



PROPERTY TAX EXEMPTION MANUAL

State Board of Equalization

TABLE OF CONTENTS

| | |
|--|----|
| I. Introduction | 1 |
| II. What Qualifies for Exemption? | 2 |
| a. Introduction and General Requirements | 2 |
| b. Property of Religious, Charitable, Scientific, or Non-Profit Educational Properties | 2 |
| i. General Requirements | 2 |
| ii. Churches or Religious Institutions | 3 |
| iii. Charitable Institutions | 4 |
| iv. Medical Facilities and Nursing Homes | 5 |
| v. Scientific and Non-Profit Educational Institutions | 5 |
| vi. Miscellaneous other Exempt Properties | 6 |
| c. Government Property | 7 |
| d. Property of Housing Authorities | 7 |
| e. Housing Projects Constructed with HOME or Housing Trust Funds | 8 |
| f. Low Cost Housing for Low-Income Disabled and Elderly | 8 |
| g. Property Owned by Charitable Institutions for Construction of Residential Housing for Low-Income Families | 10 |
| h. Recycling or Waste Disposal Facilities | 11 |
| i. Private Act Hospitals | 11 |
| j. Burial Places and Cemeteries | 11 |
| k. Crops, Livestock, and Poultry | 12 |
| l. Property Passing Through Tennessee | 12 |
| m. Improvement or Restoration of Historic Properties | 12 |
| n. Public-Use Airport Runways | 14 |
| o. Community and Performing Arts Centers | 14 |
| p. Family Wellness Centers | 15 |
| q. Museums | 16 |
| III. Applying for Exemption | 16 |
| a. New Property Under Construction | 20 |
| b. Partial Exemptions | 21 |
| c. Effective Date of Exemption | 22 |
| IV. Appeal Process | 24 |
| V. Leasing or Renting Property | 25 |
| VI. Revocation | 25 |
| VII. Changes to Property After Initial Exemption | 27 |
| a. Change in Use of Property | 27 |
| b. New Construction on Exempt Property | 27 |
| c. Name Changes | 27 |
| d. Combining Parcels | 28 |
| e. Transfer of Exempt Property | 28 |
| VIII. Should I Pay My Taxes While My Application or Appeal is Pending? | 28 |
| IX. FAQ | 29 |

DRAFT

PURPOSE OF EXEMPTION MANUAL

The purpose of this manual is to educate the reader about property tax exemptions in Tennessee and inform taxpayers and government officials how property tax exemption decisions are made.

INTRODUCTION

The Tennessee State Constitution requires that all real and personal property be taxed, except “the direct product of the soil” when owned by the producer or the first buyer, money deposited in an individual or family’s checking account, and articles manufactured from Tennessee raw materials. The Constitution grants to the legislature the authority to exempt other categories of property from taxation if the property is owned by state or local governments, or if it is owned and used by religious, charitable, scientific, or non-profit educational organizations.”¹ Tax exempt properties are removed from a county’s tax roll. This means that the owners of these properties do not pay property taxes.

Property tax exemptions are addressed in the Tennessee Code in Title 67, Chapter 5. The code defines the types of property that may qualify for tax exemption and establishes the requirements for obtaining exemption. This manual will discuss the categories of exempt property, the process of applying for a property tax exemption, and how property that no longer meets the requirements may be added back to the county’s tax rolls. Unless a section says otherwise, this manual applies to both real and personal property.

The State Board of Equalization reviews all property tax exemption applications. The State Board will assign an “Exemption Designee” to review the application. An Exemption Designee is an attorney that works for the State Board of Equalization. He is a neutral party when reviewing an application – his job is to check if the property meets the laws’ requirements. When the Exemption Designee has reviewed the application, he will make an “Initial Determination”. The Initial Determination will include whether the property qualifies for property tax exemption, and when that exemption begins. This manual discusses the requirements for an exemption, the application process, how to appeal an Initial Determination, how exemption may be lost, and a variety of other useful topics related to property tax exemptions.

How to Contact the SBOE

| | |
|--------------------------------|--|
| By Phone: | (615) 401-7883 |
| By Email: | sb.web@cot.tn.gov |
| By Fax: | (615) 253-4847 |
| By Mail: | Tennessee Comptroller of the Treasury State Board of Equalization Cordell Hull Building 425 Fifth Avenue North Nashville, TN 37243 |
| File an Application or Appeal: | www.comptroller.tn.gov/boards/state-board-of-equalization.html |

¹Tenn. Const. Art. II §§ 28, 30.

WHAT QUALIFIES FOR PROPERTY TAX EXEMPTION?

Tennessee law holds that all property, real and personal, must be assessed for taxation, unless it is exempt. There are three broad categories of exempt property: products of the state of Tennessee, government-owned property, and religious, charitable, scientific, and non-profit educational property.

The Tennessee Code sets forth specific requirements for the above categories. Within the broad category of charitable, religious, scientific, and non-profit educational properties, there is one broad, general statute, and several more specific statutes. If a property meets the requirements of one or more statutes, it can be exempted. If a property does not meet the requirements of one section but does meet the requirements of another, the property will still be exempt. Unless that category imposes specific requirements, the outcome will be the same. The different categories and their specific requirements and limitations are discussed in this section.

Basic Requirements

There are some basic requirements to qualify for exemption in any category. In almost every case, the entity seeking an exemption must apply to the State Board of Equalization – this process will be discussed later. The other basic requirement is that the entity must own the property in question.

Exceptions Happen

There are a few exemptions that are offered only under very specific circumstances. These specific categories and exceptions are not discussed here, but rest assured – the State Board of Equalization will review all applications for exemption in all categories, even the odd ones.

Individual Personal Property

All tangible personal property that is owned by individuals or families is either exempt from taxation or considered to have no value for the purposes of property taxes. Additionally, the entire value of an individual's or a family's personal checking and savings accounts is exempt. This section does not apply to commercial or industrial property.

PROPERTY OF RELIGIOUS, CHARITABLE, SCIENTIFIC OR NONPROFIT EDUCATIONAL INSTITUTIONS

Tennessee law exempts the property of religious, charitable, scientific, and non-profit educational institutions. There are several general provisions which apply to each of these categories.

Ownership, Occupancy, and Use

Property must be owned, occupied, and used by a qualifying institution in order to be exempted from property taxes. An exempt institution is a charitable, religious, scientific, or non-profit educational institution. The entity applying for exemption must own the property, in whole or in part. Partial ownership may be acceptable in some cases and is discussed in the section discussing Partial Exemptions.

The property must also be occupied. There are no predetermined standards of use to consider a property occupied. Property that is owned for a purpose but is never used is insufficient – in this case, the property is not occupied or used. Likewise, the property must be used, and not held for use in the future. The determination that a property is not occupied will be a fact dependent, case by case determination, and a determination where property assessors and exemption applicants are in the best situation to provide all of the facts to the Exemption Designee. The State Board of Equalization will presume that the first five acres of an institution’s property are being used, unless told otherwise.²

The property must be used for an exempt purpose of the institution. This requirement is read broadly. It includes uses directly incidental to or reasonably necessary for the exempt purpose of the institution; for instance, a church does not exist to provide parking, but providing parking to worshippers is reasonably necessary for use of the church. A church may use its building for worship services but using a building for storage of church property or for meetings of small groups within the church may also be considered an exempt use of property. Likewise, property used by a charitable institution for administrative duties or for training its staff may be considered use for an exempt purpose. Despite the broad reading of this requirement, there are limits.³

The property of an exempt organization may not be exempt where the use of the property only generally promotes the charitable institution’s purpose. This caveat is particularly applicable where the suspect use of the property generates revenue.⁴ A charitable property that has an attached bar, or a church with an attached coffee shop, cannot exempt these portions of the property just because the revenue earned supports the institution as a whole.

Finally, a charitable institution does not necessarily have to be a 501(c)(3), and the property of a 501(c)(3) is not automatically exempt from property taxes.

Property owned by an exempt institution that is leased, rented, or otherwise used by another exempt institution may also be exempt. See the section on Leasing or Renting Property for more details.

CHURCHES OR RELIGIOUS INSTITUTIONS

The primary church, temple, or other house of worship can be exempt, but other properties owned by a religious institution may qualify for tax exemption as well. That may be a separate facility used for storage of church property, additional parking lots, or buildings used to collect and distribute food and clothes to needy members of the community.

There are limitations on what property can be exempted by a religious institution. The usage of the property must be directly incidental to the institution’s exempt purpose; for instance, a church may support missionary work, but a residence for missionaries to stay in when they are in the area will not qualify for tax exemption. In this case the property is not directly incidental to the church’s religious purpose.⁵ Property owned by a church but not used is also not exempt. A church may purchase a property with the intent to demolish the structures and put in a parking lot, but if that property is not being used it is not exempt.

² Tenn. Comp. R. & Regs. 0600-08-.02(2)(b).

³ First Presbyterian Church of Chattanooga v. Tennessee Bd. of Equalization, 127 S.W.3d 742 (Tenn. Ct. App. 2003)

⁴ Christ Church Pentecostal v. Tennessee State Bd. of Equalization, 428 S.W.3d 800, 813 (Tenn. Ct. App. 2013)

⁵ *Missionary housing-First Presbyterian Church of Chattanooga v. Tennessee State Board of Equalization*, 127 S.W.3d 742 (Tenn. Ct. App. 2003).

The State Board of Equalization will request that religious institutions provide their charter, articles of incorporation, or other governing documents, as well as financial documents such as a tax return, budget, or income and expense statement. If a religious institution does not have any form of governing or founding, the institution may provide a brief explanation of how decisions are made within the institution. The Exemption Designee will determine if this documentation is sufficient.

Religious institutions benefit from additional rules regarding the date their tax exemption begins. This is discussed in the section on Effective Date of Exemption.

Parsonage

A church may also obtain exemption for one parsonage. A parsonage is a residence owned by the church, where a full-time regular minister of the church lives.⁶ A church may only have one exempt parsonage, and that parsonage may not include more than three acres of land.

CHARITABLE INSTITUTIONS

Property that is owned by a charitable institution and used for an exempt purpose, or for a use that is directly incidental thereto, may be exempted.

The Tennessee Code defines a charitable institution as “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.” Whether an institution is considered charitable will often depend on what the institution does, and what it does on the property in question.

An exempt purpose or use of a charitable property is a use that supports the institution’s charitable mission. The charitable mission of an institution can range broadly. Distributing clothing or food to the poor is considered charitable, but a sanctuary for at-risk elephants and a golf course purpose built to teach youths how to play golf may also be deemed charitable.

Whether a property is charitable is a fact dependent decision where a great deal of information may be needed. A judge upheld the purpose-built golf course above as charitable because the holes were shorter to accommodate young people, the owner made efforts to encourage participation by minorities, low-income, and disabled individuals, and the institution’s fees were waived for those unable to pay. In many cases less information is needed, but in other cases an Exemption Designee may need more. Ultimately, the institution applying for the exemption is in the best case to show their work is charitable and can supply whatever information will demonstrate this to the Exemption Designee. The institution may provide a list of the services or programs it provides, who its target audience is, a description of its fee structure and/or fee waivers, etc. All of these may factor into the Exemption Designee’s decision as to whether an institution is charitable under Tennessee’s property tax exemption laws.

A property may be held as non-charitable (and non-exempt) where the primary use is non-exempt. The Tennessee Supreme Court has held that where a club was overwhelmingly devoted

⁶ *Parsonage-Blackwood Brothers Evangelistic Association v. State Board of Equalization*, 614 S.W.2d 364 (Tenn. Ct. App. 1981).

to athletics and social events, a minimal amount of charitable work was insufficient to exempt the property for its minimal charitable uses.⁷ Similar reasoning has been applied to Chambers of Commerce and, more recently, Vanderbilt University's fraternity houses.⁸

MEDICAL FACILITIES AND NURSING HOMES

Medical facilities and nursing homes may be exempt from property taxes as charitable institutions. This decision is fact-dependent. An initial consideration is whether the institution is for-profit or non-profit. For-profit facilities are not eligible for property tax exemption.

Another important distinction is drawn between a “clinic”, and a hospital or other licensed health care facility that provides medical care. Clinics will be discussed below. Licensed non-profit hospitals, nursing homes, dialysis clinics, and other similarly regulated facilities will almost always qualify for exemption. There is a general presumption that licensed or certified medical facilities and nursing facilities are exempt.⁹ Other factors that show the facility is or is not charitable will also be considered.

A “clinic”, for the purposes of property tax exemption, is any facility other than a hospital or licensed health care facility that provides primary care. Specialty facilities such as a cardiovascular or surgical clinic are considered clinics for this purpose. For a clinic to be tax exempt it must be:

1. Owned by a charitable institution;
2. In a medically underserved area or serve a medically underserved population
The determination that an area or population is medically underserved is made by the U.S. Department of Health and Human Services or the State of Tennessee;
3. Must provide services without regard for ability to pay. If the clinic accepts any insurance it must also accept TennCare, Medicare, and uninsured patients;
4. the clinic must either not charge for its services, or its fees must be adjusted for household income and family size; and,
5. No employee can be paid more than is reasonable, compared to other similarly qualified and experienced staff at other institutions for the same services. If a clinic does not meet the above requirements it will not qualify for property tax exemption.

SCIENTIFIC AND NON-PROFIT EDUCATIONAL INSTITUTIONS

The property of a scientific or non-profit educational institution may be exempt if it meets the ownership, occupancy and use requirements. This can include uses directly incidental to the educational or scientific uses of the property – a university may need large parking areas for its students, or walkways for students to facilitate students walking from one area of campus to another.

⁷ *State v. Rowan*, 106 S.W.2d 861 (Tenn. 1937)

⁸ *Memphis Chamber of Commerce v. City of Memphis*, 232 S.W. 73, 73 (Tenn. 1921), *Vanderbilt Univ. v. Tennessee State Bd. of Equalization*, No. M201401386COAR3CV, 2015 WL 1870194, at *9 (Tenn. Ct. App. Apr. 22, 2015).

⁹ See *Baptist Hosp. v. City of Nashville*, 3 S.W.2d 1059 (Tenn. 1928); *Downtown Hosp. Ass'n v. Tennessee State Bd. of Equalization*, 760 S.W.2d 954, 957 (Tenn. Ct. App. 1988); *Christian Home For The Aged, Inc. v. Tenn. Assessment Appeals Comm'n*, 790 S.W.2d 288 (Tenn. Ct. App. 1990) (affirming the exemption of a nursing home with little discussion about it except the factual recitation).

There are a variety of institutions or uses of property that are specifically exempt under the section exempting religious, charitable, scientific, or non-profit educational properties. These are briefly listed below.

Fraternal Organizations Exempted from Federal Income Taxes

The property of fraternal organizations (Shriners, Veterans of Foreign Wars, etc.) that are recognized as a 501(c) organization by the IRS may be exempted to the extent that it is used directly and exclusively for religious, charitable, scientific and educational activities, rather than to produce revenue. Areas used as a bar, or for other means of generating revenue, are not exempt.

Non-Profit County Fair Associations

The property of a non-profit county fair association is exempt from property taxes.

Caretaker's Residence in a Park

A community park that is open to the general public may exempt one occupied residence located in the park. The residence must be owned by a non-profit religious, charitable, scientific or educational institution. The purpose of the residence, and the caretaker, must be to discourage vandalism of the property. The institution must not charge the caretaker, and the caretaker must not live there in lieu of receiving a salary.

A caretaker's residence on property owned by a non-profit institution that is chartered by the United States congress may be exempt if the caretaker's presence is required for the security of users of the property, and to discourage vandalism. This exemption only applies if the land is used for religious, charitable, education, or scientific purposes.

Public Broadcast Radio and Television

The property of a public broadcast radio operator that has an educational broadcast license issued by the FCC is exempt from property taxation, as long as the property is used consistent with the educational broadcast license.

Similarly, the property of a broadcaster that has a noncommercial educational broadcast license issued by the FCC is exempt, if the broadcaster is an affiliate member of the public broadcasting network and is organized as a nonprofit charitable or educational institution.

Religious and Charitable Thrift Shops

The property of a religious or charitable institution that is used as a thrift shop may be exempt if it meets the following requirements:

- 1) The institution is a 501(c)(3);
- 2) The thrift shop is operated primarily by volunteers, or provides occupational rehabilitation to those that need it;

- 3) The inventory of the thrift shop is donated to the institution that owns and operates it;
- 4) Goods are priced at used values;
- 5) Goods are given to individuals who are financially unable to pay; and,
- 6) The proceeds of the thrift shop are used for the charitable purpose(s) of the institution that owns and operates it.

Labor Organizations

The property of labor organizations that are recognized as 501(c)(5) by the IRS is exempt when it is used for charitable or educational purposes. Partial exemptions under this chapter may be granted if part of the property is used for revenue-producing activities. The improvements used for non-exempt purposes are not exempt, but, in this section only, the underlying land is exempt.

GOVERNMENT PROPERTY¹⁰

Generally, property owned by federal, state, or local government, is exempt from property taxes so long as it is used for public purposes.¹¹ Government property includes the property of a school or university owned by the state or operated by the state as a trustee. Likewise, any roads, alleys, streets, or promenades that are available for public use free of charge are exempt from taxation.¹² Finally, state, county, and municipal bonds are not subject to taxation.¹³

An exemption application does not need to be submitted for property exempt under these statutes – the county assessor where the property is located may exempt these properties. If it is questionable whether property is exempt, the taxpayer may contact the State Board of Equalization for assistance, or may choose to submit an application for exemption in order to preserve the earliest starting date for the tax exemption.

Split Ownership

Property in which the government has a partial ownership interest may not be fully exempt, but in such a situation the government's interest in this property will not be subject to taxation, unless an exception applies.

PROPERTY OF HOUSING AUTHORITIES

Property owned by housing authorities may be exempt from property taxes, if the housing authority agrees to make payments in lieu of taxes (“PILOT”). These payments must be made to any political subdivision for “services, improvements, or facilities” provided by that subdivision for the benefit of that housing authority.¹⁴

¹⁰Tenn. Code Ann. § 67-5-203. Property used exclusively for governmental purposes, Tenn. Code Ann. § 67-5-204. Dedicated rights-of-way, Tenn. Code Ann. § 67-5-205 (State, county and municipal bonds)

¹¹ “that real property purchased for investment purposes by the Tennessee consolidated retirement system shall be subject to property taxation”. Tenn. Code Ann. § 67-5-203(a)(1).

¹² Tenn. Code Ann. § 67-5-204.

¹³ Tenn. Code Ann. § 67-5-205.

¹⁴ *Tenn. Code Ann. § 67-5-206. Property of housing authorities*

Services does not mean general services like access to roads, the court system, or protection by law enforcement generally, but more specific services such as utilities.¹⁵ The housing authority may require PILOT agreements with multiple political subdivisions, if services are provided by multiple political subdivisions.

Exemption under this subsection is implemented by the county assessor where the property is located – the institution does not need to submit an application to the State Board of Equalization.

HOUSING PROJECTS CONSTRUCTED WITH HOME OR HOUSING TRUST FUNDS

Properties that provide low-income housing for elderly¹⁶ or disabled¹⁷ individuals that are funded by one of two specific sources may be exempt from property taxes. The properties must be funded by either the HOME Investment Partnerships Program¹⁸, or by a housing trust fund created under Tenn. Code Ann. §§ 7-8-101 et. seq. or 13-23-501 et. seq.

The property must also be owned by a Tennessee registered non-profit institution. The IRS must recognize the non-profit institution as exempt from federal income taxes, either as an exempt charitable institution or an exempt social welfare institution. In addition, the institution must have the following charter provisions:

- 1) Directors and officers must serve without compensation;
- 2) The corporation is dedicated to and operated exclusively for non-profit purposes;
- 3) The income or assets of the corporation will not be distributed to benefit any individual;
- 4) If the corporation is dissolved, its property will not be conveyed to any individual for less than fair market value; and
- 5) When the corporation dissolves, all remaining assets will be distributed only to non-profit institutions with a similar purpose.

LOW COST HOUSING FOR LOW-INCOME DISABLED AND ELDERLY

Property that provides low-income housing for low income disabled and elderly individuals may be exempt from property taxation if certain narrow criteria are met. The requirements to qualify under this section can be complex.

First, the property must be owned by a Tennessee registered non-profit institution. The IRS must recognize the non-profit institution as exempt from federal income taxes, either as an exempt charitable institution or an exempt social welfare institution. In addition, the institution's charter or governing documents must have the following provisions:

- 1) Directors and officers must serve without compensation;
- 2) The corporation is dedicated to and operated exclusively for non-profit purposes;
- 3) The income or assets of the corporation will not be distributed to benefit any individual;

¹⁵ *Tenn. Op. Att'y Gen. No. 96-097 (July 29, 1996).*

¹⁶ Elderly person means a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy. 24 CFR 891.205.

¹⁷ A disabled person is a household with at least one disabled individual who is aged 18 or older, a caretaker if the individual needs one, as determined by the department of Housing and Urban Development, or the surviving household members if the disabled individual is deceased. 24 CFR 891.305

¹⁸ 42 U.S.C. § 12701 et seq.

- 4) If the corporation is dissolved, its property will not be conveyed to any individual for less than fair market value; and
- 5) Upon dissolution, all remaining assets will be distributed only to non-profit institutions with a similar purpose.

Second, the property must offer below cost housing to low-income elderly or disabled households. Below-cost housing and “low-income” may be addressed in the loan or grant agreements financing the property. Generally, below cost housing will not exceed 30% of the household’s monthly or yearly income, and low income will generally refer to either low or very low income as defined by the Department of Housing and Urban Development (“HUD”).^{19,20} A household is considered elderly if one or more people in the household are 62 years of age or more when the household first occupies the property.²¹ A household is considered disabled if it contains at least one individual who is 18 or older and has a disability, or the surviving member(s) of this household after the disabled individual’s death, who were living in the household during the time the household qualified as disabled; or, one or more disabled individuals living with another individual who is certified by a social worker, physician, or a similar professional to be important for the care or well-being of the disabled individual(s).

Third, the property must be financed by one of the following federal programs:

- A grant under § 211 or § 811 of the National Affordable Housing Act (42 U.S.C. §§ 12741 and 8013)
- A grant under the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11301 et seq.)
- Financed or refinanced by a loan made, insured, or guaranteed by a branch of the federal government under one of the following laws:
 - 1) § 515(b) or § 521 of the Housing Act of 1949 (42 U.S.C. §§ 1485(b) and 1490a respectively);
 - 2) § 202 of the Housing Act of 1959 (12 U.S.C. § 1701q, § 221, § 223, § 231);
 - 3) § 236 of the National Housing Act (12 U.S.C. §§ 1715l, 1715n, 1715v and 1715z-1, respectively); or,
 - 4) § 8 of the United States Housing Act of 1937 (42 U.S.C. § 1437f).

A loan is considered to be guaranteed if the federal housing agency consented to assignment of a housing assistance program contract as security for the loan.

The original funding must come from one of the above programs, but that funding will almost always be administered through a state program, by a state agency. The applicant hoping to qualify under this section must provide documentation regarding the financing of the housing project to show the original source of the funding. If the State Board of Equalization is not able to determine the original source, and the applicant cannot either, the application cannot be approved under this section.

A property exempted under this section and financed by a loan remains exempt while there is an unpaid balance on the qualifying loan. When the loan is paid in full, the property remains exempt as long as the property is only used for elderly or disabled individuals.

¹⁹ This information can presently be found by navigating to your county from this link: <https://www.huduser.gov/portal/datasets/il.html>

²⁰ 24 CFR § 92.252.

²¹ 24 CFR 891.205.

Property financed by a grant remains exempt as long as it is used as below-cost housing for elderly or disabled individuals with household income at or below that laid out HUD. If the program providing the grant did not provide income guidelines, the property may be exempt if at least 50% of the residents have incomes under HUD guidelines for any of the above programs. In this case, the property is granted a partial exemption. The percentage of the exemption is the percentage of units occupied by low-income elderly or disabled households. This percentage must be established by the entity seeking the exemption. Information supporting the exemption and supporting the percentage of the exemption must be provided to the tax assessor by April 20, and that percentage is applied beginning January 1 of that year.

PILOT Agreement Required

If a housing project under this section has more than 12 units, the owners must make payments in lieu of taxes to the tax jurisdictions where the project is situated. These payments should be agreed upon, and should cover the cost of services rendered by the tax jurisdiction, and the cost of any improvements or facilities provided by the jurisdiction. If no PILOT agreement is formed, the payments should be at least 25% of the amount of property taxes that would be collected if the project was not exempt.

An application to the State Board of Equalization is required for properties to qualify as exempt under this section.

PROPERTY OWNED BY CHARITABLE INSTITUTIONS FOR CONSTRUCTION OF RESIDENTIAL HOUSING FOR LOW-INCOME FAMILIES

Property owned by charitable institutions such as Habitat for Humanity may be exempt for a period of time, until the property is conveyed to a low-income household.²²

The property must be owned by a charitable institution. It must be held for the purpose of constructing one or more single family dwellings that will be conveyed to a low-income household. If a property meets these requirements, it can be exempted from property taxes for up to 18 months if it is a single lot for one single family home. If it is a larger parcel that will be subdivided into more than one lot, it may be exempted for 18 months, plus an additional 6 months for each additional home past the first.

The exemption ends when the property is conveyed to a low-income household. If the property, or any portion of the property, is not developed and transferred to a low-income household within the exemption period, all taxes that would otherwise have been due for the property, plus any delinquency penalties and interest, accrue from the date the property was acquired by the charitable institution, or from the date the property was transferred to an ineligible owner.

²²Low income household” means an individual or family unit whose income does not exceed eighty percent (80%) of the area or state median income, whichever is greater, adjusted for family size” Tenn. Code Ann. § 13-23-103(12).

RECYCLING OR WASTE DISPOSAL FACILITIES²³

Property owned by a non-profit corporation that is used to recycle or dispose of waste products and use these products to produce heating and cooling of public facilities may be exempt from property taxes, if the state or a political subdivision owns the reversionary interest in the property. The property may be exempt even if by-products of the recycling or disposal are provided to private entities. Exemption under this section does not require an application to the State Board of Equalization.

PRIVATE ACT HOSPITALS²⁴

The property of a private act hospital established under title 7, chapter 57, part 6 of the Tennessee Code, may be exempt from property taxes.

All property within the boundaries of the political subdivisions which created or participated in the creation of the hospital is exempt, without the need for an application to the State Board of Equalization.

The hospital must apply to the State Board of Equalization for exemption of properties which are outside the boundaries of their creating or participating jurisdictions. The State Board will evaluate these properties as though they were charitable hospitals under Tenn.Code Ann. § 67-5-212. See the section on Medical Facilities and Nursing Homes.

PILOT Agreements

A private act hospital may enter into PILOT agreements with the creating or participating jurisdictions. This agreement will take place during foundation of the hospital.

BURIAL PLACES AND CEMETERIES

Non-profit cemeteries and other places of burial are exempt from property taxes. If the owners of such property do not charge to use burial plots, the owners do not need to apply for exemption to the State Board of Equalization – the county assessor where the property is located will exempt these properties, not the State Board of Equalization. If there is a charge to be buried on the property, the properties may still be exempt, but the property owner must apply to the State Board of Equalization.

The real property of a for-profit cemetery may be exempt, if the property was landscaped and prepared to be used as a cemetery, and the size of the property is not beyond the reasonable needs of the public. A for-profit cemetery must apply for exemption to the State Board of Equalization.

²³ Tenn. Code Ann. § 67-5-208. Property used to recycle or dispose of waste products

²⁴ Tenn. Code Ann. § 67-5-209 (West)

CROPS, LIVESTOCK, AND POULTRY

All growing crops, including timber, products in a nursery, and ornamental trees, are exempt from property taxes, while they are owned and held by the producer (the person or company growing the crop), or the individual buying directly from the producer, are exempt from property taxes.

Articles manufactured in the state, while owned and held by the manufacturer, are also exempt from property taxes.

Aged whiskey barrels, while the barrels are owned or leased by a person that produces or manufactures whiskey in those barrels, are considered an article manufactured in the state.²⁵

PROPERTY PASSING THROUGH TENNESSEE

Personal property traveling through Tennessee may be exempted under two sections of the Tennessee Code.

Property in Interstate Commerce²⁶

Tangible personal property moving through Tennessee, but destined to land outside the state, is exempt from property taxes. This section covers property that is housed temporarily in a warehouse for storage.

This section also exempts property that is transported to a plant or warehouse in Tennessee from outside the state for storage or repackaging but destined for eventual sale outside the state. If a portion of the property exempted under this subsection is sold within the state, the exemption only applies to the property which is or will be sold out of the state.

Note that property in transit does not need a specific destination when it is stored in Tennessee, so long as it will be sold or moved outside the state.

Imported Property in a Foreign Trade Zone²⁷

Tangible personal property which is imported from outside the United States and held in a foreign trade zone or subzone sale, processing, assembly, etc., is exempt from property taxes while in the foreign trade zone, so long as it is to be transported outside of Tennessee.

IMPROVEMENT OR RESTORATION OF HISTORIC PROPERTIES²⁸

Properties that are on the Tennessee Register of Historic Places, or other structures that are certified by a county's historic properties review board, may be eligible for a partial tax exemption when performing restorations or renovations. Exemption under this section is only available in counties with a population of 200,000 or higher according to a federal census after 1969, and only in counties where the governing body has elected to grant exemptions under this section. An exemption granted under this section does not fully exempt the land or structures on the

²⁵ See Tenn. Code Ann. § 67-5-216(c).

²⁶ Tenn. Code Ann. § 67-5-217. Property in interstate commerce

²⁷ Tenn. Code Ann. § 67-5-220. Imported property in foreign trade zone

²⁸ Tenn. Code Ann. § 67-5-218. Improvement or restoration of historic properties

land. Instead, this section exempts the value of improvements to or restorations of the structure, if the improvements are necessary under:

- 1) A comprehensive plan for the redevelopment of a district or zone,
- 2) The preservation plan of the state of Tennessee,
- 3) Any other federal or state plan that includes preservation or restoration of structures covered under this section; or,
- 4) By agreement of the owner of the property to restore the property under guidelines set out by a historic properties review board. These requirements will include restrictions on significantly altering or demolishing the structure.

Properties that are 175 years old or older are presumed, by virtue of age, to meet the requirements of a county's historic properties review board, and therefore may qualify under this section. Properties 125 years old but less than 175 years old are presumed to meet those requirements, but this presumption can be challenged by any interested party. Properties 75 years old but less than 125 years must be reviewed individually.

Exemption under this section only applies to the value of improvements, restoration, or renovations. The exemption is also time limited. The exemption will apply for ten years if the restoration is limited or only an exterior restoration. It may last 15 years if it is considered a total restoration. The historical properties review board will make this determination. When the exemption ends, the structure will be assessed and taxed at its full market value.

In addition to the historic structure, this exemption may also apply to structures or residences necessary to manage or care for the historic structure.

If the historic properties review board determines that the historic structure is demolished or significantly altered the exemption will end immediately.

Finally, unlike most exemptions, this exemption will continue for the specified period of time even if ownership of the property changes.

Exemptions under this section are granted by county authorities, not the State Board of Equalization.

Historic Properties Owned by Charitable Institutions²⁹

Property that is on the National Register of Historical Places that is owned by a charitable institution for 10 years or more may be fully exempt (as opposed to the partial exemptions above) from property taxes. This exemption is only available in counties or municipalities which have elected to grant such exemptions. If the county or municipality has chosen to grant these exemptions there are additional requirements.

First, the property must not be rented out no more than 180 days per year, and rentals may not last more than two days per event. The proceeds from rentals must be used solely to defray the maintenance and upkeep of the property.

²⁹Tenn. Code Ann. § 67-5-222. Historic properties owned by charitable institutions; preservation and maintenance plan; exemption period; application

Second, the institution must submit a comprehensive preservation and maintenance plan for the property to the county's historical property review board, demonstrating how the property tax savings will be used to preserve and maintain the property. The historical property review board may have guidelines for these plans.

Exemptions under this section are granted for a period of ten years. At the end of this time the institution may submit another application with an updated preservation and maintenance plan. Applications under this section are made to the State Board of Equalization.

PUBLIC-USE AIRPORT RUNWAYS³⁰

Airport runways and aprons belonging to private public-use airports are exempt from property taxes. The owners of these properties must apply for exemption to the State Board of Equalization.

COMMUNITY AND PERFORMING ARTS CENTERS³¹

Property owned by non-profit community and performing arts institutions may be exempt from property taxes, to the extent that the property is used by a non-profit or charitable institution for charitable or educational purposes. For this section, use of the property for performing arts, public museums, art galleries, or theaters is an exemptible use, as are any uses directly incidental to this use (e.g. parking, administrative space).

First, this exemption may not be available in all counties. This exemption is only available in counties that allow this exemption by a 2/3 vote of the county's governing body. The county's governing body may require any properties exempt under this subsection be periodically reviewed by local authorities, or that the exemption be renewed.

Next, the institution which owns the property must meet certain institutional requirements:

- The institution must be a public benefit non-profit institution, either established as a non-profit corporation or an unincorporated entity operating as either an association operating for the public benefit, or a trust or foundation operating under written articles of governance requiring that it be operated for the public benefit.
- The institution's governing body, in the form of a board of directors, officers, or in any other form, must meet the following requirements:
 - o No more than three members of the governing body of the institution (including the board of directors and any other officers) may be employed by the organization.
 - o No member of the governing body may be compensated, unless the member is an employee.
 - o No member of the governing body may provide services to the institution in return for monetary payment, either directly or indirectly.
 - o No member of the governing body may lend money to the institution, if such loan is secured by the institution's property.
 - o No member of the governing body of the institution may profit from any of the shows, exhibits, etc., for which the property is used, unless this compensation is normal pay as an employee.

³⁰Tenn. Code Ann. § 67-5-219. Airports and landing fields; Tenn. Code Ann. § 67-5-212 (Properties under § 219 must apply to SBOE)

³¹ Tenn. Code Ann. § 67-5-223. Community and performing arts

Further, if any exempt property of the institution is to be sold, the institution must provide notice to the Tennessee Attorney General and reporter that the institution intends to sell the property. This notice must be provided at least 21 days before the date of the sale, but no more than 60 days before the date of the sale.

Each of the above requirements must be incorporated into the articles of governance of any unincorporated institution.

The institution must submit a copy of its articles of governance to the county tax assessor for the county where the exempt property is located, in addition to filing these documents with any other required entities (i.e. the Secretary of State's office). The institution must send an annual report to the tax assessor with a report listing the activities and uses of the exempt property, current financial statements, and any other information the tax assessor requires. Finally, the county tax assessor must maintain an estimate of the market value of the property as of the date of the last county-wide reappraisal.

FAMILY WELLNESS CENTERS³²

A family wellness center is the property of a charitable institution used to provide physical exercise opportunities for children and adults, such as a YMCA. A family wellness center may be exempt if it meets the following requirements:

- The institution's historic purpose must be to promote holistic physical, mental, and spiritual health.
- Must provide at least 5 of the following 8 services:
 - o Day care programs for preschool and school-aged children;
 - o Team sports opportunities for youth and teens;
 - o Leadership development for youth, teens, and adults;
 - o Services for at-risk youth and teams;
 - o Summer programs for at-risk youth and teens;
 - o Outreach and exercise programs for seniors;
 - o Aquatic programs for all ages and skill levels;
 - o Services for disabled children and adults.
- Must charge for services based on a sliding-scale fee structure to accommodate individuals with limited means. This fee structure will typically account for family size and household income.
- The institution must be a 501(c)(3).
- The institution must also include the following provisions in its governing documents:
 - o The directors and officers shall serve without compensation beyond reasonable compensation for services performed;
 - o The corporation is dedicated to and operated exclusively for nonprofit purposes;
 - o No part of the income or the assets of the corporation shall be distributed to inure to the benefit of any individual; and
 - o Upon liquidation or dissolution, all assets remaining after payment of the corporation's debts shall be conveyed or distributed only in accordance with the requirements applicable to a § 501(c)(3) corporation.

³²Tenn. Code Ann. § 67-5-225. Exemption for family wellness center

The institution must apply to the State Board of Equalization to be exempt under this section.

MUSEUMS³³

Property used as a museum may be exempt from property taxes. The first requirement is that the property must be located within an incorporated municipality. If the property is located within an incorporated municipality, the property may be exempted if it meets the following requirements:

- 1) The institution seeking exemption must be a non-profit corporation recognized as a 503(c)(3) by the IRS;
- 2) The institution must own the property;
- 3) The institution seeking exemption must operate the museum;
- 4) The museum must display local, regional, and state crafts, and/or items of historical interest; and,
- 5) The institution's board of directors or governing officials must not receive compensation for their services.

Also exempt under this section is the property of a museum which is located on land owned by state or local governments. To be exempt under this section, the museum must be:

- 1) Sited on land owned by state or local governments;
- 2) An educational museum displaying items of historic significance;
- 3) The museum must be designated by the State of Tennessee as an official state repository archive;
- 4) The institution seeking exemption must be recognized as a 501(c)(3);
- 5) The institution's board of directors or other governing body or officers must receive no compensation for their service; and,
- 6) The institution must manage and staff the museum.

Property exempted under this subsection is granted a 100% exemption. Property owners must apply for exemption under this subsection to the State Board of Equalization.

APPLYING FOR PROPERTY TAX EXEMPTION³⁴

Initial Application

Except as noted earlier, a property tax exemption application must be filed with the State Board of Equalization for a property to be approved for exemption. A property tax exemption application may be filed online by going to the Board of Equalization's website. An application must be filed for each parcel.

There are two basic items which will be required with every application: proof of ownership of the subject property (this proof will almost always be a deed for real property), and the filing fee. Without these two items an application is deemed incomplete and will not be processed. An applicant must also submit their institution's charter and its bylaws or other governing documents.

³³Tenn. Code Ann. § 67-5-226. Real and tangible personal property owned and used as a museum; exemption from property taxation

³⁴ Tenn. Code Ann. § 67-5-212 (West), Tenn. Comp. R. & Regs. § 0600-08-.01 APPLICATION FORM AND FEES.

The filing fee for an institution is based on the value of the subject property, to a maximum of \$120.00. If multiple applications are submitted for multiple parcels at the same time, the fee is based on the aggregate value of all the properties for which an application is submitted.

| Aggregate Value of Property(s) | Application Fee |
|--------------------------------|-----------------|
| Less than \$100,000 | \$30 |
| 100,000-250,000 | \$42 |
| 250,000-400,000 | \$60 |
| 400,000 or more | \$120 |

Payment is submitted through the online portal. If an applicant is unable to pay the filing fee, please contact the State Board of Equalization.

The State Board of Equalization requests that the applying institution provide their articles of governance, typically in the form of a charter, by-laws, or articles of incorporation. The Board will also request financial documents. Financial documentation may be in the form of income / loss statements, year-to-date budgets showing income and expenditures, tax returns, or any other reliable document. An application may be accepted without these documents, but may not be approved without them.

PROCESSING APPLICATIONS AT A GLANCE

Applications are processed by Exemption Designees with the State Board of Equalization. The Exemption Designees are a highly trained and friendly cadre of attorneys employed by the Board. The assigned Exemption Designee will review the application, request additional information if necessary, and will ultimately make an Initial Determination. The Initial Determination may be appealed, or the applicant may ask the Exemption Designee to reconsider his determination and make a different decision. An applicant only has 90 days from the date of an Initial Determination to file an appeal, regardless of whether the applicant is in contact with the Exemption Designee.

REQUESTS FOR ADDITIONAL INFORMATION

All applications will need the basic information above but determining whether a property is tax exempt is a fact-dependent determination. The decision may turn on small but important facts such as the phrasing of a fee structure or whether a property is inside or outside an incorporated municipality. In many cases, the Exemption Designee will need to request additional information in order to render an accurate determination.

A request for additional information will be sent to the address of the contact listed for the applicant. A copy will also be sent by email, if one is provided. The Exemption Designee may wish to discuss the request for information by telephone, before or after the request is sent, to ensure the applicant knows what information is needed and how to provide it. For all of these reasons it is critical for an applicant to keep his contact information up to date with the State Board of Equalization.

A request for information will specify the Exemption Record number, or ER#, and parcel identification number. It will advise what information is needed, how that information may be provided, and that the information must be provided within 30 days of the request. If sufficient information is not provided the application may be denied.³⁵

In the Exemption Designee's discretion, additional efforts may be made to gather any needed information, including sending additional requests for information, requesting an assessor review a property or measure different structures or features, or personally reviewing a property.

INITIAL DETERMINATIONS

When the Exemption Designee has gathered the information necessary and can make an accurate decision, he will issue an Initial Determination. An Initial Determination is issued in the form of a letter (also referred to as a notice) and will tell an applicant and county tax assessor several important things.

First, the Initial Determination will identify the applications it applies to by referring to the Exemption Record, or ER #(s). The Initial Determination will also list the parcel identification numbers to identify the property(s) that the determination applies to.

The Initial Determination will advise if the application(s) is approved or denied and will briefly state why. If the application is approved in part the notice will explain why, and what portion of the property is exempt. The Initial Determination will also specify the effective date, the date the exemption becomes effective.

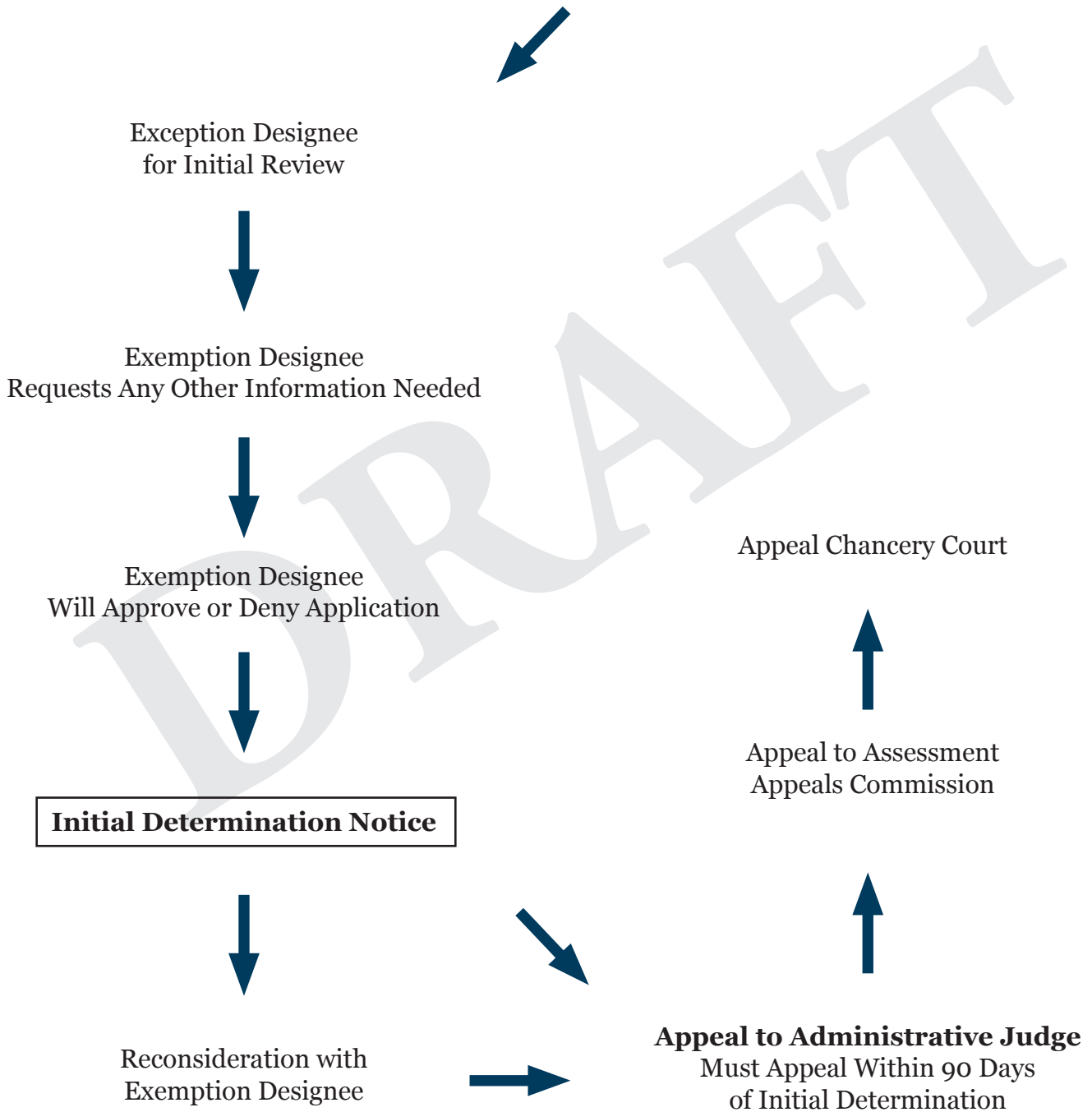
Finally, the Initial Determination will advise that both the applicant and the county tax assessor may appeal the determination, how to file the appeal, and that it must be appealed within 90 days of the date the notice is issued.

RECONSIDERATION

The Exemption Designee may reconsider his determination, if the applicant can identify why that determination is incorrect. Reconsideration is in the discretion of the Exemption Designee, and is separate from the appeal process. The 90 day period to file an appeal begins on the date of the Initial Determination, and is not tolled by conversations with the Exemption Designee about a reconsideration. If a subsequent Initial Determination is rendered, this is a separate action, and another 90 day period to appeal is given.

³⁵ Any owner of real or personal property claiming exemption . . . shall file an application for the exemption . . . and supply such further information as the board may require to determine whether the property qualifies for exemption. Tenn. Code Ann. § 67-5-212(b)(1).

Exemption Application



NEW PROPERTY UNDER CONSTRUCTION

Property under construction or extreme renovation may be considered in use if the construction is completed within 12 months. In this case, the full property, both the land and the improvements, can be exempted as though it was in use as of the date of the application, and normal effective date (start date) rules apply.

If construction is not completed within 12 months, the underlying land will remain taxable during the construction period, but the value of any constructed improvements may be exempted. The land may be exempted when construction is completed and the property is being used for an exempt purpose.

The institution must apply for a property tax exemption with the State Board of Equalization. The institution should state when construction did or will begin and when the institution believes construction will be complete. If construction has not begun when the application is processed, the application may be denied – prospective use is not enough. If necessary, the Exemption Designee will request proof that construction has begun, or proof of when it will begin. This may take the form of a building permit or a signed contract with a builder. Other proof may be acceptable.

When the Exemption Designee has reviewed the case, he will send a letter advising as to the status of the application. This may take the form of a final Initial Determination or a notice that the application is being placed in an administrative hold.

Applications for property undergoing construction will be placed in an administrative hold and held by the State Board of Equalization for twelve (12) months pending the completion of construction. If construction is completed during the administrative hold period, the Applicant or County Assessor may contact the State Board of Equalization to advise that construction has completed and to receive an Initial Determination. If construction is not completed during the administrative hold period the Exemption Designee may issue an Initial Determination identifying the property is partially exempt, but the underlying land is to remain taxable. Once construction has completed the property owner may need to apply for an exemption on the underlying land.

Applications placed in an administrative hold are not denied.

An administrative hold means the application is being held until the institution tells the Exemption Designee that construction is complete. The institution must contact the State Board of Equalization to let them know construction is complete. The institution must also send in proof that the property is being used. This may be a certificate of occupancy, a church bulletin or museum program, or other proof. Then, the Exemption Designee will issue an Initial Determination. The Initial Determination will advise if the application is approved or denied. If the application is approved, the letter will state the dates that the value of improvements to the land are exempt, and the date that the property is fully exempt.

If an institution is using property while construction or renovation is ongoing, the property may be fully exempt despite the construction. For instance, a church or charity might still use a newly acquired facility, if the renovations will not interfere with the institution's use of the property. The Exemption Designee must determine how much of the property is being used and may fully exempt the property without delay.

PARTIAL EXEMPTION

A property may be partially exempt when only a part of the property meets the exemption requirements: a church may rent space to a for-profit daycare, a museum may operate a gift shop and restaurant, or a charity may not use a portion of the land it owns. In any of these cases, the State Board of Equalization may exempt the part of the property that satisfies an exemption statute. This may be called a partial exemption, or an exemption in part. The Exemption Designee will specify the parts of the property that are exempt and the parts that are not.

There are several methods to determine the extent of an exemption. First, the Exemption Designee may specify a structure or a portion of a property which is not exempt. In the case of the for-profit daycare, the Exemption Designee may specify that an amount of square feet equaling that used by the daycare is no longer exempt.³⁶

If property is used by more than one institution the exemption may be divided based on use of the property. For instance, if a charitable institution operates a members-only gym in the same building as other exempt uses, the exemption for the gym space may be based on the percentage of gym members that work for the charity.³⁷

In some situations, it may be more appropriate to determine the portion of exemption based on the time of exempt use. This method may be appropriate where the whole property is used for both exempt and non-exempt uses at different times; for instance, where a non-profit theater rents its space to other institutions for for-profit productions, the percentage of exemption may be determined by measuring the time the theater is used for exempt (non-profit) productions, and the time rented out for for-profit productions.³⁸

Another way to determine the portion of an exemption is by comparing exempt and non-exempt income. This method may be appropriate when the whole property is used for both exempt and non-exempt use at the same time, or where division by time is not feasible.³⁹

A final way exemption may be determined is to simply exempt land underlying any improvements, but not exempt certain structures. For example, where a non-profit school is using a lot for parking, but not using another structure on the property.

In addition to exempting only a portion of the full property, it may be appropriate to exempt a percentage of different sections of the property. This will be seen more frequently in multi-use properties, like a building owned by a charitable institution, where the charity also operates a gym.

³⁶ *City of Nashville v. State Bd. of Equalization*, 360 S.W.2d 458, 468-69 (Tenn. 1962).

³⁷ *Christ Church Pentecostal v. Tennessee State Bd. of Equalization*, 428 S.W.3d 800, 808 (Tenn. Ct. App. 2013)

³⁸ *Memphis Dev't Foundation v. State Board of Equalization*, 653 S.W.2d 266 (Tenn. Ct. of Appeals 1983).

³⁹ *See Book Agents of Methodist Episcopal Church, S. v. State Bd. of Equalization*, 513 S.W.2d 514, 524 (Tenn. 1974).

How a partial exemption will be determined and what information will be needed is a fact dependent determination. Ultimately, the Exemption Designee will use the method that most accurately reflects the split use of the property. Contact the State Board of Equalization if you have questions.

EFFECTIVE DATE⁴⁰

The effective date of an exemption is the day a property tax exemption begins. The Tennessee Code specifies how the effective date, or start date, of property tax exemption is determined. The Exemption Designee does not have the authority to grant a different date. If property is not exempt for a full year then property taxes may be levied against the property, but the taxes will be prorated, or proportional, to the portion of the year that the property was not tax-exempt.

If a property tax exemption application is received by or postmarked to the State Board of Equalization on or before May 20, the property tax exemption can begin on January 1.

If the application is received or postmarked after May 20, the Exemption Designee will look at the date the property was first used for an exempt purpose. If the property was first used for an exempt purpose within 30 days of the date the application was received or stamped, the exemption will be granted as of the date the property was first used. If the first use of the property was more than 30 days before the application was received or stamped, the effective date of the exemption will be the date the application was received or stamped.

If property is not being used for an exempt purpose when the application is first received, but it is by the time the application is processed, the Exemption Designee may approve the application, but the effective date will be the date the property was first used for an exempt purpose, not the date of the application.

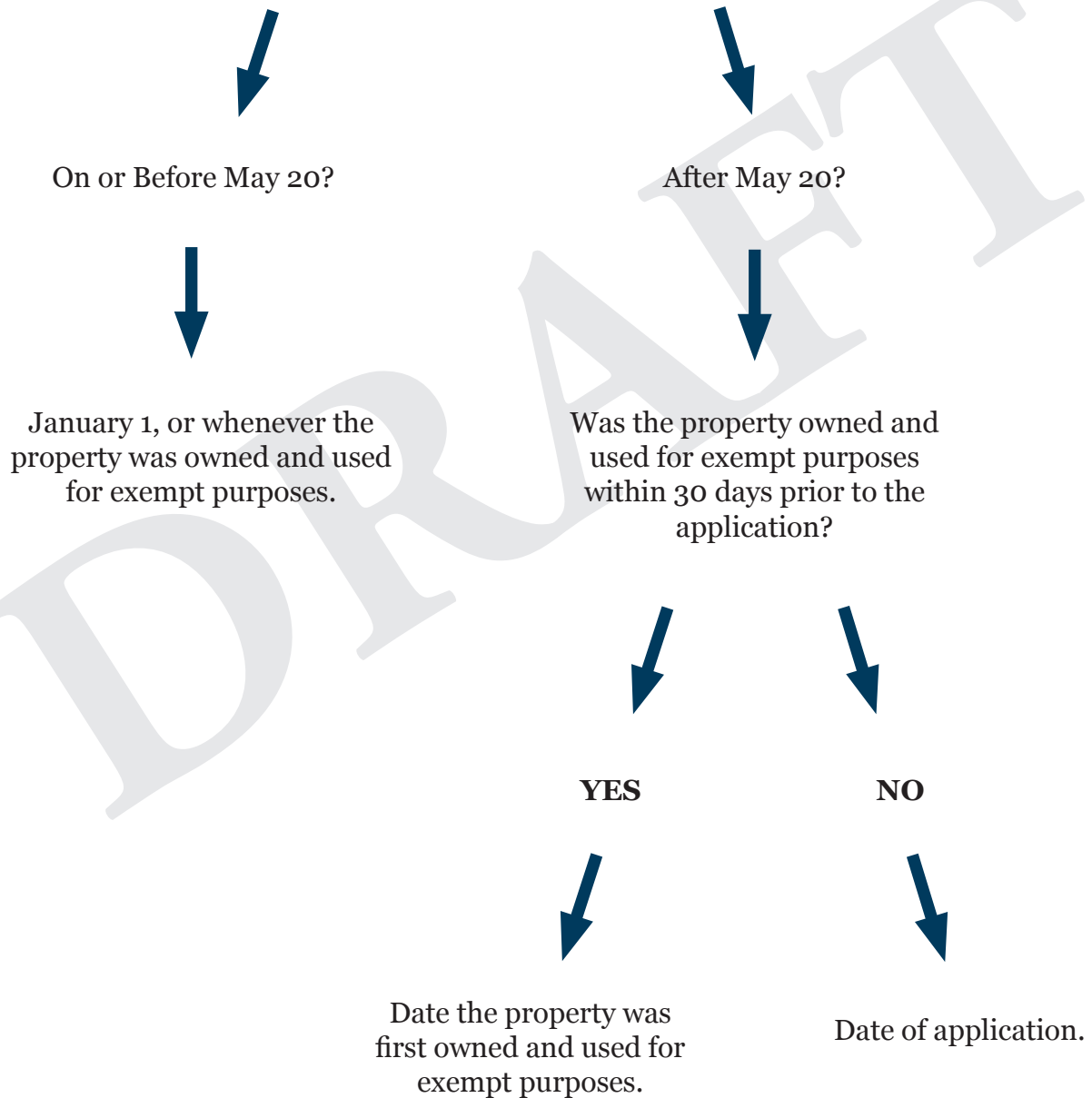
SPECIAL EFFECTIVE DATE PROVISION FOR RELIGIOUS INSTITUTIONS⁴¹

Religious institutions may benefit from one additional provision. If a religious institution purchases a property from another religious institution, and the property was already exempt at the time of purchase, the exemption for the purchasing institution may be backdated, or “thrown back”, up to 3 years prior to the date of the exemption application, potentially closing any gap in exemption. The property must have been exempt under ownership of the previous religious institution, and the purchasing institution must submit a new application. The effective date may also be thrown back in this way when a religious institution acquires new property to replace another property that is currently exempt.

This rule will also apply if a religious institution purchases a property from a lender, if the property was previously exempt and owned by a religious institution but was foreclosed on.

⁴⁰ Tenn. Code Ann. § 67-5-212(3)

When did the State Board of Equalization Receive the Application?



What Can be Appealed?

Actions taken by the State Board of Equalization regarding an exemption application can be appealed. Most commonly this includes:

- 1) The denial of an exemption;
- 2) The effective date, or start date, of an approved exemption;
- 3) That only a partial exemption was approved, rather than a full exemption;
- 4) The extent of a partial exemption; or,
- 5) The finding of probable cause to revoke a property tax exemption, in whole or in part.

This is discussed in the section titled Revocation.

WHO CAN APPEAL?

The parties affected by an Initial Determination may appeal; in most cases, this will be the party claiming exemption, the county assessor for the county where the property at issue is located.

HOW DOES AN APPEAL WORK?

First, an appeal must be filed with the State Board of Equalization. The Board will forward the appeal to the Administrative Procedures Division of the Secretary of State's office, who will appoint an Administrative Judge and schedule a hearing. The request for appeal must be received by the State Board of Equalization within 90 days of the Initial Determination, letter finding probable cause to revoke an exemption, or other action.

The next step is to go to a hearing before an Administrative Judge. Hearings are held in person. The Administrative Judge will send a notice of hearing at least 30 days before the hearing advising when the hearing is scheduled. Both the taxpayer and county tax assessor will have an opportunity to present their case to the judge, and may present testimony, documents, and witnesses to the judge. The individual who requested the appeal has the burden of proof to show that the State Board of Equalization made the wrong decision. The judge will issue an order with his decision within 90 days of the hearing. It is important that, at this hearing, the taxpayer and county assessor put on their best case. If either party is dissatisfied with the Administrative Judge's order, they can appeal to the Assessment Appeals Commission, but in most cases the Commission will not let either party put on any new evidence that was not introduced before the Administrative Judge.

⁴¹ Tenn. Code Ann. § 67-5-212(3)(B)

The Administrative Judge's order may be appealed to the Assessment Appeals Commission ("AAC") via the State Board of Equalization's website, www.comptroller.tn.gov. The appeal must be filed within 30 days of the date the Administrative Judge's order is entered.

The Assessment Appeals Commission schedules hearings for the appeals it receives. The Commission meets at least once a year in each of the state's three grand divisions. If a taxpayer wants their appeal heard as soon as possible he can request a telephonic hearing. The State Board of Equalization may be able to schedule him sooner in this case. The Assessment Appeals Commission will compile the Administrative Record of the taxpayer's appeal, and send it out, along with a notice advising when the hearing will be. Unless a party says that a procedural irregularity occurred, the Commission will not accept new evidence at the hearing. However, the parties may submit briefs, memoranda, or other arguments to support their position. The Commission will enter an order either upholding the Administrative Judge's order, or a new order which changes the outcome. The county assessor or taxpayer may appeal this order to a Chancery Court.

LEASED OR RENTED PROPERTY, OR USE OF PROPERTY BY OTHER INSTITUTIONS

Generally, property must be used for an exempt purpose of the owning institution to be exempt. The property of an exempt institution may also be exempt when it is used by another exempt institution for an exempt purpose. For example, if a church owns and does not use a building but allows a local charitable institution to use the building, this property may be exempt. Similarly, space that a charity leases to another charity may also be exempt.

In these situations, the Exemption Designee must verify that both the owning institution and leasing institution are both exempt and must know what the leasing institution uses the property for.

If property is leased out after the State Board of Equalization has determined that it is exempt, the taxpayer should notify the Board or their county assessor. The Board will need to verify that the lessee and the use of the property still comply with the rules and laws regarding exemptions.

REVOCAION OF EXEMPTION

Property tax exemptions may be revoked when the property is no longer used for an exempt purpose. Examples of property that are no longer used for an exempt purpose could be: property used for a revenue-generating purpose, rented to a for-profit institution, or property abandoned or not being used.

A revocation proceeding is the means by which exempt properties may lose their tax-exempt status. The first step in a revocation is a probable cause review by an Exemption Designee. Any individual may request that an Exemption Designee review a property. The Exemption Designee may begin this review at the request of a county tax assessor, or if a change in the use of a property is reported. The designee will investigate the claim that a property should no longer be tax exempt. He may attempt to clarify the issue by calling the property owner or sending a written request for information or documents.

When the Exemption Designee has gathered the information he needs, he will either determine there is insufficient probable cause to revoke an exemption or will make certain findings and refer the matter to an Administrative Law Judge. The Exemption Designee will send a letter to the property owner, county tax assessor, and county trustee, notifying them of his decision. The letter will advise how to request an administrative hearing of the matter. A property owner or tax assessor has 90 days to request a hearing in front of an Administrative Law Judge. If a hearing is requested the Administrative Law Judge will issue a notice of hearing setting a date for the hearing. All parties will have an opportunity to present evidence at this hearing. If a hearing is not requested, the judge will issue an order based on the information he has available.

The Administrative Law Judge is a neutral party, not employed by the State Board of Equalization. He will consider the evidence in the record, whether or not a hearing is requested, and will then issue an order either revoking or finding no cause to revoke the property tax exemption.

It is the Administrative Law Judge's order that revokes the exemption, not the State Board of Equalization or the county tax assessor. The exemption is not revoked until the judge issues his order. The Administrative Law Judge's order may be appealed by any party.

In some cases, an Exemption Designee may only find probable cause to revoke a portion of the exemption. This will follow the same process as above, except that the Exemption Designee's letter will specify the portion of the exemption he finds probable cause to revoke. More information on partial exemptions can be found in the section regarding Partial Exemptions.

The Exemption Designee's probable cause letter will recommend a date the property tax exemption should end. Generally, revocation of the property tax exemption starts on the date the Exemption Designee sends the probable cause letter, but the revocation may be effective on whatever date is reasonable and appropriate. The Administrative Judge may order that the revocation begin on an earlier date if he finds fraud or misrepresentation by the taxpayer, or that the taxpayer did not notify the county assessor or State Board of Equalization that the use of the property changed. This may be the case when a taxpayer does not advise the State Board of Equalization or county assessor that the use of his property has changed.

If the county assessor of property and the taxpayer agree that a property's tax-exempt status should be revoked or revoked in part, the State Board of Equalization may be able to accommodate an expedited process. The State Board of Equalization can, if requested, draft an agreed order of revocation, setting out the extent of the revocation and the date it begins. If both parties voluntarily sign this document, the State Board may enter the order, settling the matter quickly and efficiently. All parties, including the State Board, must be voluntary participants in this process.

Change in Use of Property

If exempt property is used by another institution or used for a non-exempt purpose, this change should be reported to the State Board of Equalization. An Exemption Designee will review the situation, request any information or documentation necessary, and decide if further action should be taken.

A change in use of property may occur if an institution begins to rent space to another entity, or if the use of the building changes. For example, if a house that was previously used for storage is now being rented out, or is now vacant.

If the new use of the property is no longer exempt the Exemption Designee may take further action. He will begin a probable cause review of the exemption, which may ultimately lead to a revocation or partial revocation of the property's tax-exempt status. For more information on this process see the section titled "Revocation". If the Exemption Designee decides that the new use of the property is an exempt use, no further action will be taken.

NEW CONSTRUCTION AND RENOVATION OF EXEMPT PROPERTIES

Generally, if an exempt institution renovates property which is already exempt, the property will remain exempt during construction or renovation. Additions to existing structures and new structures constructed on exempt properties are also exempt, so long as the structures support the exempt purpose for which the property was initially exempted.

Whether new structures are tax exempt or will require a new application for exemption can be a fact-dependent decision. You may contact the State Board of Equalization if you have questions, and taxpayers may choose to file a new application for tax exemption in order to preserve the earliest possible effective date of exemption.

CHANGE IN NAME OF AN EXEMPT INSTITUTION

Generally, when ownership of property changes, any tax exemption of the property ends and the property is returned to the tax roll. This may not be the case when the change is in name only. For instance, if a church building owned by the trustees of a church is transferred to the corporate form of the church, but the congregation and church body does not change, the exemption may continue.

In these circumstances, the Exemption Designee will need to review the deed transferring the property, and any documents supporting the fact that the change is a change to name only. If it is clear that actual ownership does not change, the Exemption Designee will send the taxpayer and the county assessor a letter confirming this, and the property will remain exempt.

If the evidence available shows that ownership of the property has changed, the Exemption Designee will inform the county assessor, who may return the property to the tax roll. In this case, the property owner must submit a new application for property tax exemption, and the normal rules regarding when exemption begins will apply.

COMBINING PARCELS

Real property tax exemptions are typically identified and recorded by parcel identification number, but this is out of convenience. The exemption applies to the property, regardless of the parcel identification. If an exempt parcel is combined with a non-exempt parcel, the exemption will continue for the property that was previously exempt but will not be applied to the portion of the new parcel that was previously not exempt.

If two exempt parcels are combined, the new parcel is fully exempt.

TRANSFER OF EXEMPT PROPERTY

When exempt property is transferred to another individual or institution, the property loses its tax-exempt status.⁴² Property tax exemptions cannot be transferred or assigned. The new owner is not automatically exempt, unless the new owner and new use of the land fall under the very few exceptions that do not require a property owner to submit an application, e.g. federal, state, or local governments. The new owner may immediately submit a new application for property tax exemption. If the new owner applies within 30 days of the transfer and begins using the property immediately, the new owner can avoid a gap in tax exempt status.

Religious institutions follow this rule; however, when a church purchases property from another church, the date on which the exemption begins may be backdated or “thrown back”. This means the exemption will begin on the date the church buys the property if the new application is approved. It is important to note that the church must still submit a new application. This is explained in greater detail in the section titled “Effective Date”.

SHOULD I PAY MY TAXES WHILE MY APPLICATION OR APPEAL IS PENDING?

This is a judgment call that must be made by the taxpayer. The law states:

Taxes related to a properly appealed assessment before the county and state boards of equalization, shall not be deemed delinquent if the taxpayer has paid at least the undisputed portion of tax while the appeal is pending. Delinquency penalty and interest postponed under this section shall begin to accrue thirty (30) days after issuance of the final assessment certificate of the state board of equalization and until the tax is paid.⁴³

The taxpayer may choose not to pay taxes because they believe the property will be exempt. If the application or appeal is not successful, the taxpayer may have to pay delinquency penalties and interest for the unpaid amount. The taxpayer may choose to pay their taxes under protest to avoid these extra fees, and then collect a refund if their application or appeal is successful.

The law states that the taxpayer will not be subject to fees and penalties if he has paid the undisputed portion of the property taxes that are due. There may not be an undisputed portion of property taxes, if the taxpayer believes the entire property should be exempt. There may be a disputed portion if the taxpayer believes only a portion of the property should be exempt.

⁴² The language of Tenn. Code Ann. § 67-5-201 is ambiguous. When read in conjunction with § 67-5-212, an application is required. See *Senter Sch. Found., Inc. v. Nobles*, No. C.A. 900, 1990 WL 3983, at *2 (Tenn. Ct. App. Jan. 24, 1990).

⁴³ Tenn. Code Ann. § 67-5-1512(b)

What do I do if my property is being used differently now?

If there is a change in the use of your exempt property you should report it to your county’s tax assessor and the State Board of Equalization.

I sold my property. Do I need to let someone know?

For the purposes of the property’s tax-exempt status, no. Exemptions generally do not transfer between owners, so the property will be added back to the tax roll without you having to let anyone know.

When will my exemption begin?

To determine when your tax exemption will begin, review the section titled “Effective Date of Exemption”.

Will my organization be exempt?

This answer depends on a wide variety of facts. The best answer is to consult the relevant sections of this manual, consult the relevant statutes, or consult an attorney.

How long before a decision is made?

This will vary greatly depending on the time of the year, how many other applications are pending before the Exemption Designee, and the complexity of your case. Generally, your application will be processed within 6 months, unless your case is exceptionally complex, or the application is placed on hold while the application is pending.

Do I have to file a separate application for each parcel?

Yes – you must file a separate application for each parcel, including any “Special Interest” parcels the tax assessor may have created for your property.

What is the application fee?

The filing fee for an institution is based on the combined value of all the properties for which an application is submitted.

| Aggregate Value of Property(s) | Application Fee |
|--------------------------------|-----------------|
| Less than \$100,000 | \$30 |
| 100,000-250,000 | \$42 |
| 250,000-400,000 | \$60 |
| 400,000 or more | \$120 |

Payment may be submitted through the online portal, or by check for mailed or faxed applications. If an applicant is unable to pay the filing fee, please contact the State Board of Equalization.

Will the exemption be retroactive?

To determine what the effective date of the exemption will be, see the section titled “Effective Date of Exemption”.

Do I have to reapply each year?

No, but you must notify the State Board of Equalization and your assessor of any change in ownership, use, lease, etc.

What is my case number?

If we refer to a case number, we are referring to the Exemption Record number, or ER#, that should be found on any correspondence we have sent you.

Why do I owe property taxes if my property is exempt?

You may owe property taxes from before your property was exempt, or before the effective date of the property’s tax-exempt status. Your property also may not be fully exempt. The Initial Determination will tell you if your property is fully exempt or partially exempt, and why.

Your county’s tax assessor or trustee can tell you how to pay your taxes, and may be able to work out a payment plan. The State Board of Equalization has no control over that. The State Board only determines whether your property is tax-exempt, and when that exemption starts. If you owe taxes for your property you should contact your county tax assessor or trustee for help.

My appeal is pending before the Administrative Judge or Assessment Appeals Commission. Can’t we just settle this without a hearing?

An Exemption Designee may review your appeal before it is forwarded to an Administrative Law Judge and review any new or additional information.

If a change to the Initial Determination is warranted the Exemption Designee may issue an Amended Initial Determination. If you are satisfied with the Amended Initial Determination you may withdraw your appeal without a hearing. If you are unsatisfied with the Amended Initial Determination you may continue with your appeal for a hearing before an Administrative Law Judge.

Remember, the State Board of Equalization only has authority to correct or change your tax assessment, not the amount of taxes you owe. If your issue is with your ability to pay you should contact your trustee’s office to see what options are available to your organization.



