
- (c) when values change, reappraise and reassess real property so as to reflect its proper valuation in light of changed conditions, except for exempt property and real property required by law to be appraised and assessed by the commission, and furnish a list of these assessments to the county auditor;
- (d) determine assessments and reassessments of real property in a manner that the ratio of assessed value to fair market value is uniform throughout the county;
- (e) appear as necessary before an appellate board to give testimony and present evidence as to the justification of an appraisal;
- (f) have the right of appeal from a disapproval of or modification of an appraisal made by him;
- (g) perform duties relating to the office of tax assessor required by the laws of this State;
- (h) be the sole person responsible for the valuation of real property, except that required by law to be appraised and assessed by the commission, and the values set by the assessor may be altered only by the assessor or by legally constituted appellate boards, the commission, or the courts;
- (i) have the right to enter and examine all new nonresidential buildings and structures and those portions of an existing nonresidential building or structure covered by a building permit for renovations or additions.

### **B. Removal of Exemptions.**

#### SC ST s 12-4-750

- (A) The commission may revoke tax-exempt status if the property does not qualify or continue to qualify for tax-exempt status under the provisions of the Constitution and the general laws of the State.
- (B) If the commission finds within three years from the date that taxes would have been due on property that has been granted an exemption that the exemption was for any reason improperly granted due to incomplete, misleading, or fraudulent information furnished by the applicant or its agents, the commission shall notify the appropriate county official, and the county auditor shall enter on the duplicate the taxes that would have been due for those years that the property escaped taxation, with an added ten percent penalty.

### **C. Assessment of Omitted Property.**

#### SC ST s 12-37-90

All counties shall have a full-time assessor, whose responsibility is appraising and listing all real property, whether exempted or not, except real property required by law to be assessed by the commission and property owned by the federal government, state government, county government, or any of its political subdivisions and which is exempt from property taxation. If the assessor discovers that any real property required by law to be assessed by the commission has been omitted, he shall notify the commission that the property has been omitted and the commission is required to appraise and assess the omitted property.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

### **SC ST s 12-4-755**

(A) A taxpayer or his representative may appeal an exemption denial on property owned by the taxpayer. The taxpayer or his representative must give written notice of the appeal to the department within thirty days from the date of the mailing of the proposed denial. All grounds for appeal must be set forth in the notice. Upon receipt of the taxpayer's written notice of appeal, the department shall schedule a hearing for the appeal. No issue or ground may be considered by the department which is not set out in the appeal notice.

(B) After hearing the appeal, the department shall issue a written finding and send copies of the finding to the taxpayer or his representative and the county auditor. The finding to the county auditor is the order for entry upon the assessment rolls of the county as exempt or taxable property.

### **SC ST s 12-60-450**

(A) A taxpayer can appeal a proposed assessment by filing a written protest with the department within thirty days of the date of the proposed assessment. The department may extend the time for filing a protest at any time before the period has expired.

(B) The written protest must contain:

- (1) the name, address, and telephone number of the taxpayer;
- (2) the appropriate taxpayer identification number or numbers;
- (3) the tax period or date for which the tax was proposed;
- (4) the nature and kind of tax in dispute;
- (5) a statement of facts supporting the taxpayer's position;
- (6) a statement outlining the reasons for the appeal, including any law or other authority upon which the taxpayer relies; and
- (7) any other relevant information the department may reasonably prescribe. The taxpayer does not need to provide legal or other authority, as provided in item (6), if the total amount of the proposed assessment is less than two thousand five hundred dollars, unless the taxpayer is a partnership, an 'S' corporation, an exempt organization, or an employee plan and the proposed tax is imposed by Chapter 7, 11, or 13 of this title.

(C) The filing of an appeal of the proposed assessment as provided in subsection (A) extends the time for assessment as provided in Section 12-54- 85(G).

(D) After the protest is filed and the taxpayer has completed or refused any other internal administrative appeals procedures provided by the department, the taxpayer and

department representative shall stipulate the facts and issues upon which they can agree, and may attempt to settle the case.

If the taxpayer fails to respond or participate in the process with the department representative, the department may view the appeal as abandoned and make a department determination using any information provided in accordance with Section 12-60-30(16)(c)(iii).

(E) Department determination.

(1) The department will make a department determination using the information provided by the taxpayer in accordance with Section 12-60-30(16)(c)(iii).

(2) A department determination adverse to the taxpayer must be in writing and must:

- (a) be sent by first class mail or delivered to the taxpayer;
- (b) explain the basis for the department's determination;
- (c) inform the taxpayer of his right to request a contested case hearing; and
- (d) explain that the taxes will be assessed in thirty days and payment demanded unless the taxpayer requests a contested case hearing.

SC ST s 12-60-1730

A property taxpayer may appeal any property tax assessment or denial of exemption if a written protest is filed in accordance with this article. All property tax assessors shall notify taxpayers of their right to appeal and of the applicable time limitations. The department shall provide protest forms, and the property tax assessor shall make the forms available to property taxpayers. A property taxpayer's use of the department's protest forms is not mandatory.

SC ST s 12-60-2110

In the case of property tax assessments made by a division of the department, protests must be filed within thirty days after the date of the property tax assessment notice. If the division does not send a taxpayer a property tax assessment notice, a protest must be filed within thirty days after the tax notice is mailed to the taxpayer. If a division of the department denies a property tax exemption, a protest must be filed within thirty days after the date the notice of denial is mailed to the taxpayer.

## **SOUTH DAKOTA**

### **WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?**

#### **SD CONST Art. 11, s 5**

The property of the United States and of the state, county and municipal corporations, both real and personal, shall be exempt from taxation, provided, however, that all state owned lands acquired under the provisions of the rural credit act may be taxed by the local taxing districts for county, township and school purposes, and all state owned lands, known as public shooting areas, acquired under the provisions of s 25.0106 SDC 1939 and acts amendatory thereto, may be taxed by the local taxing districts for county, township and school purposes in such manner as the Legislature may provide.

#### **SD CONST Art. 11, s 6**

The Legislature shall, by general law, exempt from taxation, property used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, property acquired and used exclusively for public highway purposes, and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation.

#### **SD ST s 10-4-9**

Property owned by any religious society and used exclusively for religious purposes, is exempt from taxation. Property of a religious society is exempt from taxation if such property is a building or structure used exclusively for religious purposes, is a lot owned by a religious society for the exclusive purpose of parking vehicles owned by members of such society and is not rented or leased to nonmembers of such society, is an educational plant owned and operated by a religious society or is a building or structure used to house any cleric of a religious society. However, any property which is sold by a religious society under a contract for deed shall be taxed as other property of the same class, unless such property is sold to an entity which is exempt from taxation pursuant to this chapter and the property is used for an exempt purpose.

#### **SD ST s 10-4-9.3**

Property owned by any corporation, organization or society and used primarily for human health care and health care related purposes is exempt from taxation. Such corporation, organization or society must be nonprofit and recognized as an exempt organization under section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended, and in effect on January 1, 1986, and may not have any of its assets available to any private interest. Such property may be a hospital, sanitarium, orphanage, mental health center or adjustment training center regulated under chapter 27A-5, asylum, home, resort, congregate housing or camp. Congregate housing is health care related if it is an assisted, independent group-living environment operated by a health care facility licensed under chapter 34-12 which offers residential accommodations and supporting services primarily for persons at least sixty-two years of age or disabled as defined under chapter 10-6A. Supporting services must include the ability to provide health care and must include a

food service which provides a balanced nutrition program. Such health care facility must admit all persons for treatment consistent with the facility's ability to provide medical services required by the patient until such facility is filled to its ordinary capacity and must conform to all regulations of and permit inspections by the South Dakota Department of Health.

SD ST s 10-4-13

All property owned by any educational institution in this state as a school which is accredited or approved as a school by the accreditation division within the department of education and cultural affairs, by the board of regents or by a nationally recognized accreditation service is exempt from taxation. However, if any such property consists of agricultural land or improved or unimproved municipal property not occupied or directly used in carrying out the primary object of the educational institution owning the same, it shall be taxed the same as other property of the same class is taxed. However, if any such educational institution is operated for profit, this exemption applies only to that portion of property which is used exclusively for student housing, student and administrative parking and instructional or administrative purposes.

**WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

**A. Full Exemptions.**

To receive a full exemption property must fall within the above mentioned categories and be used exclusively for the purpose stated.

**B. Partial Exemptions.**

SD ST s 10-4-12

If property owned by any health care organization or charitable, benevolent or religious society described in ss 10-4-9 to 10-4-9.3, inclusive, other than agricultural land, is used partly by such health care organization or charitable, benevolent or religious society for health care, charitable, benevolent or religious purposes, and the remaining part is occupied, rented or used for other than health care, charitable, benevolent or religious purposes, such portion of property as is so occupied, rented or used for other than health care, charitable, benevolent or religious purposes, shall be taxed as other property of the same class is taxed. For the purpose of determining the value of the taxable portion of the property, the appraised value of the entire property shall be multiplied by the percentage of the entire property used for other than health care, charitable, benevolent or religious purposes. The resulting value shall be multiplied by the percentage of time such property is used for other than health care, charitable, benevolent or religious purposes. The resulting value shall be the assessed value for taxation purposes.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when the taxpayer files the appropriate paper work and the board of equalization approves that exemption.

### **B. Procedures for Retaining an Exemption.**

SD ST s 10-4-15

Any person, organization, corporation or association claiming a property tax exemption status for any property under ss 10-4-9 to 10-4-14, inclusive, or as may otherwise be provided by law, shall apply for such exemption to the county director of equalization on forms prescribed by the secretary of revenue prior to November first of the tax year.

SD ST s 10-4-16

The county director of equalization shall examine and review applications under s 10-4-15 and shall recommend a taxable status or an exempt status for all or any part of such property at the annual meeting of the county board of equalization. The county board of equalization shall make a determination as to the status of such property.

### **C. Annual Certification.**

SD ST s 10-4-19

If property has been granted a tax-exemption status under ss 10-4-15 to 10-4-18, inclusive, such status for the property shall continue in such status commencing with the next taxable year following the final determination not subject to appeal. However, an annual statement shall be filed with the county director of equalization on or before November first of each year certifying that the use of the property has not changed during the year. Failure to file such a statement shall cause the county director of equalization to review the status of the property. The director may recommend to the county board of equalization that the status of the property be changed. Such a recommendation for a change in status constitutes a new application and the same procedures provided in ss 10-4-15 to 10-4-18, inclusive, for the original application apply. Once a structure that is used exclusively for religious purposes or a cemetery is granted tax-exempt status pursuant to ss 10-4-15 to 10-4-18, inclusive, it is not necessary to file the annual statement required by this section to maintain such status. However, if the use of the property changes, or if any transfers of ownership by contract for deed have been entered into, the owner shall reapply pursuant to ss 10-4-15 to 10-4-18, inclusive.

### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found that requires copies of leases or agreements be filed.

## **E. Notification Requirements After Change in Use or Ownership.**

SD ST s 10-4-19

Once a structure that is used exclusively for religious purposes or a cemetery is granted tax-exempt status pursuant to ss 10-4-15 to 10-4-18, inclusive, it is not necessary to file the annual statement required by this section to maintain such status. However, if the use of the property changes, or if any transfers of ownership by contract for deed have been entered into, the owner shall reapply pursuant to ss 10-4-15 to 10-4-18, inclusive.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

SD ST s 10-4-21

The director of equalization shall, during each five-year period of time, review the status of all tax-exempt property and file a report of such review with the county board of equalization. Any action by the county board of equalization to change the status of tax-exempt property shall be the same as though it were an original application. The secretary of revenue may request a review of the tax-exempt status of property at any time and such request shall be made to the county board of equalization and the procedure shall then be the same as though it were an original application.

### **B. Removal of Exemptions.**

An exemption is removed when the equalization board determines that the property no longer qualifies for the exemption or when the taxpayer fails to file the appropriate paper work.

### **C. Assessment of Omitted Property.**

No statute was found that discusses omitted property.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

SD ST s 10-4-18

When an applicant under s 10-4-15 is denied a tax-exempt status on all or any part of such property by the board, the applicant shall have the right to appeal in the same manner and under the same procedure as provided by law from any other actions of the county board of equalization.

SD ST s 10-11-22

Any person feeling aggrieved may appeal from the decision of any local board of equalization to the board of equalization of the county in which the municipality or township is situated.

SD ST s 10-18-12

The same right of appeal to the circuit court from the decision of the board of county commissioners, compromising, abating, or refunding any tax, shall exist and be governed by the rules of procedure as appeals from decisions of such board in other matters, the right to proceed under the provisions of this code relating to actions to recover taxes paid, under protest, not being qualified or limited by this chapter.

## TENNESSEE

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

Tennessee Constitution

Article 2, § 28

Taxable property

In accordance with the following provisions, all property real, personal or mixed shall be subject to taxation, but the Legislature may except such as may be held by the State, by Counties, Cities or Towns, and used exclusively for public or corporation purposes, and such as may be held and used for purposes purely religious, charitable, scientific, literary or educational, and shall except the direct product of the soil in the hands of the producer, and his immediate vendee, and the entire amount of money deposited in an individual's personal or family checking or savings accounts.

T.C.A. 67-5-212

Religious, charitable, scientific, educational institutions -- Assessment Act.

(a)(1) There shall be exempt from property taxation the real and personal property, or any part thereof, owned by any religious, charitable, scientific or nonprofit educational institution which is occupied and used by such institution or its officers purely and exclusively for carrying out thereupon one or more of the purposes for which the institution was created. No property shall be totally exempted, nor shall any portion thereof be pro rata exempted, unless such property or portion thereof is actually used purely and exclusively for religious, charitable, scientific or educational purposes.

(2) In determining the exemption applicable to a post-secondary educational institution, there shall be a presumption that the entire original campus of an institution chartered before 1930 is an historical and integral entity, and is exempt so long as no particular portion of such campus is used for nonexempt purposes.

(3) The property of such institution shall not be exempt if it does not fulfill the requirements delineated in the full text of the statute.

(c) As used hereinabove, "charitable institution" includes any nonprofit organization or association devoting its efforts and property, or any portion thereof, exclusively to the improvement of human rights and/or conditions in the community.

(h) There shall be exempt from property taxation the property or any part thereof of fraternal organizations exempted from the payment of federal income taxes by the United States Internal Revenue Code (26 U.S.C. 501(c)), to the extent that such property is used not for revenue-producing profit, but directly, physically and exclusively for religious, charitable, scientific and educational activities.

(i) There shall be exempt from property taxation the property, or any part thereof, of nonprofit county fair associations.

(j) There shall be exempt from property taxation the property or any portion thereof containing one residential dwelling located in a community park which is open to entry by the general public, if such dwelling is owned by a nonprofit religious, charitable, educational or scientific organization which does not receive income from the resident thereof, if such resident does not occupy the dwelling in lieu of a salary, and if such

resident by such resident's presence would discourage or prohibit damage or destruction by vandalism of the organization's property.

U.S.C.A. § 501. Exemption from tax on corporations, certain trusts, etc.

(a) Exemption from taxation.--An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(c) List of exempt organizations.--The following organizations are referred to in subsection (a):

(1) Any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation--

(A) is exempt from Federal income taxes

(B) is described in subsection (1).

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section. Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

(5) Labor, agricultural, or horticultural organizations.

T.C.A. 67-5-203

Government property.

(a)(1) All property of the United States, the state of Tennessee, any county, or any incorporated town, city or taxing district in the state that is used exclusively for public, county or municipal purposes shall be exempt from taxation; provided, that real property

purchased for investment purposes by the Tennessee consolidated retirement system shall be subject to property taxation.

(2) All property of any educational institution owned, operated or otherwise controlled by the state of Tennessee as trustee, or otherwise, shall be exempt from taxation.

T.C.A. 67-5-208

Recycling waste products.

(a) Property owned by a nonprofit corporation, which is operated for the purpose of recycling or disposing of waste products and converting same to heat or cooling for public buildings or facilities where the reversionary interest to such properties is in the state or any of its political subdivisions, shall be exempt from taxation.

T.C.A. 67-5-213

Property of certain educational institutions.

(a) Real estate owned by an educational institution and used primarily for dormitory purposes for its students, even though other student activities are incidentally conducted therein, and even though the student's spouse or children may reside therein, is exempt from taxation.

T.C.A. 67-5-214

Cemeteries and monuments.

(a) Places of burial used as such, monuments of the dead and all nonprofit cemeteries shall be exempt from taxation.

(b)(1) There shall also be exempt from taxation any real property owned by cemeteries operated on a for-profit basis, which has been prepared and is being held for burial purposes; provided, that the amount of such property shall not exceed the reasonable expectation of public needs.

(2) Cemeteries shall be required to apply for exemption and obtain approval of exemption by the state board of equalization if charges are imposed for use of burial plots.

T.C.A. 67-5-218

Historic properties shall also be exempt from taxation provided they meet the additional requirements stated in the full text of the statute.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

T.C.A. 67-5-212

Religious, charitable, scientific, educational institutions.

(a)(1) There shall be exempt from property taxation the real and personal property, or any part thereof, owned by any religious, charitable, scientific or nonprofit educational institution which is occupied and used by such institution or its officers purely and exclusively for carrying out thereupon one or more of the purposes for which the institution was created. No property shall be totally exempted, nor shall any portion

thereof be pro rata exempted, unless such property or portion thereof is actually used purely and exclusively for religious, charitable, scientific or educational purposes. (c) As used hereinabove, "charitable institution" includes any nonprofit organization or association devoting its efforts and property, or any portion thereof, exclusively to the improvement of human rights and/or conditions in the community.

The exemption in favor of a religious, scientific, literary, or educational institution is liberally construed, whereas there is a presumption against exempting other property from taxation. *Christian Home for Aged, Inc. v. Tennessee Assmt. Appeals Comm'n*, 790 S.W.2d 288 (Tenn. Ct. App. 1990).

## **B. Partial Exemptions.**

T.C.A. 67-5-212

Religious, charitable, scientific, educational institutions -- Assessment Act.

The real property of any such institution not so used exclusively for carrying out thereupon one (1) or more of such purposes, but leased or otherwise used for other purposes, whether the income received therefrom be used for one (1) or more of such purposes or not, shall not be exempt; but if a portion only of any lot or building of any such institution is used purely and exclusively for carrying out thereupon one (1) or more of such purposes of such institution, then such lot or building shall be so exempt only to the extent of the value of the portion so used, and the remaining or other portion shall be subject to taxation.

T.C.A. 67-5-212

Religious, charitable, scientific, educational institutions -- Assessment Act.

(c)(3) The exemption of property or parts thereof under this subsection shall be applicable only to such part of the property on which such organization conducts administrative, social or recreational activities if it is less than the entire property.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

T.C.A. 67-5-212

Religious, charitable, scientific, educational institutions -- Assessment Act.

(b)(1) Any owner of real or personal property claiming exemption under this section or § 67-5-207, § 67-5-213 or § 67-5-219 shall file an application for the exemption with the state board of equalization on a form prescribed by the board, and supply such further information as the board may require to determine whether the property qualifies for exemption. No property shall be exempted from property taxes under these sections unless the application has been approved in writing by the board. A separate application shall be filed for each parcel of property for which exemption is claimed. An application shall be deemed filed on the date it is received by the board or, if mailed, on the postmark date. The applicant shall provide a copy of the application with any supporting materials to the assessor of property of the county in which the property is located.

The property of a religious, charitable, scientific or educational institution is exempt only if occupied and used by it purely and exclusively for carrying out one or more of the purposes for which the institution exists or occupied and used by another exempt institution purely and exclusively for one or more of the purposes for which the other exempt institution was created or exists, and in the latter event, no more than one dollar per year rental may be paid by the latter institution to the former. *Memphis Dev. Found. v. State Bd. of Equalization*, 653 S.W.2d 266 (Tenn. Ct. App. 1983).

## **B. Procedures for Retaining an Exemption.**

T.C.A. 67-5-212

Religious, charitable, scientific, educational institutions -- Assessment Act.

Part B

(2) The board shall make an initial determination granting or denying exemption through its staff designee, who shall send written notice of the initial determination to the applicant and the assessor of property. Either the assessor of property or the applicant may appeal the initial determination to the board and shall be entitled to a hearing prior to any final determination of exemption. The assessor shall maintain on file copies of any approved applications. Upon approval of exemption, it is not necessary that the applicant reapply each year, but the exemption shall not be transferable or assignable and the applicant shall promptly report to the assessor any change in the use or ownership of the property which might affect its exempt status.

(3) Any institution claiming an exemption under this section which has not previously filed an application for and been granted an exemption for a parcel must file an application for exemption with the state board of equalization by May 20 of the year for which exemption is sought. If the application is approved, the exemption will be effective as of January 1 of the year of application or as of the date the exempt use of such parcel began, whichever is later. If application is made after May 20 of the year for which exemption is sought, but prior to the end of the year, the application may be approved but will be effective for only a portion of the year determined as follows:

(A) If application is filed within thirty (30) days after the exempt use of the property began, exemption will be effective as of the date the exempt use began or May 20, whichever is later; or

(B) If application is filed more than thirty (30) days after the exempt use began, the exemption will be effective as of the date of application.

(4) All questions of exemption under this section shall be subject to review and final determination by the board; provided, that any determination by the board is subject to judicial review by petition of certiorari to the appropriate chancery court. All other provisions of law notwithstanding, no property shall be entitled to judicial review of its status under this statute except as provided by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and only after the exhaustion of administrative remedies as provided hereinabove.

## **C. Annual Certification.**

T.C.A. 67-5-212

Religious, charitable, scientific, educational institutions -- Assessment Act.

Part B

(2) The board shall make an initial determination granting or denying exemption through its staff designee, who shall send written notice of the initial determination to the applicant and the assessor of property. Either the assessor of property or the applicant may appeal the initial determination to the board and shall be entitled to a hearing prior to any final determination of exemption. The assessor shall maintain on file copies of any approved applications. *Upon approval of exemption, it is not necessary that the applicant reapply each year, but the exemption shall not be transferable or assignable and the applicant shall promptly report to the assessor any change in the use or ownership of the property which might affect its exempt status. (emphasis added.)*

#### **D. Obligation to File Copies of Lease or Agreements.**

Nothing within the statutes requires leases or agreements to be filed.

#### **E. Notification Requirements After Change in Use or Ownership.**

T.C.A. 67-5-212

Religious, charitable, scientific, educational institutions -- Assessment Act.

Part B

(2) The board shall make an initial determination granting or denying exemption through its staff designee, who shall send written notice of the initial determination to the applicant and the assessor of property. Either the assessor of property or the applicant may appeal the initial determination to the board and shall be entitled to a hearing prior to any final determination of exemption. The assessor shall maintain on file copies of any approved applications. Upon approval of exemption, it is not necessary that the applicant reapply each year, but the exemption shall not be transferable or assignable and *the applicant shall promptly report to the assessor any change in the use or ownership of the property which might affect its exempt status. (emphasis added.)*

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

T.C.A. 67-5-1402

Duties of board.

The county board of equalization has and shall perform the following duties:

- (1) Carefully examine, compare and equalize the county assessments;
- (2) Assure that all taxable properties are included on the assessment lists;
- (3) Eliminate from the assessment lists such property as is lawfully exempt from taxation; provided, that if an application for exemption of such property is required under part 2 of

this chapter, the property shall not be eliminated from the assessment lists unless such exemption is approved by an authorized designee of the state board of equalization;

- (4) Hear complaints of taxpayers who feel aggrieved on account of excessive assessments of their property;
- (5) Decrease the assessments of such properties as the board determines have been excessively assessed;
- (6) Increase the assessments of such properties as the board determines are underassessed; provided, that owners of such properties are duly notified and given an opportunity to be heard;
- (7) Correct such errors arising from clerical mistakes or otherwise that may come or be brought to the attention of the board; and
- (8) Take whatever steps are necessary to assure that the assessments of all properties within its jurisdiction conform to laws of the state and rules and regulations of the state board of equalization.

### **B. Removal of Exemptions.**

Exemptions are removed by the Board as per their duties delineated above.

### **C. Assessment of Omitted Property.**

The Board will reassess and require the payment of back taxes on taxable property that was not listed on the tax rolls for any given period of time.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

T.C.A. 67-5-212

Religious, charitable, scientific, educational institutions -- Assessment Act.

(b)(5) The state board of equalization may revoke any exemption approved under this section if it determines that the exemption was approved on the basis of fraud, misrepresentation or erroneous information, or that the current owner or use of the property does not qualify for exemption. The executive secretary of the board may initiate proceedings for revocation on the executive secretary's own motion or upon the written complaint of any person upon a determination of probable cause. Revocation shall not be retroactive unless the order of revocation incorporates a finding of fraud or misrepresentation on the part of the applicant or failure of the applicant to give notice of a change in the use or ownership of the property as required by this section.

T.C.A. 67-5-1402

Duties of board.

The county board of equalization has and shall perform the following duties:

- (4) Hear complaints of taxpayers who feel aggrieved on account of excessive assessments of their property. (This right of petition is extended to complaints filed regarding exempt property owned or maintained by another individual.)

T.C.A. 67-5-1407

Complaints to county board of equalization.

(a)(1) Any owner of property or taxpayer liable for taxation in the state has the right by personal appearance, or by the personal appearance of the duly authorized agent of the owner of the property, which agency shall be evidenced by a written authorization executed by the owner or taxpayer, or by representation by an attorney, to make complaint before the county board of equalization on one (1) or more of the following grounds:

(A) Property under appeal or protest by the taxpayer has been erroneously classified or subclassified for purposes of taxation

T.C.A. 67-5-1408

Disposition of complaints.

Upon its consideration of any complaint or other information available, the county board of equalization may make such changes, by way of increase or decrease in assessments, appraised values, or changes in classifications or subclassifications, as in its judgment are proper, just and equitable; provided, that the property owner or owners shall be duly notified by the board of any increase of assessment or change in classification and given an opportunity to be heard.

Appeal to the state board of equalization as provided in this section for obtaining a determination of tax exempt classification is not an exclusive remedy, and plaintiff is not prevented from paying the tax under protest and suing in chancery for a refund.

*Vanderbilt Univ. v. Ferguson*, 554 S.W.2d 128 (Tenn. Ct. App. 1976).

## TEXAS

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

#### TX TAX § 151.310

(a) A taxable item sold, leased, or rented to, or stored, used, or consumed by, any of the following organizations is exempted from the taxes imposed by this chapter:

(1) an organization created for religious, educational, or charitable purposes if no part of the net earnings of the organization benefits a private shareholder or individual and the items purchased, leased, or rented are related to the purpose of the organization;

(2) an organization qualifying for an exemption from federal income taxes under Section 501(c)(3), (4), (8), (10), or (19), Internal Revenue Code, of the item sold, leased, rented, stored, used, or consumed relates to the purpose of the exempted organization and the item is not used for the personal benefit of a private stockholder or individual;

(e) A nonprofit hospital or hospital system that qualifies for an exemption under Subsection (a)(2) shall provide community benefits that include charity care and government-sponsored indigent health care as set forth in Subchapter D, Chapter 311, Health and Safety Code.

#### TX TAX § 171.063

(a) The following corporations are exempt from the franchise tax:

(1) a nonprofit corporation exempted from the federal income tax under Section 501(c)(3), (4), (5), (6), (7), (8), (10), or (19), Internal Revenue Code which in the case of a nonprofit hospital means a hospital providing charity care and community benefits as set forth in Paragraph (A), (B), (C), (D), (E), (F), or (G):

(A) Charity care and government-sponsored indigent health care are provided at a level which is reasonable in relation to the community needs, as determined through the community needs assessment, the available resources of the hospital or hospital system, and the tax-exempt benefits received by the hospital or hospital system;

(B) Charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of the hospital's or hospital system's net patient revenue;

(C) Charity care and government-sponsored indigent health care are provided in an amount equal to at least 100 percent of the hospital's or hospital system's tax-exempt benefits, excluding federal income tax;

(2) A corporation exempted under Section 501(c)(2) or (25), Internal Revenue Code, if the corporation or corporations for which it holds title to property is either exempt from or not subject to the franchise tax;

(3) A corporation exempted from federal income tax under Section 501(c)(16), Internal Revenue Code;

(4) A nonprofit corporation exempted from the federal income tax under Section 501(c)(3), Internal Revenue Code, that does not receive any

payment for providing health care services to inpatients or outpatients from any source including but not limited to the patient or person legally obligated to support the patient, third-party payors, Medicare, Medicaid, or any other state or local indigent care program. Payment for providing health care services does not include charitable donations, legacies, bequests, or grants or payments for research.

(b) A corporation is entitled to an exemption under this section based on the corporation's exemption from the federal income tax if the corporation files with the comptroller evidence establishing the corporation's exemption.

#### TX HEALTH & S § 262.004

The authority's property is exempt from taxation because it is held for public purposes only and devoted exclusively to the use and benefit of the public.

#### TX TAX § 11.11

(a) Except as provided by Subsections (b) and (c) of this section, property owned by this state or a political subdivision of this state is exempt from taxation if the property is used for public purposes.

#### TX TAX § 11.111

(a) The governing body of a taxing unit by ordinance or order may exempt from ad valorem taxation residential property owned by the United States or an agency of the United States and used to provide transitional housing for the indigent under a program operated or directed by the United States Department of Housing and Urban Development.

#### TX TAX § 11.12

Property exempt from ad valorem taxation by federal law is exempt from taxation.

#### TX TAX § 11.17

A person is entitled to an exemption from taxation of the property he owns and uses exclusively for human burial and does not hold for profit.

#### TX TAX § 11.18

(a) An organization that qualifies as a charitable organization as provided by this section is entitled to an exemption from taxation:

- (1) the buildings and tangible personal property that:
  - (A) are owned by the charitable organization; and
  - (B) except as permitted by Subsection (b), are used exclusively by qualified charitable organizations; and
- (2) the real property owned by the charitable organization consisting of:
  - (A) an incomplete improvement
  - (B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by qualified charitable organizations.

(d) A charitable organization must be organized exclusively to perform religious,

charitable, scientific, literary, or educational purposes and, except as permitted by Subsection (h) of this section, engage exclusively in performing one or more of the following charitable functions:

- (1) providing medical care without regard to the beneficiaries' ability to pay, which in the case of a nonprofit hospital or hospital system means providing charity care and community benefits as set forth in Paragraph (A), (B), (C), (D), (E), (F), (G), or (H);
- (2) providing support or relief to orphans, delinquent, dependent, or handicapped children in need of residential care, abused or battered spouses or children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;
- (3) providing support to elderly persons or the handicapped without regard to the beneficiaries' ability to pay;
- (4) preserving a historical landmark or site;
- (5) promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir;
- (6) promoting or providing humane treatment of animals;
- (11) promoting educational development through loans or scholarships to students;
- (12) providing halfway house services pursuant to a certification as a halfway house by the Board of Pardons and Paroles;
- (13) providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older without regard to the residents' ability to pay;
- (14) promoting or operating an art gallery, museum, or collection, in a permanent location or on tour, that is open to the public;
- (15) providing for the organized solicitation and collection for distributions through gifts, grants, and agreements to nonprofit charitable, education, religious, and youth organizations that provide direct human, health, and welfare services;
- (16) performing biomedical or scientific research or biomedical or scientific education for the benefit of the public;
- (17) operating a television station that produces or broadcasts educational, cultural, or other public interest programming and that receives grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396;
- (18) providing housing for low-income and moderate-income families, for unmarried individuals 62 years of age or older, for handicapped individuals, and for families displaced by urban renewal, through the use of trust assets that are irrevocably and, pursuant to a contract entered into before December 31, 1972, contractually dedicated on the sale or disposition of the housing to a charitable organization that performs charitable functions described by Subdivision (9); or
- (19) providing housing and related services to persons who are 62 years of age or older in a retirement community, if the retirement community provides independent living services, assisted living services, and nursing services to its residents on a single campus:
  - (A) without regard to the residents' ability to pay; or
  - (B) in which at least four percent of the retirement community's combined

net resident revenue is provided in charitable care to its residents.

(e) A charitable organization must be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain and, if the organization performs one or more of the charitable functions specified by Subsection (d) of this section other than a function specified in Subdivision (1), (2), (8), (9), (12), (16), or (18), be organized as a nonprofit corporation as defined by the Texas Non-Profit Corporation Act.

(f) A charitable organization must:

(1) use its assets in performing the organization's charitable functions or the charitable functions of another charitable organization; and

(2) by charter, bylaw, or other regulation adopted by the organization to govern its affairs direct that on discontinuance of the organization by dissolution or otherwise:

(A) the assets are to be transferred to this state, the United States, or an educational, religious, charitable, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1986, as amended;

(B) if required for the organization to qualify as a tax-exempt organization under Section 501(c)(12), Internal Revenue Code of 1986, as amended, the assets are to be transferred directly to the organization's members, each of whom, by application for an acceptance of membership in the organization, has agreed to immediately transfer those assets to this state or to an educational, religious, charitable, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1986, as amended, as designated in the bylaws, charter, or regulation adopted by the organization.

#### TX TAX § 11.182

(a) An organization is entitled to an exemption from taxation of improved or unimproved real property it owns if the organization:

(1) is organized as a community housing development organization;

(2) meets the requirements of a charitable organization provided by Sections 11.18(e) and (f);

(3) owns the property for the purpose of building or repairing housing on the property to sell without profit to a low-income or moderate-income individual or family satisfying the organization's eligibility requirements or to rent without profit to such an individual or family; and

(4) engages exclusively in the building, repair, and sale or rental of housing as described by Subdivision (3) and related activities.

(d) An organization entitled to an exemption under Subsection (a) is also entitled to an exemption from taxation of any building or tangible personal property the organization owns and uses in the administration of its acquisition, building, repair, sale, or rental of property. To qualify for an exemption under this subsection, property must be used exclusively by the organization, except that another person may use the property for

activities incidental to the organization's use that benefit the beneficiaries of the organization.

TX TAX § 11.19

(a) An association that qualifies as a youth development association as provided by Subsection (d) is entitled to an exemption from taxation of:

- (1) the tangible property that:
  - (A) is owned by the association;
  - (B) except as permitted by Subsection (b), is used exclusively by qualified youth development associations; and
  - (C) is reasonably necessary for the operation of the association; and
- (2) the real property owned by the youth development association consisting of:
  - (A) an incomplete improvement
  - (B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by qualified youth development associations.

(b) Use of exempt tangible property by persons who are not youth development associations qualified as provided by Subsection (d) of this section does not result in the loss of an exemption under this section if the use is incidental to use by qualified associations and benefits the individuals the associations serve.

(c) An association that qualifies as a youth development association as provided by Subsection (d) of this section is entitled to an exemption from taxation of those endowment funds the association owns that are used exclusively for the support of the association and are invested exclusively in bonds, mortgages, or property purchased at a foreclosure sale for the purpose of satisfying or protecting the bonds or mortgages. However, foreclosure-sale property that is held by an endowment fund for longer than the two-year period immediately following purchase at the foreclosure sale is not exempt from taxation.

(d) To qualify as a youth development association for the purposes of this section, an association must:

- (1) be organized and operated primarily for the purpose of promoting the threefold spiritual, mental, and physical development of boys, girls, young men, or young women;
- (2) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain;
- (3) operate in conjunction with a state or national organization that is organized and operated for the same purpose as the association;
- (4) use its assets in performing the association's youth development functions or the youth development functions of another youth development association; and
- (5) by charter, bylaw, or other regulation adopted by the association to govern its affairs direct that on discontinuance of the association by dissolution or otherwise the assets are to be transferred to this state, the United States, or a charitable, educational, religious, or other similar organization that is qualified as a charitable organization under Section

501(c)(3), Internal Revenue Code of 1954, as amended.

TX TAX § 11.20

(a) An organization that qualifies as a religious organization as provided by Subsection (c) of this section is entitled to an exemption from taxation of:

(1) the real property that is owned by the religious organization, is used primarily as a place of regular religious worship, and is reasonably necessary for engaging in religious worship;

(2) the tangible personal property that is owned by the religious organization and is reasonably necessary for engaging in worship at the place of worship specified in Subdivision (1) of this subsection;

(3) the real property that is owned by the religious organization and is reasonably necessary for use as a residence (but not more than one acre of land for each residence) if the property:

(A) is used exclusively as a residence for those individuals whose principal occupation is to serve in the clergy of the religious organization; and

(B) produces no revenue for the religious organization;

(4) the tangible personal property that is owned by the religious organization and is reasonably necessary for use of the residence specified by Subdivision (3) of this subsection; and

(5) the real property owned by the religious organization consisting of:

(A) an incomplete improvement that is under active construction or other physical preparation and that is designed and intended to be used by the religious organization as a place of regular religious worship when complete; and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the religious organization's use of the improvement as a place of regular religious worship.

(b) An organization that qualifies as a religious organization as provided by Subsection (c) of this section is entitled to an exemption from taxation of those endowment funds the organization owns that are used exclusively for the support of the religious organization and are invested exclusively in bonds, mortgages, or property purchased at a foreclosure sale for the purpose of satisfying or protecting the bonds or mortgages. However, foreclosure-sale property that is held by an endowment fund for longer than the two-year period immediately following purchase at the foreclosure sale is not exempt from taxation.

(c) To qualify as a religious organization for the purposes of this section, an organization (whether operated by an individual, as a corporation, or as an association) must:

(1) be organized and operated primarily for the purpose of engaging in religious worship or promoting the spiritual development or well-being of individuals;

(2) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain;

(3) use its assets in performing the organization's religious functions or

the religious functions of another religious organization; and  
(4) by charter, bylaw, or other regulation adopted by the organization to govern its affairs direct that on discontinuance of the organization by dissolution or otherwise the assets are to be transferred to this state, the United States, or a charitable, educational, religious, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1954, as amended.

(e) For the purposes of this section, "religious worship" means individual or group ceremony or meditation, education, and fellowship, the purpose of which is to manifest or develop reverence, homage, and commitment in behalf of a religious faith.

#### TX TAX § 11.21

(a) A person is entitled to an exemption from taxation of:

(1) the buildings and tangible personal property that the person owns and that are used for a school that is qualified as provided by Subsection (d) if:

- (A) the school is operated exclusively by the person owning the property;
- (B) except as permitted by Subsection (b), the buildings and tangible personal property are used exclusively for educational functions; and
- (C) the buildings and tangible personal property are reasonably necessary for the operation of the school; and

(2) the real property owned by the person consisting of:

- (A) an incomplete improvement
- (B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement for a school that is qualified as provided by Subsection (d)

(c) A person who operates a school that is qualified as provided by Subsection (d) of this section is entitled to an exemption from taxation of those endowment funds he owns that are used exclusively for the support of the school and are invested exclusively in bonds, mortgages, or property purchased at a foreclosure sale for the purpose of satisfying or protecting the bonds or mortgages. However, foreclosure-sale property that is held by an endowment fund for longer than the two-year period immediately following purchase at the foreclosure sale is not exempt from taxation.

(d) To qualify as a school for the purposes of this section, an organization (whether operated by an individual, as a corporation, or as an association) must:

- (1) be organized and operated primarily for the purpose of engaging in educational functions;
- (2) normally maintain a regular faculty and curriculum and normally have a regularly organized body of students in attendance at the place where its educational functions are carried on;
- (3) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain and, if the organization is a corporation, be organized as a nonprofit corporation as defined by the Texas Non-Profit Corporation Act;
- (4) use its assets in performing the organization's educational functions or the

educational functions of another educational organization; and

(5) by charter, bylaw, or other regulation adopted by the organization to govern its affairs direct that on discontinuance of the organization by dissolution or otherwise the assets are to be transferred to this state, the United States, or an educational, charitable, religious, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1954, as amended.

(e) In this section, "building" includes the land that is reasonably necessary for use of, access to, and ornamentation of the building.

(f) Notwithstanding Subsection (a), a person is entitled to an exemption from taxation of the buildings and tangible personal property the person acquires for use for a school that meets each requirement of Subsection (d) if:

(1) the person authorizes the former owner to continue to use the property pending the use of the property for a school; and

(2) the former owner would be entitled to an exemption from taxation of the property if the former owner continued to own the property.

#### TX TAX § 11.23

(a) Veteran's Organizations.

(b) Federation of Women's Clubs.

(c) Nature Conservancy of Texas.

(g) Theater Schools.

(i) Community Service Clubs.

(j) Medical Center Development

(k) Scientific Research Corporations.

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions.**

The test for determining whether "public property" is tax exempt because used for a "public purpose" is whether it is used primarily for health, comfort and welfare of public, and it is not essential that it be used for governmental purposes. A. & M. Consol. Independent School Dist. v. City of Bryan (Sup. 1945) 143 Tex. 348, 184 S.W.2d 914.

Property owned and used by charitable organization is not automatically entitled to tax exemption without regard to property's use or purpose. Baptist Memorials Geriatric Center v. Tom Green County Appraisal Dist (App. 3 Dist. 1993) 851 S.W.2d 938, rehearing overruled, writ denied.

Constitutional requirements must be met before organization can qualify for tax exempt status under statute establishing exemption for charities. Baptist Memorials Geriatric Center v. Tom Green County Appraisal Dist (App. 3 Dist. 1993) 851 S.W.2d 938, rehearing overruled, writ denied.

## **B. Partial Exemptions.**

### TX TAX § 11.41

(a) If a person who qualifies for an exemption as provided by this chapter is not the sole owner of the property to which the exemption applies, the exemption shall be multiplied by a fraction, the numerator of which is the value of the property interest the person owns and the denominator of which is the value of the property.

(b) In the application of this section, community ownership by a person who qualifies for the exemption and the person's spouse is treated as if the person owns the community interest of the person's spouse.

### TX TAX § 11.46

Each year the chief appraiser shall compile and make available to the public a list showing for each taxing unit in the district the number of each kind of partial exemption allowed in that tax year and the total assessed value of each taxing unit that is exempted by each kind of partial exemption.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

#### TX TAX § 171.063

(c) A corporation's exemption under Subsection (b) of this section is established by furnishing the comptroller with a copy of the Internal Revenue Service's letter of exemption issued to the corporation.

(d) If the Internal Revenue Service has not timely issued to a corporation a letter of exemption, evidence establishing the corporation's provisional exemption under this section is sufficient if the corporation timely files with the comptroller evidence that the corporation has applied in good faith for the federal tax exemption. The evidence must be filed not later than the 15th month after the day that is the last day of a calendar month and that is nearest to the date of the corporation's charter or certificate of authority.

(e) An exemption established under Subsection (c) or (d) of this section is to be recognized, after it is finally established, as of the date of the corporation's charter or certificate of authority.

(f) If a corporation timely files evidence with the comptroller under Subsection (d) of this section that it has applied for a federal tax exemption and if the application is finally denied by the Internal Revenue Service, this chapter does not impose a penalty on the corporation from the date of its charter or certificate of authority to the date of the final denial.

(g) If a corporation's federal tax exemption is withdrawn by the Internal Revenue Service for failure of the corporation to qualify or maintain its qualification for the exemption, the corporation's exemption under this section ends on the effective date of that withdrawal by the Internal Revenue Service. The effective date of the withdrawal is considered the corporation's beginning date for purposes of determining the corporation's privilege periods and for all other purposes of this chapter.

TX TAX § 11.42

(a) Except as provided by Subsection (b) and by Sections 11.421, 11.422, 11.434, 11.435, and 11.436, eligibility for and amount of an exemption authorized by this chapter for any tax year are determined by a claimant's qualifications on January 1. A person who does not qualify for an exemption on January 1 of any year may not receive the exemption that year.

(b) An exemption authorized by Section 11.11 or by Section 11.13(c) or (d) for an individual 65 years of age or older is effective immediately on qualification for the exemption.

(c) A person who acquires property after January 1 of a tax year may receive an exemption authorized by Section 11.17, 11.18, 11.19, 11.20, 11.21, 11.23, or 11.30 for the applicable portion of that tax year immediately on qualification for the exemption.

TX TAX § 11.421, 11.422, 11.423

(a) If the chief appraiser denies a timely filed application for an exemption under Sections 11.18, 11.19, 11.20, or 11.21 for a school that otherwise qualified for the exemption on January 1 of the year but that did not satisfy the requirements of Subsection (d)(5) of that section on that date, the school is eligible for the exemption for the tax year if the school:

- (1) satisfies the requirements of Section 11.21(d)(5) before the later of:
  - (A) July 1 of the year for which the exemption applies; or
  - (B) the 60th day after the date the chief appraiser notifies the school of its failure to comply with those requirements; and
- (2) within the time provided by Subdivision (1), files with the chief appraiser a new completed application for the exemption together with an affidavit stating that the school has complied with the requirements of Section 11.21(d)(5).

(b) If the chief appraiser cancels an exemption for a school under Section 11.21 that was erroneously allowed in a tax year because the appraiser determines that the school did not satisfy the requirements of Section 11.21(d)(5) on January 1 of that year, the school is eligible for the exemption for that tax year if the school:

- (1) was otherwise qualified for the exemption;
- (2) satisfies the requirements of Section 11.21(d)(5) on or before the 30th day after the date the chief appraiser notifies the school of the cancellation; and
- (3) in the time provided in Subdivision (2) files with the chief appraiser a new completed application stating that the school has complied with the requirements of Section 11.21(d)(5).

**B. Procedures for Retaining an Exemption.**

TX TAX § 11.43

(a) To receive an exemption, a person claiming the exemption, other than an exemption authorized by Section 11.11, 11.12, 11.14, 11.145, 11.146, 11.15, 11.16, 11.161, or 11.25 of this code, must apply for the exemption. To apply for an exemption, a person must file an exemption application form with the chief appraiser for each appraisal district in which the property subject to the claimed exemption has situs.

(b) Except as provided by Subsection (c) and Section 11.436, a person required to apply for an exemption must apply each year the person claims entitlement to the exemption.

(c) An exemption provided by Section 11.13, 11.17, 11.18, 11.19, 11.20, 11.21, 11.22, 11.23(j), 11.29, 11.30, or 11.31 of this code, once allowed, need not be claimed in subsequent years, and except as otherwise provided by Subsection (e) of this section, the exemption applies to the property until it changes ownership or the person's qualification for the exemption changes. However, the chief appraiser may require a person allowed one of the exemptions in a prior year to file a new application to confirm the person's current qualification for the exemption by delivering a written notice that a new application is required, accompanied by an appropriate application form, to the person previously allowed the exemption.

#### TX TAX § 11.44

(a) Before February 1 of each year, the chief appraiser shall deliver an appropriate exemption application form to each person who in the preceding year was allowed an exemption that must be applied for annually. He shall include a brief explanation of the requirements of Section 11.43 of this code.

(b) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of Section 11.43 of this code and the availability of application forms.

(c) The comptroller shall prescribe by rule the content of the explanation required by Subsection (a) of this section, and shall require that each exemption application form be printed and prepared:

- (1) as a separate form from any other form; or
- (2) on the front of the form if the form also provides for other information.

#### **C. Annual Certification.**

See Procedures for retaining an exemption section.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found to require that leases or agreements be filed.

#### **E. Notification Requirements After Change in Use or Ownership.**

#### TX TAX § 25.16

(a) If an exemption applicable to a property on January 1 terminates during the tax year, the property shall be listed in the name of the person who owns or acquires the property on the date applicability of the exemption terminates.

(b) The chief appraiser shall make an entry on the appraisal records showing that taxes on the property are to be calculated as provided by Section 26.10 of this code and showing the date on which exemption terminated.

#### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

## **A. Monitoring Exemptions.**

### TX LOCAL GOVT § 318.012

- (a) The commissioners court may establish a program under which the commission:
  - (1) receives and reviews applications that are filed with the county and that request a property tax exemption under Section 11.24, Tax Code; and
  - (2) recommends to the commissioners court whether to grant the exemption and, if the grant of the exemption is recommended, how much of the property's assessed value should be exempt from taxation.
- (b) The commission may examine the property that is granted the exemption on recommendation of the commission and recommend to the commissioners court whether the exemption should be withdrawn because of changed circumstances involving the property.
- (c) A person is entitled to appear before the commissioners court and state any objections to a recommendation made by the commission under this section regarding property owned by the person.
- (d) The commissioners court may require a person whose property is granted the exemption to notify the commission of any plans the person may have to modernize the property or change it in any other manner.

### TX TAX § 11.45

- (a) The chief appraiser shall determine separately each applicant's right to an exemption. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:
  - (1) approve the application and allow the exemption;
  - (2) modify the exemption applied for and allow the exemption as modified;
  - (3) disapprove the application and request additional information from the applicant in support of the claim; or
  - (4) deny the application.
- (b) If the chief appraiser requests additional information from an applicant, the applicant must furnish it within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.
- (c) The chief appraiser shall determine the validity of each application for exemption filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.
- (d) If the chief appraiser modifies or denies an exemption, he shall deliver a written notice of the modification or denial to the applicant within five days after the date he makes the determination. He shall include with the notice a brief explanation of the procedures for protesting his action.

### TX TAX § 41.01

- (a) The appraisal review board shall:
  - (1) determine protests initiated by property owners;
  - (2) determine challenges initiated by taxing units;

- (3) correct clerical errors in the appraisal records and the appraisal rolls;
  - (4) act on motions to correct appraisal rolls under Section 25.25;
  - (5) determine whether an exemption or a partial exemption is improperly granted and whether land is improperly granted appraisal as provided by Subchapter C, D, E, or H Chapter 23; and
  - (6) take any other action or make any other determination that this title specifically authorizes or requires.
- (b) The board may not review or reject an agreement between a property owner or the owner's agent and the chief appraiser under Section 1.111(e).

**B. Removal of Exemptions.**

Exemption are removed when either the taxpayer fails to file a required application, the taxpayer notifies that the use of the property has change, or when the assessor determines that the property is no longer meets exemption requirements.

**C. Assessment of Omitted Property.**

No statute was found that discusses omitted property.

**HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

**TX TAX § 42.06**

- (a) To exercise the party's right to appeal an order of an appraisal review board, a party other than a property owner must file written notice of appeal within 15 days after the date the party receives the notice required by Section 41.47 or, in the case of a taxing unit, by Section 41.07 that the order appealed has been issued. To exercise the right to appeal an order of the comptroller, a party other than a property owner must file written notice of appeal within 15 days after the date the party receives the comptroller's order. A property owner is not required to file a notice of appeal under this section.
- (b) A party required to file a notice of appeal under this section other than a chief appraiser who appeals an order of an appraisal review board shall file the notice with the chief appraiser of the appraisal district for which the appraisal review board is established. A chief appraiser who appeals an order of an appraisal review board shall file the notice with the appraisal review board. A party who appeals an order of the comptroller shall file the notice with the comptroller.
- (c) If the chief appraiser, a taxing unit, or a county appeals, the chief appraiser, if the appeal is of an order of the appraisal review board, or the comptroller, if the appeal is of an order of the comptroller, shall deliver a copy of the notice to the property owner whose property is involved in the appeal within 10 days after the date the notice is filed.
- (d) On the filing of a notice of appeal, the chief appraiser shall indicate where appropriate those entries on the appraisal records that are subject to the appeal.

**TX TAX § 41.03**

- (a) A taxing unit is entitled to challenge before the appraisal review board:

- (1) the level of appraisals of any category of property in the district or in any territory in the district, but not the appraised value of a single taxpayer's property;
  - (2) an exclusion of property from the appraisal records;
  - (3) a grant in whole or in part of a partial exemption;
  - (4) a determination that land qualifies for appraisal as provided by Subchapter C, D, E, or H, Chapter 23
  - (5) failure to identify the taxing unit as one in which a particular property is taxable.
- (b) If a taxing unit challenges a determination that land qualifies for appraisal under Subchapter H, Chapter 23, on the ground that the land is not located in an aesthetic management zone, critical wildlife habitat zone, or streamside management zone, the taxing unit must first seek a determination letter from the director of the Texas Forest Service. The appraisal review board shall accept the letter as conclusive proof of the type, size, and location of the zone.

## UTAH

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

UT Const. Art. 13, s 2

(1) All tangible property in the state, not exempt under the laws of the United States, or under this Constitution, shall be taxed at a uniform and equal rate in proportion to its value, to be ascertained as provided by law.

(2) The following are property tax exemptions:

- (a) the property of the state, school districts, and public libraries;
- (b) the property of counties, cities, towns, special districts, and all other political subdivisions of the state, except that to the extent and in the manner provided by the Legislature the property of a county, city, town, special district, or other political subdivision of the state located outside of its geographic boundaries as defined by law may be subject to the ad valorem property tax;
- (c) property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes;
- (d) places of burial not held or used for private or corporate benefit; and
- (e) farm equipment and farm machinery as defined by statute. This exemption shall be implemented over a period of time as provided by statute.

UT ST s 59-2-1101

(1) The exemptions authorized by this part may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed, unless the claimant is a federal, state, or political subdivision entity under Subsection (2)(a), (b), or (c), in which case the entity shall collect and pay a proportional tax based upon the length of time that the property was not owned by the entity.

(2) The following property is exempt from taxation:

- (a) property exempt under the laws of the United States;
- (b) property of the state, school districts, and public libraries;
- (c) property of counties, cities, towns, special districts, and all other political subdivisions of the state, except as provided in Title 11, Chapter 13, the Interlocal Cooperation Act;
- (d) property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes;
- (e) places of burial not held or used for private or corporate benefit;
- (f) farm equipment and machinery; and
- (g) intangible property.

UT ST s 59-2-1103

(1) Lands to which title remains in the state, which are held or occupied by any person under a contract of sale or lease from the state, are exempt from taxation.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Six factors which consolidate some of the traditional factors considered by the Supreme Court and provide useful guidelines in determining whether a particular institution is using its property exclusively for charitable purposes are:

- (1) Whether the stated purpose of the entity is to provide a significant service to others without immediate expectation of material reward;
- (2) whether the entity is supported, and to what extent, by donations and gifts;
- (3) whether the recipients of the "charity" are required to pay for the assistance received, in whole or in part;
- (4) whether the income received from all sources (gifts, donations, and payment from recipients) produces a "profit" to the entity in the sense that the income exceeds operating and long- term maintenance expenses;
- (5) whether the beneficiaries of the "charity" are restricted or unrestricted and, if restricted, whether the restriction bears a reasonable relationship to the entity's charitable objectives; and
- (6) whether dividends or some other form of financial benefit, or assets upon dissolution, are available to private interests, and whether the entity is organized and operated so that any commercial activities are subordinate or incidental to charitable ones.

*Yorgason v. County Bd. of Equalization*, 714 P.2d 653 (Utah 1986).

The constitutional tax exemption provided for a nonprofit corporation's real property used exclusively for charitable purposes is to be strictly construed, and to qualify for the exemption the charitable use of the property must be exclusive; however, a use of true minor import or a de minimus use will not defeat an exemption, and if there is any separate part of a building occupied and used exclusively for charitable purposes, that part qualifies for an exemption. *Loyal Order of Moose, # 259 v. County Bd. of Equalization*, 657 P.2d 257 (Utah 1982).

### **B. Partial Exemptions.**

Exemption of property of benevolent society extends only to such part of that property as is occupied and used "exclusively" for charitable purposes and not to part thereof held as source of revenue, especially when value of each such part of property is separately ascertainable. *Parker v. Quinn*, 23 Utah 332, 64 P. 961 (1901); *Salt Lake Lodge No. 85 v. Groesbeck*, 40 Utah 1, 120 P. 192 (1911), overruled on other grounds, *Loyal Order of Moose, # 259 v. County Bd. of Equalization*, 657 P.2d 257 (Utah 1982).

Where portion of certain property owned by charitable institution was occupied and used by it for charitable purposes, and other portion thereof was rented to stores for purposes of revenue, portion used and occupied for charitable purposes was exempt, and portion rented out was subject to taxation. *Odd Fellows' Bldg. Ass'n v. Naylor*, 53 Utah 111, 177

P. 214 (1918).

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when a taxpayer files for the exemption and the assessor determines that the property merits the exemption.

### **B. Procedures for Retaining an Exemption.**

UT ST s 59-2-1102

(1) The county board of equalization may, after giving notice in a manner prescribed by rule, determine whether certain property within the county is exempt from taxation. The decision of the county board of equalization shall be in writing and shall include a statement of facts and the statutory basis for its decision. A copy of the decision shall be mailed on or before May 15 to the person or organization applying for the exemption.

(2) The board shall notify an exempt property owner who has previously received an exemption but failed to file the annual affidavit required under Section 59-2-1101 of the board's intent to revoke the exemption on or before April 1.

(3) No reduction may be made in the value of property and no exemption may be granted unless the party affected or the party's agent makes and files with the board a written application for the reduction or exemption, verified by oath, and appears before the board and shows facts upon which it is claimed the reduction should be made, or exemption granted. The board may waive the application or personal appearance requirements.

(4) Before the board grants any application for exemption or reduction, it may examine on oath the person or agent making the application. No reduction may be made or exemption granted unless the person or the agent making the application attends and answers all questions pertinent to the inquiry.

(5) Upon the hearing of the application the board may subpoena any witnesses, and hear and take any evidence in relation to the pending subject.

(6) The county board of equalization shall hold hearings and render a written decision to determine any exemption on or before May 1 in each year.

(7) Any property owner dissatisfied with the decision of the county board of equalization regarding any exemption may appeal to the commission under Section 59-2-1006.

### **C. Annual Certification.**

UT ST s 59-2-1101

(3) Required filings.

(a) The owner who receives exempt status for property, if required by the commission, shall file an affidavit, on or before March 1 each year, certifying the use to which the property has been placed during the past year. The affidavit shall contain the following information in summary form:

(i) identity of affiant;

(ii) the basis of the affiant's knowledge of the use of the property;

- (iii) authority to make the affidavit on behalf of the owner;
- (iv) county where property is located; and
- (v) nature of use of the property.

(b) If the affidavit is not filed within the time limits prescribed by the county board of equalization, the exempt status may, after notice and hearing, be revoked and the property then placed on the tax rolls.

(4) The county legislative body may adopt rules to effectuate the exemptions provided in this part.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found that requires leases or agreements to be filed.

#### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found that requires notification upon a change in use or ownership.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

UT ST s 59-1-210

The powers and duties of the commission are as follows:

- (5) to administer and supervise the tax laws of the state;
- (6) to prepare and maintain from year to year a complete record of all lands subject to taxation in this state, and all machinery used in mining and all property or surface improvements upon or appurtenant to mines or mining claims;
- (7) to exercise general supervision over assessors and county boards of equalization including the authority to enforce Section 59-2-303.1, and over other county officers in the performance of their duties relating to the assessment of property and collection of taxes, so that all assessments of property are just and equal, according to fair market value, and that the tax burden is distributed without favor or discrimination;
- (8) to reconvene any county board of equalization which, when reconvened, may only address business approved by the commission and extend the time for which any county board of equalization may sit for the equalization of assessments;
- (9) to confer with, advise, and direct county treasurers, assessors, and other county officers in matters relating to the assessment and equalization of property for taxation and the collection of taxes;
- (10) to provide for and hold annually at such time and place as may be convenient a district or state convention of county assessors, auditors, and other county officers to consider and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative to taxation and methods of assessment, to which county assessors and other officers called to attend shall attend at county expense;
- (11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the penalties, liabilities, and punishments of public officers, persons, and officers or agents of

corporations for failure or neglect to comply with the statutes governing the reporting, assessment, and taxation of property;

(12) to cause complaints to be made in the proper court seeking removal from office of assessors, auditors, members of county boards, and other assessing, taxing, or disbursing officers, who are guilty of official misconduct or neglect of duty;

(13) to require county attorneys to immediately institute and prosecute actions and proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the laws relating to the assessment and taxation of property in their respective counties;

(14) to require any person to furnish any information required by the commission to ascertain the value and the relative burden borne by all kinds of property in the state, and to require from all state and local officers any information necessary for the proper discharge of the duties of the commission;

(15) to examine all records relating to the valuation of property of any person;

(19) to visit periodically each county of the state, to investigate and direct the work and methods of local assessors and other officials in the assessment, equalization, and taxation of property, and to ascertain whether the law requiring the assessment of all property not exempt from taxation, and the collection of taxes, have been properly administered and enforced;

(20) to carefully examine all cases where evasion or violation of the laws for assessment and taxation of property is alleged, to ascertain whether existing laws are defective or improperly administered;

## **B. Removal of Exemptions.**

An exemption is removed when the assessor determines that the property no longer merits the exemption or when the taxpayer fails to refile the appropriate paper work.

## **C. Assessment of Omitted Property.**

UT ST s 59-2-309

(1) Any escaped property may be assessed by the original assessing authority at any time as far back as five years prior to the time of discovery, in which case the assessor shall enter the assessments on the tax rolls and follow the procedures established under Part 13 of this chapter.

(2) Any property found to be willfully concealed, removed, transferred, or misrepresented by its owner or agent in order to evade taxation is subject to a penalty equal to the tax on its value, and neither the penalty nor assessment may be reduced or waived by the assessor, county, county Board of Equalization, or the commission, except pursuant to a procedure for the review and approval of waivers adopted by county ordinance, or by administrative rule adopted in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

UT ST s 59-2-1006

(1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board.

(2) The auditor shall:

(a) file one notice with the commission;

(b) certify and transmit to the commission:

(i) the minutes of the proceedings of the county board of equalization for the matter appealed;

(ii) all documentary evidence received in that proceeding; and

(iii) a transcript of any testimony taken at that proceeding that was preserved; and

(c) if the appeal is from a hearing where an exemption was granted or denied, certify and transmit to the commission the written decision of the board of equalization as required by Section 59-2-1102.

(3) In reviewing the county board's decision, the commission may:

(a) admit additional evidence;

(b) issue orders that it considers to be just and proper; and

(c) make any correction or change in the assessment or order of the county board of equalization.

(4) In reviewing the county board's decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if:

(a) the issue of equalization of property values is raised; and

(b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.

(5) The commission shall decide all appeals taken pursuant to this section not later than March 1 of the following year for real property and within 90 days for personal property, and shall report its decision, order, or assessment to the county auditor, who shall make all changes necessary to comply with the decision, order, or assessment.

The State Tax Commission has more than mere administrative duties; it is also clothed with quasi-judicial duties and functions, and hence is subject in proper cases to review of its decisions by certiorari, when a decision, ruling or order materially affects the substantial rights of the applicant for the writ, and results from a wrong interpretation of the law or a failure to follow or apply the law, or is against the undisputed evidence, provided always there is no plain, speedy, and adequate remedy in the ordinary course of the law. *Board of Equalization v. State Tax Comm'n*, 88 Utah 219, 50 P.2d 418, rehearing denied, 88 Utah 228, 54 P.2d 1214 (1935).

While this section gives the Tax Commission general supervisory and advisory powers over county tax collection functionaries, it does not confer jurisdiction to hear appeals from their decisions. *Blaine Hudson Printing v. Utah State Tax Comm'n*, 870 P.2d 291 (Utah Ct. App. 1994).

Even though commission's Code of Administrative Procedure provided for "informal" and then "formal" hearing on tax questions, taxpayer's failure to apply for formal hearing before taking appeal to Supreme Court from "decision" at informal hearing was not improper; statutory provisions and other rules in Code justify procedure followed by taxpayer. *Nelson v. State Tax Comm'n*, 29 Utah 2d 162, 506 P.2d 437, *aff'd*, 532 P.2d 680 (Utah 1973).

## VERMONT

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

VT ST T. 16 s 3859

(a) It is hereby found, determined and declared that the creation of the agency and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of Vermont, for the improvement of their education, health, welfare and prosperity, and is a public purpose, and that the agency will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter. The state of Vermont covenants with the holders of the bonds and notes that the agency shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision, or upon its activities in the operation and maintenance of facilities, or upon any moneys, revenues or other income received by the agency; and that the bonds and notes of the agency and the income therefrom shall at all times be exempt from taxation, except for transfer and estate taxes.

VT ST T. 18 s 5317

Except as otherwise provided in this chapter, all cemetery lands, buildings and property, and the proceeds thereof, as defined in this chapter, which have been platted and devoted to or held exclusively for cemetery purposes, including donations or gifts and held in trust or otherwise, and all other funds held for the improvement, maintenance, repair and ornamentation of such cemetery, together with the income therefrom and all other revenues and income shall be exempt from taxation.

VT ST T. 24 s 3216

(a) All property of a municipality, including funds, owned or held by it for the purposes of this chapter shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against a municipality be a charge or lien upon such property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this act by a municipality on its rents, fees, grants or revenues from urban renewal projects.

(b) The property of a municipality, acquired or held for the purposes of this chapter, is declared to be public property used for essential public and governmental purposes and such property shall be exempt from all taxes of the municipality, the county, the state or any political subdivision thereof; provided, that such tax exemption shall terminate when the municipality sells, leases or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body entitled to tax exemption with respect to such property.

VT ST T. 32 s 3802

The following property shall be exempt from taxation:

(1) Real and personal estate owned by this state, except as otherwise provided, real and personal estate owned by the United States, United States' securities which are specially

exempt from taxation by the laws of the United States at the time of making the list; except that this subsection shall not prohibit a federal agency from making payments for taxes on repossessed or voluntary conveyed single family, multifamily living units or farm properties.

(2) Real and personal property owned by a post of any veterans' organization chartered by act of Congress of the United States or owned by a corporation the members or stockholders of which are members of said post or its auxiliary, provided said real estate is used for purposes of the post or its auxiliary or such corporation only, is used as the principal meeting place of said post or its auxiliary in the exercise of its functions and activities, and is not leased or rented for profit; and real and personal property owned by and used for the purpose of its work by a nonprofit organization chartered by act of the Congress of the United States, such as a Red Cross, boy scout, girl scout, boy or girl organization.

(4) Real and personal estate granted, sequestered or used for public, pious or charitable uses; real property owned by churches or church societies or conferences and used as parsonages and personal property therein used by ministers engaged in full time work in the care of the churches of their fellowship within the state; real and personal estate set apart for library uses and used by the public and private circulating libraries, open to the public and not used for profit; lands leased by towns or town school districts for educational purposes; and lands owned or leased by colleges, academies or other public schools or leased by towns for the support of the gospel; and lands and buildings owned and used by towns for the support of the poor therein; but private buildings on such lands shall be set in the list to the owners thereof, and shall not be exempt. The exemption of lands owned or leased by colleges, academies or other public schools, shall not apply to lands or buildings rented for general commercial purposes, nor to farming or timber lands owned or leased thereby; but this provision shall not affect the exemption of so-called school or college lands, sequestered to such use prior to January 28, 1911;

(5) Real and personal property held by and for the benefit of college fraternities and societies and corporations owning such property, but this exemption shall not apply to property held for investment purposes. The exemption from taxation of real and personal property held by and for the benefit of college fraternities and societies and corporations owning such property shall not be construed as exempting lands, buildings or property other than a fraternity or society house, the land occupied thereby, the land adjacent thereto and used as a lawn, playground or garden, and the household furniture, and equipment in actual use in such fraternity or society house;

(6) Buildings, land and personal property owned and occupied by a Young Men's Christian Association or a Young Women's Christian Association for the purposes of its work, the income of which is entirely used for such purposes;

(7) Lands used for cemetery purposes and the structures thereon, trust funds and other property belonging to or held by cemetery associations and the lots of the proprietors thereof;

(9) Grounds and property owned and occupied by agricultural societies so long as the same are used annually for agricultural fairs;

(15) Real and personal property owned by a charitable, nonprofit organization devoted to the welfare, protection and humane treatment of animals, including any premises of a custodian or caretaker which is attached to or is located on the grounds of such an animal

shelter.

(16) Real and personal property owned by a federally-qualified health center or a free standing, federally-designated rural health clinic, provided such center or clinic is governed by a community board of directors; offers care on a sliding scale based on ability to pay; is owned and operated on a nonprofit basis; is unconditionally dedicated to public use which directly benefits an indefinite class of the public and confers a benefit on society. Notwithstanding any provision of law to the contrary, this exemption shall apply without the need for a vote of the town or municipality in which such property is located.

VT ST T. 8 s 4500

Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax other than taxes on real estate and office equipment.

### **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

#### **A. Full Exemptions.**

Since tax exemption statutes are strictly construed by confining their meaning to the express letter or necessary scope of the language, to qualify for an exemption taxpayer must establish facts sufficient to bring itself within the clear meaning of the claimed exemption. *Ski-Lan Gymnastics and Performing Arts Educational Foundation, Inc. v. City of Rutland* (1983) 143 Vt. 294, 465 A.2d 1363.

Supreme court must construe this section in a reasonable manner and ascertain the legislative intent from a consideration of the entire statute, having regard to both subject matter and ramifications of the statute. *Governor Clinton Council, Inc. v. Koslowski* (1979) 137 Vt. 240, 403 A.2d 689.

Exemptions from taxation, including those for charitable, educational or public uses, are to be strictly construed, and no claim of exemption can be sustained unless within the express letter or necessary scope of the exempting clause. *English Language Center, Inc. v. Town of Wallingford* (1974) 132 Vt. 327, 318 A.2d 180, overruled, *American Museum of Fly Fishing, Inc. v. Town of Manchester* (1989) 151 Vt. 103, 557 A.2d 900. *Experiment in International Living, Inc. v. Town of Brattleboro* (1968) 127 Vt. 41, 238 A.2d 782. *Inc. v. Town of Stowe* (1964) 124 Vt. 392, 205 A.2d 544.

Section providing for an exemption from taxation is to be strictly construed, although the construction must be reasonable and not such as would defeat purposes of section. *Gifford Memorial Hosp. v. Town of Randolph* (1955) 119 Vt. 66, 118 A.2d 480; *Troy Conference Academy v. Town of Poultney* (1949) 115 Vt. 480, 66 A.2d 2; *Brattleboro Retreat v. Town of Brattleboro* (1934) 106 Vt. 228, 173 A. 209.

## **B. Partial Exemptions.**

Where incorporated village had statutory authority to maintain electric light plant to light its streets, but had no such authority to furnish electric lights to its inhabitants, and part of the plant devoted to later use and subject to taxation by town in which it was located was, by act of the village, so merged in the part devoted to public use that it could not be separated, the whole plant was taxable. Village of Swanton v. Town of Highgate (1908) 81 Vt. 152, 69 A. 667.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when the taxpayer complies with the provisions of the state tax equalization board.

### **B. Procedures for Retaining an Exemption.**

No statute was found that outlines the procedures for retaining an exemption.

### **C. Annual Certification.**

No statute was found that outlines how certification and recertification of an exemption takes place.

### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found that requires leases and agreements be filed.

### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found that requires notification of a change in use or ownership.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

VT ST T. 10 s 6306

(a) The rights and interests in real property acquired by a municipality or state agency under the authority of this chapter shall be considered as municipal or state-owned land, as the case may be, with respect to taxation and state reimbursement in lieu of taxes.

(b) The commissioner of the department of taxes may certify that real property acquired by a qualified organization under this chapter is being held and maintained for the purposes expressed in section 6301 of this title. As a condition of that certification, the commissioner may require that the qualified organization provide adequate assurances

that the property is being so held and maintained, including but not limited to written agreements with the department of taxes, deeds, covenants or other conveyances.

Property which is so certified:

(1) if in the nature of an interest in fee simple, shall be assessed on the basis of its actual use, or may be enrolled by the qualifying organization in a current use program under chapter 124 of Title 32; or

(2) shall be exempt from assessment and taxation, if in the nature of an interest other than fee simple.

For purposes of this section, where a qualified organization holds a lease in the property for a term greater than ten years, including renewal terms, or holds such other interests as the commissioner shall determine to be substantially equivalent to an interest in fee simple, the organization shall be deemed to hold an interest in fee simple.

(c) After acquisition by a municipality, state agency or qualified organization of a right or interest in real property under the authority of this chapter, the owner of any remaining right or interest therein not so acquired shall be taxed, under the applicable provisions of chapter 123 of Title 32, only upon the value of those remaining rights or interests to which he retains title. The state agency or qualified organization, and the department of taxes, shall cooperate with that owner, and with the town assessing such tax, in the determination of the fair market value of any such remaining right or interest.

(d) Property held by a qualified organization and taxed or exempted under subsection (b) of this section shall be subject to a conversion tax if the commissioner determines that it is no longer being held and maintained for the purposes expressed in section 6301 of this title. The amount of the conversion tax shall be five times the amount of the taxes avoided by reason of the exemption in the most recent year. The conversion tax shall be paid to the municipality in which the property is located.

## **B. Removal of Exemptions.**

An exemption is removed when it no longer qualifies for the exemption.

## **C. Assessment of Omitted Property.**

No statute was found that discusses omitted property.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

VT ST T. 32 s 4404

(a) Within 14 days after the date of notice thereof a person aggrieved by the final decision of the listers under the provisions of section 4221 of this title, may appeal in writing therefrom to the board of civil authority, by lodging his or her appeal with the town clerk, who shall record the same in the book containing the abstract of individual lists. The grounds upon which such appeal is based shall therein be briefly set forth.

(b) The town clerk forthwith shall call a meeting of the board to hear and determine such appeals, which shall be held at such time, not later than 14 days after the last date allowed for notice of appeal, and at such place within the town as he or she shall designate. Notice

of such time and place shall be given by posting a warning therefor in three or more public places in such town, and by mailing a copy of such warning, postage prepaid, to each member of the board, the agent of the town to prosecute and defend suits, the chairman of the board of listers and to all persons so appealing.

(c) The board shall meet at the time and place so designated, and on that day and from day to day thereafter shall hear and determine such appeals until all questions and objections are heard and decided. Each property, the appraisal of which is being appealed, shall be inspected by a committee of not less than three members of the board who shall report to the board within 30 days from the hearing on the appeal and before the final decision pertaining to the property is given. If, after notice, the appellant refuses to allow an inspection of the property as required under this subsection, including the interior and exterior of any structure on the property, the appeal shall be deemed withdrawn. The board shall, within 15 days from the time of the report, certify in writing its notice of decision, with reasons, in the premises, and shall file such notice with the town clerk who shall thereupon record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of the action of such board, by certified mail. If the board does not substantially comply with the requirements of this subsection and if the appeal is not withdrawn by filing written notice of withdrawal with the board or deemed withdrawn as provided in this subsection, the grand list of the appellant for the year for which appeal is being made shall remain at the amount set before the appealed change was made by the listers; except, if there has been a complete reappraisal, the grand list of the appellant for the year for which appeal is being made shall be set at a value which will produce a tax liability equal to the tax liability for the preceding year. The town clerk shall immediately record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of such action, by certified mail. Thereupon the appraisal so determined pursuant to this subsection shall become a part of the grand list of such person.

(d) Listers and agents to prosecute and defend suits wherein a town is interested shall not be eligible to serve as members of the board while convened to hear and determine such appeals nor shall an appellant, his servant, agent or attorney be eligible to serve as a member of the board while convened to hear and determine any appeals. However, listers and agents to prosecute and defend suits wherein a town is interested shall be given the opportunity to defend the appraisals in question.

# VIRGINIA

## WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

VA CONST Art. 10, s 6

(a) Except as otherwise provided in this Constitution, the following property and no other shall be exempt from taxation, State and local, including inheritance taxes:

(1) Property owned directly or indirectly by the Commonwealth or any political subdivision thereof, and obligations of the Commonwealth or any political subdivision thereof exempt by law.

(2) Real estate and personal property owned and exclusively occupied or used by churches or religious bodies for religious worship or for the residences of their ministers.

(3) Private or public burying grounds or cemeteries, provided the same are not operated for profit.

(4) Property owned by public libraries or by institutions of learning not conducted for profit, so long as such property is primarily used for literary, scientific, or educational purposes or purposes incidental thereto. This provision may also apply to leasehold interests in such property as may be provided by general law.

(5) Intangible personal property, or any class or classes thereof, as may be exempted in whole or in part by general law.

(6) Property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes, as may be provided by classification or designation by a three-fourths vote of the members elected to each house of the General Assembly and subject to such restrictions and conditions as may be prescribed.

(b) The General Assembly may by general law authorize the governing body of any county, city, town, or regional government to provide for the exemption from local property taxation, or a portion thereof, within such restrictions and upon such conditions as may be prescribed, of real estate and personal property designed for continuous habitation owned by, and occupied as the sole dwelling of, persons not less than sixty-five years of age or persons permanently and totally disabled as established by general law who are deemed by the General Assembly to be bearing an extraordinary tax burden on said property in relation to their income and financial worth.

(c) Except as to property of the Commonwealth, the General Assembly by general law may restrict or condition, in whole or in part, but not extend, any or all of the above exemptions.

(d) The General Assembly may define as a separate subject of taxation any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth or for the purpose of transferring or storing solar energy, and by general law may allow the governing body of any county, city, town, or regional government to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.

(e) The General Assembly may define as a separate subject of taxation household goods,

personal effects and tangible farm property and products, and by general law may allow the governing body of any county, city, town, or regional government to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.

(f) Exemptions of property from taxation as established or authorized hereby shall be strictly construed; provided, however, that all property exempt from taxation on the effective date of this section shall continue to be exempt until otherwise provided by the General Assembly as herein set forth.

(g) The General Assembly may by general law authorize any county, city, town, or regional government to impose a service charge upon the owners of a class or classes of exempt property for services provided by such governments.

(h) The General Assembly may by general law authorize the governing body of any county, city, town, or regional government to provide for a partial exemption from local real property taxation, within such restrictions and upon such conditions as may be prescribed, of real estate whose improvements, by virtue of age and use, have undergone substantial renovation, rehabilitation or replacement.

(i) The General Assembly may by general law allow the governing body of any county, city, or town to exempt or partially exempt from taxation any generating equipment installed after December thirty-one, nineteen hundred seventy-four, for the purpose of converting from oil or natural gas to coal or to wood, wood bark, wood residue, or to any other alternate energy source for manufacturing, and any co-generation equipment installed since such date for use in manufacturing.

(j) The General Assembly may by general law allow the governing body of any county, city, or town to have the option to exempt or partially exempt from taxation any business, occupational or professional license or any merchants' capital, or both.

#### VA ST s 58.1-3606

A. Pursuant to the authority granted in Article X, Section 6 (a) (6) of the Constitution of Virginia to exempt property from taxation by classification, the following classes of real and personal property shall be exempt from taxation:

1. Property owned directly or indirectly by the Commonwealth, or any political subdivision thereof.
2. Buildings with land they actually occupy, and the furniture and furnishings therein owned by churches or religious bodies and exclusively occupied or used for religious worship or for the residence of the minister of any church or religious body, and such additional adjacent land reasonably necessary for the convenient use of any such building.
3. Nonprofit private or public burying grounds or cemeteries.
4. Property owned by public libraries, law libraries of local bar associations when the same are used or available for use by a state court or courts or the judge or judges thereof, medical libraries of local medical associations when the same are used or available for use by state health officials, incorporated colleges or other institutions of learning not conducted for profit. This paragraph shall apply only to property primarily used for literary, scientific or educational purposes or purposes incidental thereto and shall not apply to industrial schools which sell their products to other than their own employees or students.

5. Property belonging to and actually and exclusively occupied and used by the Young Men's Christian Associations and similar religious associations, including religious mission boards and associations, orphan or other asylums, reformatories, hospitals and nunneries, conducted not for profit but exclusively as charities (which shall include hospitals operated by nonstock corporations not organized or conducted for profit but which may charge persons able to pay in whole or in part for their care and treatment).
  6. Parks or playgrounds held by trustees for the perpetual use of the general public.
  7. Buildings with the land they actually occupy, and the furniture and furnishings therein belonging to any benevolent or charitable organization and used by it exclusively for lodge purposes or meeting rooms, together with such additional adjacent land as may be necessary for the convenient use of the buildings for such purposes.
  8. Property of any nonprofit corporation organized to establish and maintain a museum.
- B. Property, belonging in one of the classes listed in subsection A of this section, which was exempt from taxation on July 1, 1971, shall continue to be exempt from taxation under the rules of statutory construction applicable to exempt property prior to such date.

#### VA ST s 58.1-3609

- A. The real and personal property of an organization classified in ss 58.1-3610 through 58.1-3621 and used by such organization for a religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purpose as set forth in Article X, Section 6 (a) (6) of the Constitution of Virginia, the particular purpose for which such organization is classified being specifically set forth within each section, shall be exempt from taxation, so long as such organization is operated not for profit and the property so exempt is used in accordance with the purpose for which the organization is classified.
- B. Exemptions of property from taxation under this article shall be strictly construed in accordance with Article X, Section 6 (f) of the Constitution of Virginia.

#### VA ST s 58.1-3610 – 58.1-3616

Exemptions are also provided for the following groups and organizations:

Volunteer fire departments.

Certain boys and girls clubs.

Auxiliaries of veterans of World War I.

Societies to prevent cruelty to animals.

Boy and Girl Scouts of America.

Demonstration Clubs, 4-h Clubs, Future Farmers of America.

American Red Cross.

#### VA ST s 58.1-3617

Any church, religious association or religious denomination operated exclusively on a nonprofit basis for charitable, religious or educational purposes is hereby classified as a religious and charitable organization. Notwithstanding s 58.1-3609, only property of such association or denomination used exclusively for charitable, religious or educational

purposes shall be so exempt from taxation.

Motor vehicles owned by churches and used predominantly for church purposes, are hereby classified as property used by its owner for religious purposes.

For purposes of this section, property of a church, religious association or religious denomination owned in the name of a duly designated ecclesiastical officer or of a trustee shall be deemed to be owned by such church, association or denomination.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

Under the present Constitution, which became effective July 1, 1971, the rule in Virginia is that exemption of property from taxation shall be strictly construed and, under this rule, exemption from taxation is the exception, and where there is any doubt, the doubt is resolved against the one claiming exemption and the housing and health care facility came into existence and acquired its property after July 1, 1971. Hence, its claim to exemption must be strictly construed, and this meant that entitlement to exemption must have appeared clearly from the statutory provisions upon which it relies.

*Westminster-Canterbury of Hampton Rds., Inc. v. City of Virginia Beach*, 238 Va. 493, 385 S.E.2d 561 (1989).

This State adheres to the rule of strict construction of tax exemptions. Taxation is the rule, not the exception. *WTAR Radio-TV Corp. v. Commonwealth*, 217 Va. 877, 234 S.E.2d 245 (1977).

Statutes granting tax exemptions are construed strictly against the taxpayer, and when a tax statute is susceptible of two constructions, one granting an exemption and the other not granting it, courts adopt the construction which denies the exemption.

*Commonwealth, Dep't of Taxation v. Wellmore Coal Corp.*, 228 Va. 149, 320 S.E.2d 509 (1984). *Carr v. Forst*, 249 Va. 66, 453 S.E.2d 274 (1995).

### **B. Partial Exemptions.**

VA ST s 58.1-3220

A. The governing body of any county, city or town may, by ordinance, provide for the partial exemption from taxation of real estate on which any structure or other improvement no less than fifteen years of age has undergone substantial rehabilitation, renovation or replacement for residential use, subject to such conditions as the ordinance may prescribe. The ordinance may, in addition to any other restrictions hereinafter provided, restrict such exemptions to real property located within described zones or districts whose boundaries shall be determined by the governing body. The governing body of a county, city or town may establish criteria for determining whether real estate qualifies for the partial exemption authorized by this provision and may require such structures to be older than fifteen years of age, or place such other restrictions and conditions on such property as may be prescribed by ordinance. Such ordinance may also

provide for the partial exemption from taxation of multifamily residential units which have been substantially rehabilitated by replacement for multifamily use. Such replacement structures may exceed the total square footage of the replaced structures by no more than thirty percent.

B. The partial exemption provided by the local governing body may be an amount equal to the increase in assessed value or a percentage of such increase resulting from the rehabilitation, renovation or replacement of the structure as determined by the commissioner of revenue or other local assessing officer or an amount up to fifty percent of the cost of the rehabilitation, renovation or replacement, as determined by ordinance. The exemption may commence upon completion of the rehabilitation, renovation or replacement or on January 1 of the year following completion of the rehabilitation, renovation or replacement and shall run with the real estate for a period of no longer than fifteen years. The governing body of a county, city or town may place a shorter time limitation on the length of such exemption, or reduce the amount of the exemption in annual steps over the entire period or a portion thereof, in such manner as the ordinance may prescribe.

C. Nothing in this section shall be construed as to permit the commissioner of the revenue to list upon the land book any reduced value due to the exemption provided in subsection B.

D. The governing body of any county, city or town may assess a fee not to exceed fifty dollars for processing an application requesting the exemption provided by this section. No property shall be eligible for such exemption unless the appropriate building permits have been acquired and the commissioner of the revenue or assessing officer has verified that the rehabilitation, renovation or replacement indicated on the application has been completed.

E. Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in subsection A shall not apply when any structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is created when the taxpayer files for an exemption and the tax assessor determines that the property merits such an exemption.

### **B. Procedures for Retaining an Exemption.**

VA ST s 58.1-3213

A. The person claiming such exemption shall file annually with the commissioner of the revenue of the county, city or town assessing officer or such other officer as may be designated by the governing body in which such dwelling lies, on forms to be supplied by the county, city or town concerned, an affidavit or written statement setting forth (i) the names of the related persons occupying such real estate and (ii) that the total combined net worth, including equitable interests and the combined income from all sources, of the

persons specified in s 58.1-3211 does not exceed the limits prescribed in such ordinance.  
B. In lieu of the annual affidavit or written statement filing requirement, a county, city or town may prescribe by ordinance for the filing of the affidavit or written statement on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding affidavit or written statement filed has changed to violate the limitations and conditions provided herein.

C. Notwithstanding the provisions of subsections A, B, and E of this section, any county, city or town may, by local ordinance, prescribe the content of the affidavit or written statement described in subsection A, subject to the requirements established in s 58.1-3211; the frequency with which an affidavit, written statement or certification as described in subsection B of this section must be filed; and a procedure for late filing of affidavits or written statements.

E. Such affidavit, written statement or certification shall be filed after January 1 of each year, but before April 1, or such later date as may be fixed by ordinance. Such ordinance may include a procedure for late filing by first- time applicants or for hardship cases.

F. The commissioner of the revenue or town assessing officer or another officer designated by the governing body of the county, city or town shall also make any other reasonably necessary inquiry of persons seeking such exemption, requiring answers under oath, to determine qualifications as specified herein, including qualification as permanently and totally disabled as defined in s 58.1-3217 and qualification for the exclusion of life insurance benefits paid upon the death of an owner of a dwelling, or as specified by county, city or town ordinance. The local governing body may, in addition, require the production of certified tax returns to establish the income or financial worth of any applicant for tax relief or deferral.

### **C. Annual Certification.**

#### VA ST s 58.1-3605

The governing body of any county, city or town, after giving sixty days' written notice, may require by local ordinance any entity, except the Commonwealth, any political subdivision of the Commonwealth, or the United States, which owns real and personal property exempt pursuant to this chapter to file triennially an application with the appropriate assessing officer as a requirement for retention of the exempt status of the property. Such application shall show the ownership and usage of such property and shall be filed within the next sixty days preceding the tax year for which such exemption, or the retention thereof, is sought.

The local governing body may submit to the General Assembly a list of those organizations whose property is designated as tax exempt under s 58.1-3650.1 et seq. which the local governing body wants to remove from its exempt property list. Legislation including such a list must be introduced no later than the first calendar day of any session of the General Assembly unless requested by the Governor.

See also the above section on procedures.

#### **D. Obligation to File Copies of Lease or Agreements.**

No statutes were found that require filing copies of leases or agreements.

#### **E. Notification Requirements After Change in Use or Ownership.**

No statutes were found that require notification after a change in use or ownership.

### **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

#### **A. Monitoring Exemptions.**

VA ST s 58.1-3604

A. The appropriate county, city or town assessing officer shall make and maintain an inventory and assessment of all tax-exempt real property and all such property immune from real estate taxation within his county, city or town, excluding streets, highways and other roadways. Such official shall identify such property by a general site description indicating the owner thereof and report such information on the land book along with an assessment of the fair market value of such property, the total assessed valuation for each type of exemption and a computation of total tax which would be due if such property were not exempt. A total of such assessed valuations and a computation of the percentage such exempt and immune property represents in relation to all property assessed within the county, city or town shall be published annually by such local assessing officer and a copy thereof shall be filed with the Department of Taxation on forms prescribed by the Department. All costs incurred pursuant to this section shall be borne by the county, city or town.

B. The appropriate county, city or town assessing officer shall also cause to be published, on an annual basis, at the same time and in the same publication, or in the same manner, as notice of the local real estate tax rates is published or otherwise posted, a statement indicating the aggregate assessed value of all real property exempted from taxation under ss 58.1-3607 and 58.1-3608, and Articles 3, 4 and 5 of Chapter 36 of this title, and the total reduction in tax revenues resulting from such exemptions.

#### **B. Removal of Exemptions.**

An exemption is removed when the tax assessor determines that the property no longer merits the exemption or when the taxpayer fails to file the appropriate paper work.

#### **C. Assessment of Omitted Property.**

VA ST s 58.1-3903

If the commissioner of the revenue of any county or city or the tax-assessing officer of any town ascertains that any local tax has not been assessed for any tax year of the three preceding tax years or that the same has been assessed at less than the law required for any one or more of such years, or that the taxes for any cause have not been realized, the

commissioner of the revenue or other assessing officer shall list and assess the same with taxes at the rate or rates prescribed for that year, adding thereto penalty and interest at the rate provided under ss 58.1-3916 and 58.1-3918. Interest may be computed upon the taxes and penalty from the first day following the due date in the year in which such taxes should have been paid and shall accrue thereon from such date until payment; provided, if such assessment was necessitated through no fault of the taxpayer, such penalty and interest shall accrue after thirty days from such date of assessment until payment.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

### **VA ST s 58.1-1825**

Any person assessed with any tax administered by the Department of Taxation and aggrieved by any such assessment may, unless otherwise specifically provided by law, within (i) three years from the date such assessment is made or (ii) one year from the date of the Tax Commissioner's determination under s 58.1-1822, whichever is later, apply to a circuit court for relief. The venue for such proceeding shall be as specified in subdivision 13 b of s 8.01-261. The application shall be before the court when it is filed in the clerk's office. Such application shall not be deemed filed unless (i) the assessment has been paid or (ii) in lieu of payment, the taxpayer has posted bond pursuant to the provisions of s 16.1-107, with a corporate surety licensed to do business in Virginia, within ninety days from the date such assessment is made.

Any person whose assessment has been improperly collected from property exempt from process may within three years from the date such assessment is made, or if later, within one year of the Tax Commissioner's decision on a process exemption claim under s 58.1-1821 apply to a circuit court for relief. The venue for such proceeding shall be as specified in subdivision 13 b of s 8.01-261.

The Department shall be named as defendant, and the proceedings shall be conducted as an action at law before the court sitting without a jury. It shall be the burden of the applicant in any such proceeding to show that the assessment or collection complained of is erroneous or otherwise improper. The court's order shall be entered pursuant to s 58.1-1826.

### **VA ST s 58.1-3984**

A. Any person assessed with local taxes, aggrieved by any such assessment, may, unless otherwise specially provided by law, (i) within three years from the last day of the tax year for which any such assessment is made, (ii) within one year from the date of the assessment, (iii) within one year from the date of the Tax Commissioner's final determination under s 58.1-3703.1 A 5, or (iv) within one year from the date of the final determination under s 58.1- 3981, whichever is later, apply for relief to the circuit court of the county or city wherein such assessment was made. The application shall be before the court when it is filed in the clerk's office. In such proceeding the burden of proof shall be upon the taxpayer to show that the property in question is valued at more than its fair market value or that the assessment is not uniform in its application, or that the assessment is otherwise invalid or illegal, but it shall not be necessary for the taxpayer to show that intentional, systematic and willful discrimination has been made. The

proceedings shall be conducted as an action at law before the court, sitting without a jury. The county or city attorney, or if none, the attorney for the Commonwealth, shall defend the application.

B. In the event it comes or is brought to the attention of the commissioner of revenue of the locality that the assessment of any tax is improper or is based on obvious error and should be corrected in order that the ends of justice may be served, and he is not able to correct it under s 58.1-3981, the commissioner of the revenue shall apply to the appropriate court, in the manner herein provided for relief of the taxpayer. Such application may include a petition for relief for any of several taxpayers.

## WASHINGTON

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

R.C.W.A. 84.36.030.

The following real and personal property shall be exempt from taxation:

(1) Property owned by nonprofit organizations or associations, organized and conducted for nonsectarian purposes, which shall be used for character- building, benevolent, protective or rehabilitative social services directed at persons of all ages.

(2) Property owned by any nonprofit church, denomination, group of churches, or an organization or association, the membership of which is comprised solely of churches or their qualified representatives, which is utilized as a camp facility if used for organized and supervised recreational activities and church purposes as related to such camp facilities.

(3) Property, including buildings and improvements required for the maintenance and safeguarding of such property, owned by nonprofit organizations or associations engaged in character building of boys and girls under eighteen years of age, and used for such purposes and uses, provided such purposes and uses are for the general public good.

(4) Property owned by all organizations and societies of veterans of any war of the United States.

(5) Property owned by all corporations, incorporated under any act of congress, whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same.

(6) Property owned by nonprofit organizations exempt from federal income tax under section 501(c)(3) of the internal revenue code of 1954, as amended, that are guarantee agencies under the federal guaranteed student loan program or that issue debt to provide or acquire student loans.

U.S.C.A. § 501. Exemption from tax on corporations, certain trusts, etc.

(a) Exemption from taxation.--An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(c) List of exempt organizations.--The following organizations are referred to in subsection (a):

(1) Any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation--

(A) is exempt from Federal income taxes--

(B) is described in subsection (1).

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section. Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(7) To be exempt under this section, the property must be used exclusively for the purposes for which exemption is granted, except as provided in RCW 84.36.805.

R.C.W.A. 84.36.040.

(1) The real and personal property used by nonprofit (a) day care centers as defined pursuant to RCW 74.15.020; (b) free public libraries; (c) orphanages and orphan asylums; (d) homes for the sick or infirm; (e) hospitals for the sick; and (f) outpatient dialysis facilities, which are used for the purposes of such organizations shall be exempt from taxation: PROVIDED, That the benefit of the exemption inures to the user.

(2) To be exempt under this section, the property must be used exclusively for the purposes for which exemption is granted, except as provided in RCW 84.36.805.

R.C.W.A. 84.36.041.

(1) All real and personal property used by a nonprofit home for the aging that is reasonably necessary for the purposes of the home is exempt from taxation if the benefit of the exemption inures to the home and if it complies with additional provisions noted in the full text of the statute.

(2) All real and personal property used by a nonprofit home for the aging that is reasonably necessary for the purposes of the home is exempt from taxation if the benefit of the exemption inures to the home and additional provisions regarding improvements and financing are met as noted in the full text of the statute.

(4) To be exempt under this section, the property must be used exclusively for the purposes for which the exemption is granted, except as provided in RCW 84.36.805.

(5) A home for the aging is exempt from taxation only if the organization operating the home is exempt from income tax under section 501(c) of the federal internal revenue code as existing on January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purposes of this section. (See above for U.S.C.A. 501(c).)

R.C.W.A. 84.36.043.

Nonprofit organization property used in providing emergency or transitional housing to low-income homeless persons or victims of domestic violence

(1) The real and personal property used by a nonprofit organization in providing

emergency or transitional housing for low-income homeless persons as defined in RCW 35.21.685 or 36.32.415 or victims of domestic violence who are homeless for personal safety reasons. (See full text for additional requirements.)

R.C.W.A. 84.36.045.

All real and personal property owned or used by any nonprofit corporation or association which is available without charge for research by, or for the training of, doctors, nurses, laboratory technicians, hospital administrators and staff or other hospital personnel, and which otherwise is used for medical research, the results of which will be available without cost to the public, shall be exempt from ad valorem taxation. If the real or personal property is leased, the benefit of the exemption shall inure to the nonprofit corporation or association. To be exempt under this section, the property must be used exclusively for the purposes for which exemption is granted, except as provided in RCW 84.36.805.

R.C.W.A. 84.36.046.

(1) All real or personal property owned or used by a nonprofit organization, corporation, or association in connection with a nonprofit cancer clinic or center shall be exempt from taxation. (Provided additional requirements stated in the full text of the statute are met.)

R.C.W.A. 84.36.047.

Nonprofit organization property used for transmission or reception of radio or television signals originally broadcast by governmental agencies.

R.C.W.A. 84.36.050.

Property owned or used for any nonprofit school or college in this state for educational purposes or cultural or art educational programs as defined in RCW 82.04.4328. (Provided it follows the additional requirements listed within the full text of the statute.)

R.C.W.A. 84.36.060.

(1) All art, scientific, or historical collections of associations maintaining and exhibiting such collections for the benefit of the general public and not for profit, together with all real and personal property of such associations used exclusively for the safekeeping, maintaining and exhibiting of such collections; and all the real and personal property owned by or leased to associations engaged in the production and performance of musical, dance, artistic, dramatic, or literary works for the benefit of the general public and not for profit, which real and personal property is used exclusively for this production or performance.

R.C.W.A. 84.36.350.

Property owned or used for sheltered workshops for handicapped

R.C.W.A. 84.36.480.

The real and personal property of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture. (See statute for full text.)

R.C.W.A. 84.36.550.

Property used for solicitation or collection of gifts, donations, or grants

**WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

**A. Full Exemptions.**

R.C.W.A. 84.36.805.

In order to be exempt pursuant to RCW 84.36.030, 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.046, 84.36.047, 84.36.050, 84.36.060, 84.36.350, 84.36.480, 84.36.550, and 84.36.042, the nonprofit organizations, associations or corporations shall satisfy the following conditions:

- (1) The property is used exclusively for the actual operation of the activity for which exemption is granted, unless otherwise provided, and does not exceed an amount reasonably necessary for that purpose. (See full text for some minor exceptions.)
- (2) The property is irrevocably dedicated to the purpose for which exemption has been granted, and upon the dissolution or other similar act by said organization the only benefit to be derived will benefit a nonprofit organization. (See text of the statute for further explanation.)
- (3) The facilities and services are available to all regardless of race, color, national origin or ancestry.
- (4) The organization, association, or corporation is duly licensed or certified where such licensing or certification is required by law or regulation.
- (5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller shall not qualify for exempt status.
- (6) The director of the department of revenue shall have access to its books in order to determine whether such organization, association, or corporation is exempt from taxes within the intent of other Washington Statutes.

**B. Partial Exemptions.**

R.C.W.A. 84.36.041.

- (3) A home for the aging is eligible for a partial exemption on the real property and a total exemption for the home's personal property if the home does not meet the requirements of subsection (1) of this section because fewer than fifty percent of the occupied dwelling units are occupied by eligible residents, as follows:
  - (a) A partial exemption shall be allowed for each dwelling unit in a home occupied by a resident requiring assistance with activities of daily living.
  - (b) A partial exemption shall be allowed for each dwelling unit in a home occupied by an eligible resident.
  - (c) A partial exemption shall be allowed for an area jointly used by a home for the aging and by a nonprofit organization, association, or corporation currently exempt from property taxation under one of the other provisions of this chapter. The shared area must be reasonably necessary for the purposes of the nonprofit organization, association, or

corporation exempt from property taxation under one of the other provisions of this chapter, such as kitchen, dining, and laundry areas.

(d) The amount of exemption shall be calculated by multiplying the assessed value of the property reasonably necessary for the purposes of the home, less the assessed value of any area exempt under (c) of this subsection, by a fraction. The numerator of the fraction is the number of dwelling units occupied by eligible residents and by residents requiring assistance with activities of daily living. The denominator of the fraction is the total number of occupied dwelling units as of January 1st of the year for which exemption is claimed.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

R.C.W.A. 84.36.815.

Initial application.

In order to qualify for exempt status for any real or personal property under this chapter except personal property under RCW 84.36.600, all foreign national governments, cemeteries, nongovernmental nonprofit corporations, organizations, and associations, and soil and water conservation districts shall file an initial application on or before March 31 with the state department of revenue. All applications shall be filed on forms prescribed by the department and shall be signed by an authorized agent of the applicant.

### **B. Procedures for Retaining an Exemption.**

R.C.W.A. 84.36.815.

Affidavit certifying exempt status.

When organizations acquire real property qualified for exemption or convert real property to an exempt use, the property, upon approval of the application for exemption, is entitled to a property tax exemption for property taxes due and payable the following year. If the owner has paid taxes for the year following the year the property qualified for exemption, the owner is entitled to a refund of the amount paid on the property so acquired or converted.

R.C.W.A. 84.36.830.

Review of applications for exemption.

The department of revenue shall review each application for exemption and make a determination thereon prior to August 1st of the assessment year for which such application is made: PROVIDED, That each exemption application received after March 31 shall be reviewed and determination made thereon within thirty days of the date received or by August 1, whichever is later. The department of revenue may request such additional relevant information as it deems necessary. The department of revenue shall make a physical inspection of the property and satisfy itself as to the use of all parcels prior to approving or denying the application, and thereafter at regular intervals designed to insure compliance with this chapter. When the department of revenue has examined the application and the subject property, it shall either approve or deny the request and

clearly state the reasons for denial in written notification by mail to the applicant. The department shall also notify the assessor of the county in which the property is located. The county assessor shall place such property on the assessment roll for the current year.

### **C. Annual Certification.**

R.C.W.A. 84.36.815.

Exemption effective for following year.

In order to requalify for exempt status, all applicants except nonprofit cemeteries shall file an annual renewal declaration on or before March 31 each year. The renewal declaration shall be on forms prescribed by the department of revenue and shall contain an affidavit certifying the exempt status of the real or personal property owned by the exempt organization. When an organization acquires real property qualified for exemption or converts real property to exempt status, such organization shall file an initial application for the property within sixty days following the acquisition or conversion. If the application is filed after the expiration of the sixty-day period a late filing penalty shall be imposed pursuant to RCW 84.36.825, as now or hereafter amended.

R.C.W.A.84.36.850

Review—Appeals.

Any applicant aggrieved by the department of revenue's denial of an exemption application may petition the state board of tax appeals to review an application for either real or personal property tax exemption and the board shall consider any appeals to determine (1) if the property is entitled to an exemption, and (2) the amount or portion thereof. A county assessor of the county in which the exempted property is located shall be empowered to appeal to the state board of tax appeals to review any real or personal property tax exemption approved by the department of revenue which he feels is not warranted. Appeals from a department of revenue decision must be made within thirty days after the mailing of the approval or denial.

### **D. Obligation to File Copies of Lease or Agreements.**

Nothing was found on an obligation to file leases or agreements. However, leasing of exempt property is allowed. The provision for annual certification and statements of use are imposed on leaseholds as well as other properties applying for tax exempt status.

### **E. Notification Requirements After Change in Use or Ownership.**

R.C.W.A. 84.36.041.

(9) A for-profit home for the aging that converts to nonprofit status after June 11, 1992, and would otherwise be eligible for tax exemption under this section may not receive the tax exemption until five years have elapsed since the conversion. The exemption shall then be ratably granted over the next five years.

R.C.W.A. 84.36.813.

Change in use, Duty to notify county assessor.

An exempt property owner shall notify the department of revenue of any change of use prior to each assessment year. Any other person believing that a change in the use of exempt property has occurred shall report same to the county assessor, who shall examine the property and if the use is not in compliance with chapter 84.36 RCW he shall report the information to the department with a recommendation that the exempt status be canceled. The final determination shall be made by the department.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

See Annual Certification.

### **B. Removal of Exemptions.**

See Annual Certification.

### **C. Assessment of Omitted Property.**

R.C.W.A. 84.36.810.

Cessation of use under which exemption granted--Collection of taxes

(1) Upon cessation of a use under which an exemption has been granted pursuant to RCW 84.36.030, 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.046, 84.36.050, 84.36.060, 84.36.550, and 84.36.042, the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the three years preceding, or the life of such exemption, if such be less, together with the interest at the same rate and computed in the same way as that upon delinquent property taxes. Where the property has been granted an exemption for more than ten years, taxes and interest shall not be assessed under this section.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

Taxpayers have the right to petition the State Board of Appeals. This right applies whether or not the property in question is held by the complainant or not.

## WASHINGTON D.C.

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

D.C.S.T. 47-1002

Exemptions.

Only the following real property shall be exempt from taxation in the District of Columbia:

- (1) Property belonging to the United States of America;
- (2) Property belonging to the District of Columbia;
- (3) Property belonging to foreign governments and used for legation purposes;
- (4) Property belonging to the Commonwealth of the Philippines and used for government purposes;
- (5) Property heretofore specifically exempted from taxation by any special act of Congress, in force December 24, 1942, so long as such property is used for the purposes for which such exemption is granted. The Council of the District of Columbia shall report annually to the Congress the use being made of such specifically exempted property, and of any changes in such use, with recommendations;
- (6) Art gallery buildings belonging to and operated by organizations which are not organized or operated for private gain, and are open to the public generally, and for admission to which no charge is made on more than 2 days each week;
- (7) Library buildings belonging to and operated by organizations which are not organized or operated for private gain and are open to the public generally;
- (8) Buildings belonging to and operated by institutions which are not organized or operated for private gain, which are used for purposes of public charity principally in the District of Columbia;
- (9) Hospital buildings, belonging to and operated by organizations which are not organized or operated for private gain, including buildings and structures reasonably necessary and usual to the operation of a hospital;
- (10) Buildings belonging to and operated by schools, colleges, or universities which are not organized or operated for private gain, and which embrace the generally recognized relationship of teacher and student;
- (11) Buildings belonging to and used in carrying on the purposes and activities of the following: National Geographic Society, American Pharmaceutical Association, the Medical Society of the District of Columbia, the National Lutheran Home, the National Academy of Sciences, Brookings Institution, the American Forestry Association, the American Tree Association, the Carnegie Institution of Washington, the American Chemical Society, the American Association to Promote the Teaching of Speech to the Deaf, and buildings belonging to such similar institutions as may be hereafter exempted from such taxation by special acts of Congress;
- (12) Cemeteries dedicated to and used solely for burial purposes and not organized or operated for private gain, including buildings and structures reasonably necessary and usual to the operation of a cemetery;
- (13) Churches, including buildings and structures reasonably necessary and usual in the

performance of the activities of the church. A church building is one primarily and regularly used by its congregation for public religious worship;

(14) Buildings belonging to religious corporations or societies primarily and regularly used for religious worship, study, training, and missionary activities;

(15) Pastoral residences actually occupied as such by the pastor, rector, minister, or rabbi of a church; provided, that such pastoral residence be owned by the church or congregation for which said pastor, rector, minister, or rabbi officiates; and provided further, that not more than 1 such pastoral residence shall be so exempt for any 1 church or congregation;

(16) Episcopal residences owned by a church and used exclusively as the residence of a bishop of such church;

(17) Buildings belonging to organizations which are charged with the administration, coordination, or unification of activities, locally or otherwise, of institutions or organizations entitled to exemption under the provisions of ss 47-1002, 47-1005, and 47-1007 to 47-1010, and used as administrative headquarters thereof;

(18)(A) Grounds belonging to and reasonably required and actually used for the carrying on of the activities and purposes of any institution or organization entitled to exemption under the provisions of ss 47-1002, 47-1005, and 47-1007 to 47-1010. (See full text of statute for additional requirements.)

(19) Buildings owned by and actually occupied and used for legitimate theater, music, or dance purposes by a corporation which is not organized or operated for commercial purposes or for private gain, which buildings are open to the public, generally, and for admission to which charges may be made to cover the cost of expenses;

(20)(A) Low income housing that is not organized for profit or only for partial profit and a corresponding partial exemption. (See statute for further explanation.)

(21) Property transferred to a qualifying lower income homeownership household in accordance with s 47-3503(c);

(22) Property transferred to a qualifying nonprofit housing organization in accordance with s 47-3505(d);

(23)(A) Subject to the provisions of subparagraph (B) of this paragraph, a supermarket development in an underserved area of the District that meets additional requirements stated in the full text of the statute. (Time limits also apply.)

(24) Property transferred to a resident management corporation in accordance with s 47-3506.1.

(25) The improvements located on that portion of Lot 800 of Square 1112 known as the Correctional Treatment Facility, only during the time that the improvements are operated as a correctional facility housing inmates in the custody of the District of Columbia Department of Corrections.

#### D.C.S.T. 47-1508

##### Exemptions.

(a) The following personal property shall be exempt from the tax imposed by this act:

(1) The personal property of any corporation, and any community chest fund or foundation, organized exclusively for religious, scientific, charitable, or educational purposes, including hospitals, no part of the net earnings of which inure to the benefit of any private shareholder or individual, except that the organization shall have first

obtained a certificate from the Mayor stating that it is entitled to the exemption.

(2) Works of art owned by a nonresident of the United States, who is not a citizen of the United States, so long as the works of art were lent without charge to the trustees of the National Gallery of Art solely for exhibition without charge to the general public.

(3) Any motor vehicle or trailer registered according to ss 40-101, 40-102, and 40-104 to 40-106, and used primarily for the transportation of persons or property shall not be taxed as tangible personal property as provided by law. (For additional provisions see the full text of the statute.)

#### D.C.S.T. 47-1010.1

Real property tax exemption.

(a) That portion of real property designated as Lots 37, 40, 824-825, 829- 832, 859, 880-882, 887, 890, and 892 in Square 677 in the District of Columbia that is used to secure a rent or income from a tenant that is exempt from federal income taxation under s 501(a) of the Internal Revenue Code of 1986 as an organization described in s 501(c)(3), (c)(4), (c)(5), or (c)(6) of the Internal Revenue Code of 1986, and that occupies space in the improvements, shall be afforded real property tax relief.

(b) That portion of real property designated as Lots 45, 49, 51, 834-842, 869-871, 883, 888-889, 891, 893, and 895-896 in Square 677 in the District of Columbia that is used to secure a rent or income from a tenant that is exempt from federal income taxation under s 501(a) of the Internal Revenue Code of 1986 as an organization described in s 501(c)(3), (c)(4), (c)(5), or (c)(6) of the Internal Revenue Code of 1986, and that occupies space in the improvements, shall be afforded real property tax relief.

(e) The provisions of ss 47-1005, 47-1007, and 47-1009 shall apply with respect to the real property tax relief granted by this section.

(f) The Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1, issue rules to implement the provisions of this section.

U.S.C.A. § 501. Exemption from tax on corporations, certain trusts, etc.

(a) Exemption from taxation.--An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(c) List of exempt organizations.--The following organizations are referred to in subsection (a):

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for

public office.

(4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

(5) Labor, agricultural, or horticultural organizations.

(6) Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

D.C.S.T. 47-1508

Exemptions.

(a) The following personal property shall be exempt from the tax imposed by this act:

(1) The personal property of any corporation, and any community chest fund or foundation, organized exclusively for religious, scientific, charitable, or educational purposes, including hospitals, no part of the net earnings of which inure to the benefit of any private shareholder or individual, except that the organization shall have first obtained a certificate from the Mayor stating that it is entitled to the exemption.

### **B. Partial Exemptions.**

D.C.S.T. 47-1005

Real property tax exemption.

If any building or any portion thereof, or grounds, belonging to and actually used by any institution or organization entitled to exemption under the provisions of ss 47-1002 and 47-1007 to 47-1010 are used to secure a rent or income for any activity other than that for which exemption is granted, such building, or portion thereof, or grounds, shall be assessed and taxed.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

D.C.S.T. 47-1007

Real property tax exemption.

(a) Every institution, organization, corporation, or association owning property exempt under the provisions of paragraphs (4) to (20) of s 47-1002 shall, on or before March 1, 1943, and on or before March 1st of each succeeding year, furnish the Mayor a report, under oath, showing the purposes for which its exempt property has been used during the preceding calendar year; provided however, that the requirement for a report shall be satisfied by submitting an application for exemption from tax, and an income and expense statement pursuant to s 47-1002(20). Upon written application by the institution, organization, corporation, or association filed before March 1st of any year, the Mayor may extend the time for filing said report for a reasonable period. A copy of such report shall be forwarded to the Congress by the Mayor.

(b) If such report is not filed within the time provided herein, or as extended by the mayor, the property of the institution, organization, corporation, or association affected shall immediately be assessed and taxed until the required report is filed; provided, however, that such tax shall be for a minimum period of 30 days.

## **B. Procedures for Retaining an Exemption.**

D.C.S.T. 47-1009

Appeals from assessments.

(a)(1) Within 6 months after the date on which the Mayor mails written denial of an exemption under ss 47-1002, 47-1005, and 47-1007 to 47-1010, any institution, organization, corporation, or association aggrieved by any assessment, classification, equalization, or valuation of real property deemed to be exempt from taxation under the provisions of ss 47-1002, 47-1005, and 47-1007 to 47-1010 may appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as is provided in ss 47-3303 and 47-3304. Payment of the tax bill shall not be a prerequisite for the appeal.

(2) Approval of the assessment rolls described in s 47-825(g), shall not preclude the Mayor from making decisions on applications for exemptions filed before July 1st and pending before the Mayor at the time the assessment roll is approved, and all decisions in regard to the application shall be appealable as provided in paragraph (1) of this subsection.

(b)(1) Applications for exemption from the real property tax must be received on or before September 30 to obtain the exemption for the full tax year. If approved, the exemption will become effective as of October 1 of the tax year for which the exemption is granted.

(2) Effective October 1, 1994, and for each tax year thereafter:

(A) Any real property eligible for exemption from real property tax under s 47-1002 shall be exempt from real property tax as of the first month following the date on which a properly completed application has been filed. Real property tax shall be prorated on a monthly basis. The Mayor may prorate the real property tax to the date the property is eligible for an exemption from real property tax. Real property is eligible for an exemption from real property tax if it meets the requirements set forth in s 47-1002 and a properly completed application is filed with the Mayor.

### **C. Annual Certification.**

D.C.S.T. 47-1007

Real property tax exemption.

(a) Every institution, organization, corporation, or association owning property exempt under the provisions of paragraphs (4) to (20) of s 47-1002 shall, on or before March 1, 1943, and on or before March 1st of each succeeding year, furnish the Mayor a report, under oath, showing the purposes for which its exempt property has been used during the preceding calendar year; provided however, that the requirement for a report shall be satisfied by submitting an application for exemption from tax, and an income and expense statement pursuant to s 47-1002(20). Upon written application by the institution, organization, corporation, or association filed before March 1st of any year, the Mayor may extend the time for filing said report for a reasonable period. A copy of such report shall be forwarded to the Congress by the Mayor.

### **D. Obligation to File Copies of Lease or Agreements.**

Nothing was found about any requirements to file leases or agreements.

### **E. Notification Requirements After Change in Use or Ownership.**

D.C.S.T. 47-1009

(2)(B) When real property exempt from real property tax, as provided for in this section, becomes ineligible for the exemption, the owner of the real property shall notify the Mayor (in a manner and at a time as the Mayor may prescribe by regulation) of the real property's ineligibility. The Mayor shall terminate the exemption effective as of the first full month following the date the property became ineligible for the exemption.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

D.C.S.T. 47-816

Submission on exempt property.

At the time the Mayor submits to the Council the proposed real property tax rate or rates under s 47-815, he shall also submit the following:

(1) The total aggregate assessed value of real property exempt from the real property tax levied in the District for the current fiscal year by major class or type of exempt status and the tax that would have been paid during such fiscal year had such property not been exempt; and

(2) The estimated total aggregate assessed value of real property exempt from the real property tax levied in the District by major class or type of exempt status and the tax that would be paid during the fiscal year under the real property tax rate or rates proposed by the Mayor pursuant to s 47-815.

These reports can be used by taxpayers to review exemptions and in turn to challenge them if the taxpayer so decides.

**B. Removal of Exemptions.**

The Mayor has the authority to remove exemptions as they are no longer applicable.

**C. Assessment of Omitted Property**

Nothing about assessing omitted property was found within the statutes.

**HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

D.C.S.T. 47-3303

Appeal from assessment; hearing and decision.

Any person aggrieved by any assessment by the District of any personal property, inheritance, estate, business privilege, income and franchise, sales, alcoholic beverage, gross receipts, gross earnings, insurance premiums, or motor-vehicle fuel tax or taxes, or penalties thereon, may within 6 months after the date of such assessment appeal from the assessment to the Superior Court of the District of Columbia; provided, that such person shall first pay such tax together with penalties and interest due thereon to the D.C.

Treasurer. The mailing to the taxpayer of a statement of taxes due shall be considered notice of assessment with respect to the taxes. The Court shall hear and determine all questions arising on appeal and shall make separate findings of fact and conclusions of law, and shall render its decision in writing. The Court may affirm, cancel, reduce, or increase the assessment.

## WEST VIRGINIA

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

WV CONST, Art. 10, s 1

Subject to the exceptions in this section contained, taxation shall be equal and uniform throughout the State, and all property, both real and personal, shall be taxed in proportion to its value to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value; except that the aggregate of taxes assessed in any one year upon personal property employed exclusively in agriculture, including horticulture and grazing, products of agriculture as above defined, including livestock, while owned by the producer, and money, notes, bonds, bills and accounts receivable, stocks and other similar intangible personal property shall not exceed fifty cents on each one hundred dollars of value thereon and upon all property owned, used and occupied by the owner thereof exclusively for residential purposes and upon farms occupied and cultivated by their owners or bona fide tenants one dollar; and upon all other property situated outside of municipalities, one dollar and fifty cents; and upon all other property situated within municipalities, two dollars; and the legislature shall further provide by general law, for increasing the maximum rates, authorized to be fixed, by the different levying bodies upon all classes of property, by submitting the question to the voters of the taxing units affected, but no increase shall be effective unless at least sixty percent of the qualified voters shall favor such increase, and such increase shall not continue for a longer period than three years at any one time, and shall never exceed by more than fifty percent the maximum rate herein provided and prescribed by law; and the revenue derived from this source shall be apportioned by the legislature among the levying units of the State in proportion to the levy laid in said units upon real and other personal property; but property used for educational, literary, scientific, religious or charitable purposes, all cemeteries, public property, the personal property, including livestock, employed exclusively in agriculture as above defined and the products of agriculture as so defined while owned by the producers may by law be exempted from taxation; household goods to the value of two hundred dollars shall be exempted from taxation. The legislature shall have authority to tax privileges, franchises, and incomes of persons and corporations and to classify and graduate the tax on all incomes according to the amount thereof and to exempt from taxation, incomes below a minimum to be fixed from time to time, and such revenues as may be derived from such tax may be appropriated as the legislature may provide. After the year nineteen hundred thirty-three, the rate of the state tax upon property shall not exceed one cent upon the hundred dollar valuation, except to pay the principal and interest of bonded indebtedness of the State now existing.

WV ST s 11-3-9

(a) All property, real and personal, described in this subsection, and to the extent herein limited, is exempt from taxation:

- (1) Property belonging to the United States, other than property permitted by the United States to be taxed under state law;

- (2) Property belonging exclusively to the state;
  - (3) Property belonging exclusively to any county, district, city, village or town in this state, and used for public purposes;
  - (4) Property located in this state, belonging to any city, town, village, county or any other political subdivision of another state, and used for public purposes;
  - (5) Property used exclusively for divine worship;
  - (6) Parsonages and the household goods and furniture pertaining thereto;
  - (7) Mortgages, bonds and other evidence of indebtedness in the hands of bona fide owners and holders hereafter issued and sold by churches and religious societies for the purposes of securing money to be used in the erection of church buildings used exclusively for divine worship, or for the purpose of paying indebtedness thereon;
  - (8) Cemeteries;
  - (9) Property belonging to, or held in trust for, colleges, seminaries, academies and free schools, if used for educational, literary or scientific purposes, including books, apparatus, annuities and furniture;
  - (10) Property belonging to, or held in trust for, colleges or universities located in West Virginia, or any public or private nonprofit foundation or corporation which receives contributions exclusively for such college or university, if the property or dividends, interest, rents or royalties derived therefrom are used or devoted to educational purposes of such college or university;
  - (11) Public and family libraries;
  - (12) Property used for charitable purposes, and not held or leased out for profit;
  - (13) Property used for the public purposes of distributing water or natural gas, or providing sewer service by a duly chartered nonprofit corporation when such property is not held, leased out or used for profit;
  - (14) Property used for area economic development purposes by nonprofit corporations when such property is not leased out for profit;
  - (15) All real estate not exceeding one acre in extent, and the buildings thereon, used exclusively by any college or university society as a literary hall, or as a dormitory or clubroom, if not used with a view to profit, including, but not limited to, property owned by a fraternity or sorority organization affiliated with a university or college, or property owned by a nonprofit housing corporation or similar entity on behalf of a fraternity or sorority organization affiliated with a university or college, when the property is used as residential accommodations, or as a dormitory, for members of the organization;
  - (16) All property belonging to benevolent associations, not conducted for private profit;
  - (17) Property belonging to any public institution for the education of the deaf, dumb or blind, or any hospital not held or leased out for profit;
  - (18) Houses of refuge and lunatic or orphan asylums;
  - (19) Homes for children or for the aged, friendless or infirm, not conducted for private profit;
  - (26) Dead victuals laid away for family use; and
  - (27) Any other property or security exempted by any other provision of law.
- (b) Notwithstanding the provisions of subsection (a) of this section, no property is exempt

from taxation which has been purchased or procured for the purpose of evading taxation, whether temporarily holding the same over the first day of the assessment year or otherwise.

(c) Real property which is exempt from taxation by subsection (a) of this section shall be entered upon the assessor's books, together with the true and actual value thereof, but no taxes may be levied upon the property or extended upon the assessor's books.

(d) Notwithstanding any other provisions of this section, this section does not exempt from taxation any property owned by, or held in trust for, educational, literary, scientific, religious or other charitable corporations or organizations, including any public or private nonprofit foundation or corporation existing for the support of any college or university located in West Virginia, unless such property, or the dividends, interest, rents or royalties derived therefrom, is used primarily and immediately for the purposes of the corporations or organizations.

(e) The tax commissioner shall, by issuance of rules, provide each assessor with guidelines to ensure uniform assessment practices statewide to effect the intent of this section.

(f) In as much as there is litigation pending regarding application of this section to property held by fraternities and sororities, amendments to this section enacted in the year one thousand nine hundred ninety-eight shall apply to all cases and controversies pending on the date of such enactment.

## **WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

### **A. Full Exemptions.**

The rule of strict construction applies to this section; and if any doubt arises as to the exemption, that doubt must be decided against the person who claims the exemption. *State v. McDowell Lodge No. 112*, 96 W. Va. 611, 123 S.E. 561, 38 A.L.R. 31 (1924); *State ex rel. Farr v. Martin*, 105 W. Va. 600, 143 S.E. 356 (1928); *State ex rel. Miller v. Buchanan*, 24 W. Va. 362 (1884). See also *Central Realty Co. v. Martin*, 126 W. Va. 915, 30 S.E.2d 720 (1944); *In re Hillcrest Mem. Gardens*, 146 W. Va. 337, 119 S.E.2d 753 (1961). 50 Op. Att'y Gen. 302 (1963).

Provisions in constitutions and statutes, exempting property from taxation, are always strictly construed. This is because all exemptions evade the operation of the general principle that taxation laws should be equal and uniform, so as to place the public burdens, as nearly as may be, upon all property and citizens alike. *State v. Kittle*, 87 W. Va. 526, 105 S.E. 775 (1921); *In re Hillcrest Mem. Gardens*, 146 W. Va. 337, 119 S.E.2d 753 (1961).

But a rational construction within the terms used is required as well as permitted. *State v. Kittle*, 87 W. Va. 526, 105 S.E. 775 (1921).

### **B. Partial Exemptions.**

No statute or case was found that explicitly denies or provides for a partial exemption.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is generally created when the taxpayer files for an exemption and the tax assessor determines that the property merits such an exemption.

### **B. Procedures for Retaining an Exemption.**

The following statute applies to homestead exemptions and not to charitable exemptions. The statute is only included to give an example of the exemption process. No statute governing the procedures for a charitable exemption was found.

WV ST s 11-6B-4

(a) General. -- No exemption shall be allowed under this article unless a claim of exemption is filed with the assessor of the county in which the homestead is located, on or before the first day of October following the July first assessment day. In the case of sickness, absence or other disability of the claimant, the claim may be filed by the claimant or his duly authorized agent.

(b) Claims for disability exemption. -- Each claim for exemption based on the owner being permanently and totally disabled shall include one of the following forms of documentation in support of said claim: (1) A written certification by a doctor of medicine or doctor of osteopathy licensed to practice their particular profession in this state that the claimant is permanently and totally disabled; (2) a written certification by the social security administration that the claimant is currently receiving benefits for permanent and total disability; (3) a copy of the letter from the social security administration originally awarding benefits to the claimant for permanent and total disability and a copy of a current check for such benefits, marked void; (4) a current social security health insurance (medicare) card in the name of the claimant and a copy of a current check to the claimant, marked void, for benefits from the social security administration for permanent and total disability; (5) a written certification signed by the veterans administration certifying that a person is totally and permanently disabled; (6) any lawfully recognized workers' compensation documentation certifying that a person is totally and permanently disabled; (7) any lawfully recognized pneumoconiosis documentation certifying that a person is totally and permanently disabled; or (8) any other lawfully recognized documentation certifying that a person is totally and permanently disabled.

(c) Renewals.

(1) Senior citizens. -- If the claimant is age sixty-five or older, then after the claimant has filed for the exemption once with his assessor, there shall be no need for that claimant to refile unless the claimant moves to a new homestead.

(2) Disabled. -- If the claimant is permanently and totally disabled, then after the claimant has filed for the exemption once with his assessor, and signed a statement certifying that he will notify the assessor if he is no

longer eligible for an exemption on the basis of being permanently and totally disabled and that the claimant will notify the assessor within thirty days of the discontinuance of the receipt of benefits for permanent and total disability, if the claimant originally claimed receipt of said benefits to document his claim for exemption, there shall be no need for that claimant to refile, unless the claimant moves to a new homestead.

(3) Waiver of exemption. -- Any person not filing his claim for exemption on or before the first day of October shall be determined to have waived his right to exemption for the next tax year.

### **C. Annual Certification.**

No statute was found that explains the filing requirements for certification. It is unknown how often certification is required.

### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found requiring copies of leases or agreements be filed.

### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found requiring notification after a change in use or ownership.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

WV ST s 11-1A-1

(a) In conducting the reappraisals of property mandated by the West Virginia Constitution and required by this article, the tax commissioner shall appraise all property so as to ascertain the value thereof for assessment purposes, relating such reappraisal to a specified base year in a manner which is uniform for all classes of property and all counties.

(b) It shall be the duty of the tax commissioner to see that the laws concerning the periodic statewide appraisal of property are faithfully enforced. He shall prepare all proper forms and books for the use and guidance of appraisers and assessors, and shall perform all such other duties as may be required by law. He shall from time to time visit the several counties and shall inspect the work of the appraisers and the several assessors and shall confer with them respecting such work for the future. In such conference, or by writing or otherwise, he may inquire into the proceedings of any such officer, make to him such suggestions respecting the discharge of his duty as may seem proper, and give such information and require such action as will cause all property subject to ad valorem property taxation to be appraised at its market value.

(c) The tax commissioner may appoint competent persons to appraise property values, and may employ experts to examine and report upon the different kinds and classes of

property in the State, with a view to ascertaining the value thereof for appraisal and assessment purposes, to the end that he may furnish to county assessors, county commissions and the State board of public works more accurate information, and more effectively aid and supervise the assessors and the county commissions in their work of assessment and valuation of property for purposes of taxation.

(d) Upon the application of any officer concerned with the assessment or collection of taxes, the tax commissioner shall, as to any matter specified by such officer, make like suggestions and give like information. In case of the failure of any appraiser or assessing officer in the discharge of any duty imposed upon him by law, the said commissioner shall, after due notice to any such assessor or collecting officer, proceed to enforce such penalty as may be provided by law, including, in any proper case, the removal of such officer, and to that end the commissioner is authorized to appear before any court or tribunal having jurisdiction. In any proceeding to enforce a penalty, if a hearing for an assessor or collecting officer is not otherwise provided by law, then such assessor or collecting officer shall be afforded a hearing by the tax commissioner in accord with the provisions of article five [s 29A-5-1 et seq.], chapter twenty-nine-a of this Code. The commissioner may cause the violation of any law respecting the appraisal of property subject to ad valorem property taxation to be prosecuted. He may also be heard before any court, council or tribunal, in any proceeding in which an abatement of taxes is sought. The commissioner shall, inter alia, have the power to accept bids, award contracts, requisition funds appropriated for his expenditure, and require the cooperation of other state and local officials. In awarding such contracts the tax commissioner shall require that provision be made for such indemnity, bond or contract of insurance as will be sufficient, in the tax commissioner's judgment, to hold the State harmless.

(e) For the efficient administration of the powers vested in the tax commissioner by this section, the commissioner shall have the power to issue subpoenas and subpoenas duces tecum, and compel the attendance of witnesses and the production of books, papers, records, documents and testimony at the time and place specified. Every such subpoena and subpoena duces tecum shall be served at least fifteen days before the return date thereof by personal service made by any person over eighteen years of age. Service of subpoenas and subpoenas duces tecum shall be the responsibility of the commissioner. Any persons, except a person in the employ of the State tax department [state tax division of the department of tax and revenue], who serves any such subpoena or subpoena duces tecum shall be entitled to the same fee as sheriffs who serve witness subpoenas for the circuit courts of this State. Upon motion made promptly, and in any event before the time specified in a subpoena or subpoena duces tecum for compliance therewith, the circuit court of the county in which the person upon whom any such subpoena or subpoena duces tecum was served resides, has his or its principal place of business or is employed, or the circuit court of the county in which any such subpoena or subpoena duces tecum was served, or the judge of any such circuit court in vacation, may grant any relief with respect to any such subpoena or subpoena duces tecum which any such circuit court, under the "West Virginia Rules of Civil Procedure for Trial Courts of Record," could grant, and for any of the same reasons, with respect to any such subpoena or subpoena duces tecum issued from any such circuit court. In case of disobedience or neglect of any subpoena or subpoena duces tecum served on any person, or the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated, the circuit court of

Kanawha County or of the county in which such person resides, has his or its principal place of business or is employed, or the judge thereof in vacation, upon application by the commissioner shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena or subpoena duces tecum issued from circuit court or a refusal to testify therein. Witnesses subpoenaed under this subsection shall testify under oath or affirmation.

(f) The tax commissioner may prescribe all necessary forms and promulgate such rules and regulations as he believes necessary to carry out and enforce the provisions of this article. Such rules and regulations shall be subject to the provisions and requirements of the State Administrative Procedures Act in chapter twenty-nine-a [s 29A-1-1 et seq.] of this Code: Provided, That all rules and regulations of the tax commissioner regarding ad valorem property taxes presently in effect on the effective date [August 31, 1983] of this article shall remain in full force and effect until amended or repealed by the commissioner in the manner prescribed by law, or abrogated by the enactment of this article or other statutory provisions of this Code.

(g) The tax commissioner is hereby directed to cooperate with the joint committee on government and finance of the legislature in its review, examination and study of the implementation of the property tax limitation and homestead exemption amendment of one thousand nine hundred eighty-two, section one-b, article ten of the Constitution of West Virginia, and any other similar studies which may arise under the authority granted to the joint committee on government and finance under the provisions of section three-b [s 4-3-3b], article three, chapter four of this Code. The tax commissioner shall continuously monitor and enforce the requirements of this article relating to the employment qualifications of employees of the state and its designated agents, and at least quarterly shall ascertain whether such requirements are being met and report thereon to the joint committee on government and finance. Not less than monthly, the tax commissioner shall report to the joint committee on government and finance or its designated subcommittee on any matters considered or action taken by the West Virginia appraisal control and review commission [abolished], or any matters relating to the reappraisal otherwise pertinent or of interest to the joint committee on government and finance. On or before the fifteenth day of January, one thousand nine hundred eighty-four, the tax commissioner shall report to the joint committee on government and finance on the benefits, desirability and disadvantages, as well as the alternative methods available, for the possible implementation of section fifty-three, article VI of the Constitution of West Virginia, the forestry amendment.

## **B. Removal of Exemptions.**

An exemption is generally removed when the tax assessor determines that the property no longer merits the exemption.

## **C. Assessment of Omitted Property.**

WV ST s 11-3-5

The assessor in making out the land and personal property books, shall correct any and every mistake he shall discover in the books for any previous year.

When the assessor shall ascertain that any real or personal property in his county liable to taxation, other than that mentioned in the next succeeding paragraph, has been omitted from the land or personal property books for a period of less than five years, he shall make an entry thereof in the proper book of the year in which such omission was discovered, and assess the same according to the rule prescribed in section one [s 11-3-1] of this article, and shall charge the same with all taxes chargeable against it at the rate of levy for the year or years the same was omitted, together with interest thereon at the rate of six percent per annum for the years the same was omitted from the books.

And when the assessor shall ascertain that any notes, bonds, bills and accounts receivable, stocks and other intangible personal property in his county liable to taxation has been omitted from the personal property books for a period of five years or less after December thirty-first, one thousand nine hundred thirty-two, he shall make entry thereof in the personal property book of the year in which such omission was discovered, and assess the same at its true and actual value according to the rule prescribed in section one [s 11- 3-1] of this article, and shall charge the same with all taxes chargeable against it after the year last aforesaid at the rate of levy for the year or years the same was omitted after the year aforesaid, together with interest thereon at the rate of six percent per annum for the years the same was omitted from the books.

Any assessor failing to make such entry as in this section provided, when discovered by him, or called to his attention by any taxpayer interested therein, shall forfeit one hundred dollars.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

WV ST s 11-3-24a

At any time after property is returned for taxation and up to and including the time the property books are before the county court [county commission] for equalization and review, any taxpayer may apply to the assessor for information regarding the classification and taxability of his property. In case the taxpayer is dissatisfied with the classification of property assessed to him or believes that such property is exempt or otherwise not subject to taxation, he shall file his objections in writing with the assessor. The assessor shall decide the question by either sustaining the protest and making proper corrections, or by stating, in writing if requested, the reasons for his refusal. The assessor may, and if the taxpayer requests, the assessor shall, certify the question to the state tax commissioner in a statement sworn to by both parties, or if the parties are unable to agree, in separate sworn statements, giving a full description of the property and any other information which the tax commissioner may require.

The tax commissioner shall, as soon as possible on receipt of the question, but in no case later than February twenty-eighth of the assessment year, instruct the assessor as to how the property shall be treated. The instructions issued and forwarded by mail to the assessor shall be binding upon him, but either the assessor or the taxpayer may apply to the circuit court of the county for the review of the question of classification and taxability in the same fashion as is provided for appeals from the county court [county commission] in section twenty-five [s 11-3-25] of this article. The tax commissioner shall prescribe forms on which the aforesaid questions shall be certified and he shall have the

authority to pursue any inquiry and procure any information which may be necessary for the disposition of the issue.

WV ST s 11-3-25

Any person claiming to be aggrieved by any assessment in any land or personal property book of any county who shall have appeared and contested the valuation or whose assessment has been raised by the county court [county commission] above the assessment fixed by the assessor, or who contested the classification or taxability of his property may, at any time up to thirty days after the adjournment of the county court [county commission], apply for relief to the circuit court of the county in which such books are made out; but he shall, before any such application is heard, give ten days' notice to the prosecuting attorney of the county, whose duty it shall be to attend to the interests of the State, county and district in the matter, and the prosecuting attorney shall give at least five days' notice of such hearing to the tax commissioner. The right of appeal from any assessment by the county court [county commission], as hereinbefore provided, may be taken either by the applicant or by the State, and in case the applicant, by his agent or attorney, or the State, by its prosecuting attorney or tax commissioner, desires to take an appeal from the decision of the county court [county commission], the party desiring to take such an appeal shall have the evidence taken at the hearing of the application before the county court [county commission]. If there was an appearance by or on behalf of the owner before the county court [county commission], or if actual notice, certified by such court [county commission], was given to the owner, the appeal, when allowed by the court or judge, in vacation, shall be determined from the evidence so certified. If, however, there was no actual notice to such owner, and no appearance by or on behalf of the owner before the county court [county commission], or if a question of classification or taxability is presented, the matter shall be heard de novo by the circuit court. If, upon the hearing of such appeal, it is determined that any property has been valued at more than its true and actual value, or illegally classified or assessed, the circuit court shall, by an order entered of record, correct the assessment, and fix the property at its true and actual value. A copy of such order or orders entered by the circuit court reducing the valuation shall be certified to the auditor, if the order or orders pertain to real property, by the clerk within twenty days after the entering of the same, and every order or judgment shall show that the prosecuting attorney or tax commissioner was present and defended the interest of the State, county and district. If it be ascertained that any property has been valued too high, and that the owner has paid the excess tax, it shall be refunded to him, and if not paid he shall be relieved from the payment thereof. If it is ascertained that any property is valued too low the circuit court shall, by an order entered of record, correct the valuation and fix it at its true and actual value. A copy of any order entered by any circuit court increasing the valuation of property shall be certified within twenty days, if the order pertains to real property, to the auditor, the county clerk and the sheriff; however, if the order pertains only to personal property, then the copy shall be certified within twenty days to the county clerk and to the sheriff and it shall be the duty of the auditor, the county clerk and the sheriff to charge the taxpayer affected with the increase of taxes occasioned by the increase of valuation by applying the rate of levies for every purpose in the district where such property is situated for the current year. The order shall also be filed in the office of the auditor and clerk of the county court [county

commission]. Any order disposing of a question of classification or taxability shall be similarly prepared, certified and filed, and the increase or decrease of taxes resulting shall be treated as provided above for changes in valuation. The State or the aggrieved taxpayer may appeal a question of valuation to the supreme court of appeals, if the assessed value of the property is fifty thousand dollars or more, and either party may appeal a question of classification or taxability.

# WISCONSIN

## WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

*W.S.A. 70.11*

### **70.11. Property exempted from taxation.**

The property described in this section is exempted from general property taxes:

- if the property is exempt under sub. (1), (2), (18), (21), (27) or (30)

(1) Property of the State. Property owned by this state except land contracted to be sold by the state. Property exempt under this subsection includes general property owned by the state and leased to a private, nonprofit corporation...regardless of the use of the leasehold income.

(2) Municipal property and property of certain districts, exception. Property owned by any county, city, village, town, school district, technical college district, public inland lake protection and rehabilitation district, metropolitan sewerage district, municipal water district created under s. 198.22, joint local water authority created under s. 66.0735 or town sanitary district. Leasing the property exempt under this subsection, regardless of the lessee and the use of the leasehold income, does not render that property taxable.

(2m) Property leased or subleased to school districts. All of the property that is owned or leased by a corporation, organization or association that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code if all of that property is leased or subleased to a school district for no or nominal consideration for use by an educational institution that offers regular courses for 6 months in a year.

### **26 U.S.C.A. 501**

#### **Internal Revenue Code section 501(c)(3):**

§ 501. Exemption from tax on corporations, certain trusts, etc.

(a) Exemption from taxation.--An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(c) List of exempt organizations.--The following organizations are referred to in subsection (a):

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as

otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(18) Housing. Property of housing authorities exempt from taxation under ss. 66.39(9) and 66.40(22).

(21) Treatment plant and pollution abatement equipment.

(27) Manufacturing machinery and specific processing equipment.

(30) Manufacturing machinery and specific processing equipment.

To achieve exempt status, corporation must be organized and operated exclusively for exempt purposes, no part of corporation's net earnings may inure to benefit of any shareholder or individual and corporation must not engage in political campaigns or, to substantial extent, in lobbying activities. *Hutchinson Baseball Enterprises, Inc. v. C.I.R.*, C.A.10 1982, 696 F.2d 757.

- if it was exempt for the previous year and its use, occupancy or ownership did not change in a way that makes it taxable
- if the property was taxable for the previous year, the use, occupancy or ownership of the property changed in a way that makes it exempt and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes or if the property did not exist in the previous year and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes.
- Property exempted from general property taxes is:

(3) Colleges and universities.

(3a) Buildings at Wisconsin veterans home.

(4) Educational, religious and benevolent institutions; women's clubs; historical societies; fraternities; libraries.

(4g) Real property held for rehabilitation or future construction and later sale to low-income persons. Real property owned by a nonprofit organization if all of the following requirements are fulfilled:

(a) The nonprofit organization holds the property for the purpose of rehabilitating an existing structure or constructing a new structure on the property for sale to low-income persons for use as a personal residence.

(b) The nonprofit organization offers low-income persons loans to purchase the

property for which no interest is charged.

(c) The nonprofit organization requires prospective purchasers to participate in the rehabilitation or construction of the property.

(d) The nonprofit organization acquired the property within 3 years before the assessment date.

(4m) Nonprofit hospitals.

(a) Real property owned and used and personal property used exclusively for the purposes of any hospital of 10 beds or more. This exemption does not apply to property used for commercial purposes, as a health and fitness center or as a doctor's office.

(b) Real property leased by and used exclusively for the purposes of any hospital that has 10 beds or more. This exemption does not apply to property used for commercial purposes, as a health and fitness center or as a doctor's office.

(c) In this subsection, "health and fitness center" means an establishment the primary purpose of which is to provide recreational services or facilities that are purported to assist patrons in physical exercise, in weight control or in figure development, including but not limited to a health and fitness center, studio, salon or club. In this subsection, "health and fitness center" does not include a facility the primary purpose of which is to provide services or facilities that are primarily a part of a course of rehabilitation or therapy prescribed by a physician or physical therapist to treat a physical injury or dysfunction and that are aimed primarily at patients of the hospital or an affiliated entity and not at the general public and that is located within the physical confines of a hospital.

(5) Agricultural fairs.

(6) Fire companies.

(7) Land of military organizations.

(9) Memorials.

(10) Y.M.C.A. and Y.W.C.A. The benefits of this subsection shall cease to be enjoyed by such association if it shall at any time appear that a dividend has been declared on its stock, or that a division of profits has been made in any manner among all or any of its members.

(10m) Lions foundation camps for children with visual impairments, so long as the property is used for such purposes and not for pecuniary profit of any individual.

(11) Bible camps, so long as the property is used for religious purposes and not for pecuniary profit of any individual.

(12) Certain charitable organizations.

(a) Property owned by units which are organized in this state of the following organizations: the Salvation Army, the Boy Scouts of America, the Boys' Clubs of

America, the Girl Scouts or Camp Fire Girls or any person as trustee for them of property used for the purposes of those organizations, provided no pecuniary profit results to any individual owner or member.

(b) Real property not exceeding 40 acres and the personal property located thereon owned by units which are not organized in this state of the organizations listed in par. (a). No such unit which is not organized in this state may claim an exemption for more than a total of 80 rods of shoreline on lakes, rivers and streams.

(13) Cemeteries.

(13m) Archaeological sites.

(14) Art galleries.

(15) Manure storage facilities.

(15m) Secondary containment structures.

(16) Labor temples, provided no pecuniary profit results to any member.

(17) Farmers' temples; provided no pecuniary profit results to any member.

(19) Institutions for dependent children and persons who have developmental disabilities.

(20) Property held in trust in public interest. Property that is owned by, or held in trust for, a nonprofit organization, if all of the following requirements are fulfilled:

(a) The property is used to preserve native wild plant or native wild animal life, Indian mounds or other works of ancient persons or geological or geographical formations of scientific interest.

(b) The property is open to the public subject to reasonable restrictions.

(c) No pecuniary profit accrues to any owner or member of the organization or to any associate of any such owner or member from the use or holding of the property.

(d) The county board of the county where the property is located has not determined that the property is not owned by, or held in trust for, a nonprofit organization and has not determined that at least one of the requirements under pars. (a) to (c) has not been fulfilled.

(22) Camps for persons with disabilities, so long as the property is used solely for such purposes and not for pecuniary profit of any individual.

(25) Nonprofit medical research foundations. Such corporation, voluntary association, foundation or trust must have received a certificate under section 501(c)(3) of the internal revenue code as a nonprofit organization exempt for income tax purposes.

(26) Property of industrial development agencies.

- (28) Humane societies, on a nonprofit basis.
- (29) Nonprofit radio stations.
- (29m) Nonprofit theaters.
- (31) Sports and entertainment facilities. This exemption shall apply during construction and operation if the facility is owned by a nonprofit corporation, the state or an instrumentality of the state.
- (31m) Railroad historical societies.
- (32) Nonprofit youth hockey associations.
- (33) Camps for mentally or physically disabled persons, as long as the property is used for that purpose and not for the pecuniary profit of any individual.
- (34) Historic properties.
  - 3. Is owned or leased by an organization that is exempt from taxation under section 501 of the internal revenue code as amended to December 31, 1986.
- (35) Cultural and architectural landmarks.
- (36) Professional sports and entertainment home stadiums.
- (37) Local exposition district.
- (38) University of Wisconsin Hospitals and Clinics Authority.
- (39) Computers. If the owner of the property fulfills the requirements under s. 70.35.

**WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

**A. Full Exemptions.**

**W.S.A. 70.109. Presumption of taxability.**

Exemptions under this chapter shall be strictly construed in every instance with a presumption that the property in question is taxable, and the burden of proof is on the person who claims the exemption.

**W.S.A. 70.01. General property taxes; upon whom levied.**

Taxes shall be levied, under this chapter, upon all general property in this state except property that is exempt from taxation.

Tax-exemption statutes must be given strict but reasonable construction. *Friendship Village of Greater Milwaukee, Inc. v. City of Milwaukee* (App. 1993) 511 N.W.2d 345, 181 Wis.2d 207, review denied 515 N.W.2d 714.

Tax exemption statutes are matters of legislative grace and are to be strictly construed against the granting of an exemption; however, strict construction does not mean the narrowest possible reading; rather, statute should be construed in a strict but reasonable manner. *Trustees of Indiana University v. Town of Rhine* (App. 1992) 488 N.W.2d 128, 170 Wis.2d 293, review denied 491 N.W.2d 768.

All presumptions are against exemption from taxation and exemption will not be extended by implication. Tax exemptions are matters purely of legislative grace and one claiming such an exemption must point to an express provision granting such exemption and thus bring himself clearly within the terms thereof. *State ex rel. Dane County Title Co. v. Board of Review of City of Madison* (1957) 85 N.W.2d 864, 2 Wis.2d 51.

## **B. Partial Exemptions.**

### **W.S.A. 70.1105. Taxed in part**

Property that is exempt under s. 70.11 and that is used in part in a trade or business for which the owner of the property is subject to taxation under sections 511 to 515 of the internal revenue code, as defined in s. 71.22(4m), shall be assessed for taxation at that portion of the fair market value of the property that is attributable to the part of the property that is used in the unrelated trade or business. This section does not apply to property that is leased by an exempt organization to another person or to property that is exempt under s. 70.11(34).

**Land owned by benevolent association devoted to advancement of German culture, but leased to for-profit corporation that operated restaurant, bar, and banquet facility on property, was not partially exempt from general property taxes, since statute providing for partial exemption did not apply to property leased by exempt organization to another person, and lessee would not have been exempt from taxation if it owned property, a precondition to exemption of leased property.**

*Deutsches Land, Inc. v. City of Glendale* (App. 1997) 573 N.W.2d 535, 215 Wis.2d 552, review granted.

**Where fraternal society's club house which contained dining room, bar, bowling alley and other facilities was at times used only by members of society and at other times by public at large including members, city board of review did not act arbitrarily in concluding that during public hours the taxability of facilities, under subsec. (8)\* of this section, was not reduced by presence of members who got nothing not equally available to nonmembers while such nonmembers got everything available to members. *Madison Aerie No. 623, Fraternal Order of Eagles, Inc. v. City of Madison* (1957) 82 N.W.2d 207, 275 Wis. 472.**

(\* W.S.A. 70.1105 replaces section 8 of W.S.A. 70.11)

## WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?

### A. Creation of Exemptions.

#### W.S.A. Const. Art. 8, § 1

Rule of taxation uniform; income, privilege and occupation taxes

Section 1. The rule of taxation shall be uniform but the legislature may empower cities, villages or towns to collect and return taxes on real estate located therein by optional methods. Taxes shall be levied upon such property with such classifications as to forests and minerals including or separate or severed from the land, as the legislature shall prescribe. Taxation of agricultural land and undeveloped land, both as defined by law, need not be uniform with the taxation of each other nor with the taxation of other real property. Taxation of merchants' stock-in-trade, manufacturers' materials and finished products, and livestock need not be uniform with the taxation of real property and other personal property, but the taxation of all such merchants' stock-in-trade, manufacturers' materials and finished products and livestock shall be uniform, except that the legislature may provide that the value thereof shall be determined on an average basis. Taxes may also be imposed on incomes, privileges and occupations, which taxes may be graduated and progressive, *and reasonable exemptions may be provided.* (emphasis added.)

Quoted phrase within this section that rule of taxation shall be uniform and taxes shall be levied upon such property "as legislature shall prescribe" confers upon legislature right to select some property for taxation and to totally omit or exempt other. *Gottlieb v. City of Milwaukee (1967) 147 N.W.2d 633, 33 Wis.2d 408.*

Under uniformity clause of State Constitution, taxation scheme must follow six principles: for direct taxation of property there can be but one constitutional class, all within that class must be taxed on basis of equity so far as practicable and all property taxed must bear its burden equally on ad valorem basis, all property not included in that class must be absolutely exempt from property taxation, privilege taxes are not direct taxes on property and are not subject to the uniformity rule, legislature can classify as between property that is to be taxed and that which is to be wholly exempt so long as such classification is reasonable, and there can be variations in mechanics of property assessment or tax imposition so long as resulting taxation is borne with, as nearly as practicable, equality on ad valorem basis with other taxable property. *Town of Eagle v. Christensen (App. 1995) 529 N.W.2d 245, 191 Wis.2d 301, review denied 534 N.W.2d 86.*

### B. Procedures for Retaining an Exemption.

W.S.A. 70.35. Taxpayer examined under oath or to submit return

- (1) To determine the amount and value of any personal property for which any person, firm or corporation should be assessed, any assessor may examine such person or the managing agent or officer of any firm or corporation under oath as to all such items of personal property, the taxable value thereof as defined in s. 70.34 if the property is taxable and the fair market value if the property is exempt under s. 70.11 (39).

(2) The return shall be made and all the information therein requested given by such person on a form prescribed by the assessor with the approval of the department of revenue which shall provide suitable schedules for such information bearing on value as the department deems necessary to enable the assessor to determine the true cash value of the taxable personal property, and of the personal property that is exempt under s. 70.11 (39), that is owned or in the possession of such person on January 1 as provided in s. 70.10.

### **C. Annual and Every-Other Year Certification.**

#### **W.S.A. 70.35 cont.**

(3) Each return shall be filed with the assessor on or before March 1 of the year in which the assessment provided by s. 70.10 is made.

#### **W.S.A. 70.337. Tax exemption reports.**

(1) By March 31 of each even-numbered year, the owner of each parcel of property that is exempt under s. 70.11 shall file with the clerk of the taxation district in which the property is located a form containing the following information:

(a) The name and address of the owner of the property and, if applicable, the type of organization that owns the property.

(b) The legal description and parcel number of the property as shown on the assessment roll.

(c) The date of acquisition of the property.

(d) A description of any improvements on the land.

(e) A statement indicating whether or not any portion of the property was leased to another person during the preceding 2 years. If the property was leased, the statement shall identify the portion of the property that was leased, identify the lessee and describe the ways in which the lease payments were used by the owner of the property.

(f) The owner's estimate of the fair market value of the property on January 1 of the even-numbered year. The owner shall provide this estimate by marking one of a number of value ranges provided on the form prepared under sub. (2). The assessor for the taxation district within which the property is located may review the owner's estimate of the fair market value of the property and adjust it if necessary to reflect the correct fair market value.

(5) Each person that is required to file a report under sub. (1) shall pay a reasonable fee that is sufficient to defray the costs to the taxation district of distributing and reviewing the forms under sub. (1) and of preparing the form for the department of revenue under sub. (2). The amount of the fee shall be established by the governing body of the taxation district.

### **D. Obligation to File Copies of Leases or Agreements.**

#### **W.S.A. 70.11 introductory materials.**

Leasing a part of the property described in this section does not render it taxable if the lessor uses all of the leasehold income for maintenance of the leased property, construction debt retirement of the leased property or both and if the lessee would be

exempt from taxation under this chapter if it owned the property. Any lessor who claims that leased property is exempt from taxation under this chapter shall, upon request by the tax assessor, provide records relating to the lessor's use of the income from the leased property.

**W.S.A. 70.337.**

(e) A statement indicating whether or not any portion of the property was leased to another person during the preceding 2 years. If the property was leased, the statement shall identify the portion of the property that was leased, identify the lessee and describe the ways in which the lease payments were used by the owner of the property.

**E. Notification Requirements After Change in Use or Ownership.**

See Annual and Every-Other Year Certification.  
No other information was found on notification requirements.

**WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

See Annual and Every-Other Year Certification.  
The only other procedures in place are that of taxpayer challenges to existing exemptions.

**HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

- taxpayer can request a review of the exempt property by the county tax board that issued or approved the exemption.
- taxpayer can utilize the state court system to object to the county tax board's findings after a complaint is denied.

Where facts are established, determination of whether taxpayer is a "church" or "religious organization" entitled to property tax exemption is subject to de novo review. *Waushara County v. Graf (1992) 480 N.W.2d 16, 166 Wis.2d 442, reconsideration denied 490 N.W.2d 25, certiorari denied 113 S.Ct. 269, 506 U.S. 894, 121 L.Ed.2d 198.*

Taxpayer requesting review of county's denial of public trust exemption to real property tax was not required to give notice of claim to county before seeking review; county did not need to be put on notice of claim it already heard and denied. *Little Sissabagama Lake Shore Owners Ass'n, Inc. v. Town of Edgewater (App. 1997) 559 N.W.2d 914, 208 Wis.2d 259.*

Taxpayer substantially complied with statutory notice requirements, even assuming it was required to give notice to county before seeking review of decision denying public trust exemption to real property tax, where county had actual notice of claim by virtue of proceedings before county board, identity of taxpayer and its location were well known to board, relief sought was clear, clerk had notice of claim, and denial of claim was apparent

from board's vote; further, taxpayer's request for reconsideration substantially complied with notice requirements. *Little Sissabagama Lake Shore Owners Ass'n, Inc. v. Town of Edgewater* (App. 1997) 559 N.W.2d 914, 208 Wis.2d 259.

Taxpayer may complain when taxing authority violates rule of uniformity by approving arbitrary method of assessment that used improper considerations. *Noah's Ark Family Park v. Board of Review of Village of Lake Delton* (1998) 573 N.W.2d 852, 216 Wis.2d 386, reconsideration denied, decision clarified on denial of reconsideration 576 N.W.2d 56.

While there can be no classification of property for different rules or rates of property taxation, legislature can classify as between property that is to be taxed and that which is to be wholly exempt and test of such classification is reasonableness. All property not included in class taxed must be absolutely exempt from property taxation. *Gottlieb v. City of Milwaukee* (1967) 147 N.W.2d 633, 33 Wis.2d 408.

\* Some of the statutes included above have been edited to only include the applicable portions of the statute.

## WYOMING

### WHAT ARE THE STATUTORY REQUIREMENTS FOR THE CHARITABLE EXEMPTION OF PROPERTY?

WY CONST Art. 15, s 12

The property of the United States, the state, counties, cities, towns, school districts and municipal corporations, when used primarily for a governmental purpose, and public libraries, lots with the buildings thereon used exclusively for religious worship, church parsonages, church schools and public cemeteries, shall be exempt from taxation, and such other property as the legislature may by general law provide.

WY ST s 39-11-105

(a) The following property is exempt from property taxation:

(i) Property owned by the United States the majority of which is used primarily for a governmental purpose.

(ii) Property of the state of Wyoming owned and used primarily for a governmental purpose.

(iii) Property owned and used by counties primarily for a governmental purpose;

(iv) Property of a Wyoming school district owned and used primarily for a governmental purpose excluding teacherages;

(v) Property of Wyoming cities and towns owned and used primarily for a governmental purpose including:

(A) Streets and alleys and property used for the construction, reconstruction, maintenance and repair of streets and alleys;

(B) Property used to furnish sewer and water services;

(C) City or town halls, police stations and equipment, traffic control equipment, garbage collection and disposal equipment and lands and buildings used to service and repair the halls, stations or equipment;

(D) Parks, airports, auditoriums, cemeteries, golf courses, playgrounds and recreational facilities. Any charges for the use of the facilities shall not exceed the cost of operation and maintenance to qualify for the exemption;

(E) Personal property used exclusively for the care, preservation and administration of city or town property;

(F) Parking lots operated on a nonprofit basis.

(vi) Property of a public library used for library purposes;

(vii) Real property used exclusively for religious worship, church schools and church parsonages;

(viii) Property of a cemetery used for cemetery purposes;

(ix) Property of:

(A) A nonprofit organization, corporation, cooperative or association which is exclusively a water utility engaged in the production, gathering, transmission, distribution or sale of water for domestic use in Wyoming; and

(B) Any other organization, corporation, cooperative or association which is a water utility, if the property is used in the production, gathering, transmission, distribution or sale of water for domestic use in Wyoming.

- (x) Fire engines, stations, including land upon which located, and equipment used to extinguish fires;
- (xiv) Vehicles owned by the United States, state of Wyoming, counties, cities, towns, school districts and municipal corporations when used primarily for a governmental purpose;
- (xvi) Property of a museum or hospital district;
- (xviii) Property owned by the Wyoming community development authority excluding assessments for local improvements;
- (xix) Property of charitable trusts;
- (xxiv) The property of veterans to the extent provided by W.S. 39-13-105;
- (xxv) Property used for schools, orphan asylums or hospitals to the extent they are not used for private profit;
- (xxvi) Property used by a secret, benevolent and charitable society or association, including any fraternal organization officially recognized by the University of Wyoming or any community college, and senior citizens centers to the extent it is not used for private profit nor primarily for commercial purposes by the society, association or center, or lessee thereof;
- (xxvii) Property owned by a nonprofit society, foundation or association and used primarily as a community area center in which presentations in music, the arts and related fields are made in order to foster public interest and education therein, to the extent and in the proportion that receipts and revenues attributable to the above specified presentations bear to total receipts and revenues from the use and operation of the center including rentals and revenues received for the commercial use of the center not attributable to the above specified presentations;
- (xxxv) Property owned and used by a nonprofit corporation serving persons with disabilities, mental illnesses or substance abuse problems, or operating a family violence project to the extent it is not used for private profit nor primarily for commercial purposes;

WY ST s 15-10-107

The property of a municipality or county acquired or held pursuant to this chapter is public property used for essential public, governmental purposes and is exempt from all taxes and special assessments of any public body. This tax exemption does not apply to any portion of a project used for a profitmaking enterprise, but in taxing those portions appropriate allowance shall be made for any expenditure by a municipality or county for utilities or other public services which it provides to the property. In lieu of taxes on property exempt under this section, a municipality or county may agree to make such payments to any public body as it finds consistent with the maintenance of the low-rent character of housing projects and the achievement of the purpose of this chapter.

**WHAT ARE THE CONDITIONS THAT MUST BE MET FOR A FULL EXEMPTION? ARE PARTIAL EXEMPTIONS PERMITTED?**

**A. Full Exemptions.**

Where the established policy of the state is to exempt publicly owned property, the view

that provisions of the constitution and statutes must be strictly construed does not apply, nor does the view apply which was expressed in Commissioners of Cambria Park v. Board of County Comm'rs, 62 Wyo. 446, 174 P.2d 402 (1946), that taxation is the rule and exemption will not be presumed. City of Cheyenne v. Board of County Comm'rs, 484 P.2d 706 (Wyo. 1971).

### **B. Partial Exemptions.**

No statute or case was found that explicitly denies or provides for a partial exemption.

## **WHAT ARE THE PROCEDURES FOR OBTAINING EXEMPTIONS?**

### **A. Creation of Exemptions.**

An exemption is generally created when the taxpayer files for an exemption and the tax assessor determines that the property merits such an exemption.

### **B. Procedures for Retaining an Exemption.**

WY ST s 39-13-109

(a) Interpretation requests. There are no specific applicable provisions for interpretation requests for this chapter.

### **C. Annual Certification.**

No statute was found that explains the filing requirements for certification. It is unknown how often certification is required.

### **D. Obligation to File Copies of Lease or Agreements.**

No statute was found requiring copies of leases or agreements be filed.

### **E. Notification Requirements After Change in Use or Ownership.**

No statute was found requiring notification after a change in use or ownership.

## **WHAT ARE THE PROCEDURES FOR MONITORING AND REMOVING ERRONEOUS AND NO-LONGER-QUALIFYING EXEMPTION?**

### **A. Monitoring Exemptions.**

WY ST s 39-13-102

(c) ...The county board of equalization shall:

- (i) Add to the assessment roll and value any taxable property within the county not included within the assessment roll as returned by the county assessor at its meeting in April;

- (ii) Equalize the assessment and valuation of the taxable property which is assessed and valued by the county assessor;
  - (iii) Correct any assessment or valuation contained in and complete the assessment roll;
  - (iv) Hear and determine the complaint of any person relative to any property assessment or value as returned by the county assessor subject to W.S. 39-13-109(b)(i);
  - (v) Decide all protests heard and provide the protestant with a written decision no later than the first Monday in August.
- (k) On or before September 1, county assessors shall certify the exemptions granted pursuant to W.S. 39-11-105(a)(xxiv) to the department. On or before October 1 the state treasurer out of funds appropriated for that purpose shall reimburse each county treasurer for the amount of taxes which would have been collected if the property was not exempt. The county treasurer shall distribute the revenue to each governmental entity in the actual amount of taxes lost due to the exemption.
- (m) The department shall annually value and assess the following property at its fair market value for taxation:
- (i) The gross product of all mines and mining claims;
  - (ii) Property of pipeline companies;
  - (iii) Property of electric utilities;
  - (iv) Property of railroad companies;
  - (v) Property of rail car companies;
  - (vi) Property of telephone and telegraph companies which have more than two thousand dollars (\$2,000.00) in assessed value;
  - (vii) Property of other public utilities;
  - (viii) Leased property consisting of warehouses, storage facilities and office structures and any other property that is in support of or which is used or held for use for the activities listed in this subsection. If leased property is assessed to the lessee it shall not be assessed to the property owner.

WY ST s 39-11-102.1

(c) The state board of equalization shall perform the duties specified in article 15, section 10 of the Wyoming constitution and shall hear appeals from county boards of equalization and review final decisions of the department upon application of any interested person adversely affected, including boards of county commissioners for the purposes of this subsection, under the contested case procedures of the Wyoming Administrative Procedure Act. Any interested person adversely affected by the adoption, amendment or repeal of a rule pursuant to W.S. 16-3-103(a) shall be afforded an opportunity for a hearing before the board. In addition, the board shall:

- (vii) At the time of making annual assessment for state purposes, direct the boards of county commissioners of the several counties to levy upon all taxable property a tax sufficient to pay the interest on all state bonds for that year;
- (x) Carefully examine into all cases wherein it is alleged that property subject to taxation has not been assessed or has been fraudulently, improperly, or unequally assessed, or the law in any manner evaded or violated, and cause to be instituted proceedings which will remedy improper or negligent administration of the tax

laws of the state;

## **B. Removal of Exemptions.**

An exemption is generally removed when the tax assessor determines that the property no longer merits the exemption.

## **C. Assessment of Omitted Property.**

No statute was found that specifically provides for the assessment of omitted property.

## **HOW DO TAXPAYERS OR TAX PAYING BODIES CHALLENGE EXISTING EXEMPTION?**

WY ST s 39-13-109

(b) Appeals. The following shall apply:

- (i) The county assessor shall notify any person whose property assessment has been increased by the county board of equalization of the increase. Any person wishing to contest an assessment of his property shall file not later than thirty (30) days after the date or postmark date of the assessment schedule properly sent pursuant to W.S. 39-13-103(b)(vii), whichever is later, a statement with the county assessor specifying the reasons why the assessment is incorrect. The county assessor shall provide a copy to the county clerk as clerk of the county board of equalization. The county assessor and the person contesting the assessment, or his agent, shall disclose witnesses and exchange information, evidence and documents relevant to the appeal, including sales information from relevant statements of consideration if requested, no later than fifteen (15) days prior to the scheduled county board of equalization hearing. The assessor shall specifically identify the sales information used to determine market value of the property under appeal. A county board of equalization may receive evidence relative to any assessment and may require the person assessed or his agent or attorney to appear before it, be examined and produce any documents relating to the assessment. No adjustment in an assessment shall be granted to or on behalf of any person who willfully neglects or refuses to attend a meeting of a county board of equalization and be examined or answer any material question upon the board's request. Minutes of the examination shall be taken and filed with the county clerk;
- (ii) A county assessor may appeal any decision or order of the county board of equalization to the state board of equalization;
- (iii) Any person aggrieved by any final administrative decision of the department may appeal to the board. Appeals shall be made in a timely manner as provided by rules and regulations of the board by filing with the board a notice of appeal specifying the grounds therefor. The department shall, within a timely manner as specified by board rules and regulations, transmit to the board the complete record of the action from which the appeal is taken;
- (iv) Any person including the state of Wyoming aggrieved by any order issued by the board, or any county board of equalization whose decision has been reversed

or modified by the state board of equalization, may appeal the decision of the board to the district court of the county in which the property or some part thereof is situated;

(v) The board and department shall not compromise or reduce the tax liability of any person owing a tax to the state of Wyoming, except that the department for good cause, may, but is not required to, compromise and settle with the taxpayer for payment of any taxes owed to the state of Wyoming which tax liability is disputed in good faith by the taxpayer and which liability has not been settled in law. In case the department and the person owing the tax do not agree with respect to tax liability, the department shall by order, assess and levy the full amount of tax due and any person aggrieved by the assessment may appeal the decision to the board pursuant to the Wyoming Administrative Procedure Act.