



PROPERTY TAX EXEMPTION MANUAL

Approved by the
State Board of Equalization

•
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PURPOSE OF THE EXEMPTION MANUAL

The purpose of this manual is to educate the reader about property tax exemptions in Tennessee and inform taxpayers and government officials about how 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.¹ The Constitution grants to the legislature the authority to exempt other categories of property if the property is owned by state or local governments, or if it is owned by a qualifying organization and used for purely religious, charitable, scientific, literary or educational purposes.

Property tax exemptions are addressed in Title 67, Chapter 5, of the Tennessee Code. The code defines the types of property that may qualify for tax exemption and establishes the requirements for obtaining an exemption. This manual will discuss the categories of exempt property, the process of applying for a property tax exemption, and how previously approved 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. Properties approved for exemption are removed from a county’s tax role (i.e., the owners do not pay property taxes).

The State Board of Equalization (the “State Board”) reviews all property tax exemption applications. The State Board will assign an “Exemption Designee” to review the application. An Exemption Designee is an attorney working for the State Board. He or she is a neutral party responsible for reviewing an application and determining if the property meets the laws’ requirements. After the Exemption Designee has reviewed the application, he or she will issue an “Initial Determination” to the applicant and appropriate county officials identifying whether the property qualifies for tax exemption and, if approved, when that exemption begins. In addition to the topics previously identified, this manual will discuss how to appeal an Initial Determination and address some frequently received questions by our office. Should you have specific questions outside of those discussed, please contact us at the information below.

How to Contact the State Board

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 Rep. John Lewis Way N. Nashville, TN 37243
File an Application or Appeal:	www.comptroller.tn.gov/boards/state-board-of-equalization.html

¹ Tenn. 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, or non-profit educational property.

The Tennessee Code sets forth specific requirements for each of the above categories. Within the broad category of religious, charitable, scientific, or 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 will 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 exempted. Unless the category the property is approved under imposes specific requirements, the outcome will be the same. The different categories and their specific requirements and limitations are discussed below.

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. If the applicant is not required to apply due to the type of property or exemption sought it will be noted in the corresponding section of this manual. The second basic requirement is that the entity must own the property in question.

Exceptions Happen

There are a few exemptions available only under specific circumstances. These specific categories and exceptions are not discussed here, but rest assured – the State Board will review all exemption applications 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 property tax purposes. 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 actually used by a qualifying institution to be exempted. An "exempt institution" is a religious, charitable, 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 more detail under the "Partial Exemption" section on page 21.

The property must also be occupied to be approved. 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. A determination that a property is not sufficiently used or occupied is fact-dependent, and made after the Exemption Designee has obtained the relevant information from the applicant and county assessor. The State Board will presume that the first five acres of a property are in use unless told or otherwise discovered through reasonable investigation.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 example, a church does not exist to provide parking, but providing parking to worshippers is reasonably necessary for the use of the church. A church may use its building for worship services but using a building for storing church property or for meetings of church small groups may also be considered an exempt use of the property. Likewise, property used by a charitable institution for administrative duties or staff training may be considered used for an exempt purpose. Despite the broad reading of this requirement, there are limitations.³

The property of a qualifying institution may not be exempt where the use of the property only generally promotes the institution’s purpose. It is the use of the property, and not the charitable nature of its owner, which determines its exempt status. This caveat is particularly applicable where the suspect use of the property generates revenue.⁴ It is the use of the property, and not the charitable nature of its owner, which determines its exempt status. A charitable property with an attached bar, or a religious property with an attached coffee shop, will not qualify even when the revenue earned supports the institution as a whole.

Finally, a charitable institution does not have to be registered with the Internal Revenue Service as a § 501(c)(3) organization to be exempted. Likewise, the property of a registered § 501(c)(3) is not automatically exempted.

Property owned by a qualifying institution that is leased, rented, or otherwise used by another exempt institution may also be exempt. See “Leased or Rented Property” on page 25 for more information.

CHURCHES OR RELIGIOUS INSTITUTIONS

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

Of course, there are limitations on what religious property will qualify. As interpreted by the Tennessee Court of Appeals, the use of the property must be “directly incidental to” or “an integral part of” the institution’s exempt purpose. For example, a church may support missionary work, but a residence for missionaries to stay in when they are in the area will not qualify for exemption.

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

³ See *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).

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 currently being used it is not exempt.

As part of their application, the State Board will request religious institutions to provide their charter, articles of incorporation, or other governing documents (e.g., bylaws or operating agreements), in addition to recent financial documents such as a tax return, budget, or income and expense statement. If a religious institution is unincorporated and without any governing documents it must provide a brief written explanation of how decisions are made. After receiving the written explanation, the Exemption Designee will determine if it is sufficient and will request any additional documentation as needed.

Religious institutions may benefit from an additional provision regarding the date their exemption begins. See “Special Effective Date Provision for Religious Institutions” on page 22 for more information.

Parsonage

A religious institution may also obtain an exemption for one parsonage. As defined, a “parsonage” is a residence owned by a religious institution where a full-time regular minister resides.⁶ A religious institution may only have one exempt parsonage, and may not include more than three acres of land.

CHARITABLE INSTITUTIONS

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

For exemption purposes, a “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.”⁷ Whether an institution is considered charitable will often depend on what the institution does, and what it does with the property in question.

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

Whether a property is depends on the circumstances. No two properties are identical and, depending on the application, additional information may be needed to make a proper determination. A judge upheld the purpose-built golf course above as charitable because the holes

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

⁶ Tenn. Comp. R. & Regs. 0600-08-.02(6); See also *Blackwood Bros. Evangelistic Ass’n v. State Bd. of Equalization*, 614 S.W.2d 364 (Tenn. Ct. App. 1980).

⁷ Tenn. Code Ann. § 67-5-212(c).

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. Ultimately, the institution applying for the exemption is in the best position to show its work is charitable and should 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 the institution is charitable under the applicable exemption laws.

A property may be held as non-charitable (and non-exempt) where the primary use is not charitable in nature. The Tennessee Supreme Court has held that where a club was overwhelmingly devoted to athletics and social events, a minimal amount of charitable work was insufficient to exempt the property based on those minimal charitable uses.⁸ Similar reasoning has been applied to Chambers of Commerce and, more recently, Vanderbilt University's fraternity houses.⁹

MEDICAL FACILITIES AND NURSING HOMES

Medical facilities and nursing homes may be exempted as charitable institutions. Of course, this determination depends on the facts at issue. An initial consideration is whether the institution is for-profit or not-for-profit. For-profit medical facilities are not eligible for property tax exemption.

Another important distinction is drawn between a "clinic," and a hospital or other licensed healthcare 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 and nursing facilities are exempt.¹⁰ Other factors that show the facility is or is not charitable will also be considered.

For exemption purposes, a "clinic" is any facility other than a hospital or other licensed health care facility that provides primary medical care. Tenn. Comp. R. & Regs. 0600-08-.03(1). Specialty facilities such as cardiovascular or surgical clinics are considered "clinics" for this purpose. For a clinic to qualify for exemption it must:

1. Be owned by a charitable institution;
2. Be located 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. Provide services without regard for the ability to pay. If the clinic accepts any insurance it must also accept TennCare, Medicare, and uninsured patients;
4. Either not charge for its services, or its fees must be adjusted for household income and family size; and,
5. Not pay any employee more than what is reasonable, compared to other similarly qualified and experienced staff at other institutions providing the same services.

⁸ *State v. Rowan*, 171 Tenn. 612, 106 S.W.2d 861 (Tenn. 1937).

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

¹⁰ 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).

SCIENTIFIC AND NON-PROFIT EDUCATIONAL INSTITUTIONS

The property of a scientific or non-profit educational institution may be exempt if it meets the general ownership, occupancy, and use requirements described above. 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 to facilitate students getting from one area of campus to another.

MISCELLANEOUS EXEMPTIONS

There are several institutions and property uses that are specifically identified under the section generally exempting religious, charitable, scientific, or non-profit educational properties. These are listed and briefly described below.

Fraternal Organizations Exempted from Federal Income Taxes¹¹

The property of fraternal organizations (Shriners International, Veterans of Foreign Wars, etc.) recognized as a § 501(c) organization by the IRS may be exempted to the extent that the property is used directly and exclusively for religious, charitable, scientific and educational activities. Areas used as a bar, kitchen, or other means of generating revenue are considered commercial uses and will not qualify.

Non-Profit County Fair Associations¹²

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

Caretaker's Residence in a Park¹³

A community park that is open to the general public may be exempted for 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 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.

Additionally, 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. Of course, this exemption only applies if the land is used for religious, charitable, educational, or scientific purposes.

Public Broadcast Radio and Television¹⁴

The property of a public radio broadcaster holding an educational broadcast license issued by the Federal Communications Commission (the "FCC") is exempt from property taxation, to the extent the property is used consistently with the license.

¹¹ Tenn. Code Ann. § 67-5-212(g).

¹² Tenn. Code Ann. § 67-5-212(h).

¹³ Tenn. Code Ann. § 67-5-212(i).

¹⁴ Tenn. Code Ann. § 67-5-212(k).

The property of a public television 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 Shops¹⁵

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

- 1) The institution is exempted by the IRS under § 501(c)(3) of the Internal Revenue Code;
- 2) The thrift shop is operated primarily by volunteers, or as a training venue for those needing occupational rehabilitation;
- 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 net proceeds are used solely for the charitable purpose(s) of the institution.

Labor Organizations

The property of labor organizations recognized as § 501(c)(5) organizations 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 PROPERTY¹⁶

Property owned by federal, state, or local governments is exempt from taxation so long as it is used for public purposes.¹⁷ 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 dedicated to and available for public use free of charge are exempt.¹⁸ Finally, state, county, and municipal bonds are not subject to taxation.¹⁹

An exemption application does not need to be submitted for property under these statutes – rather, 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 for assistance or may choose to apply to preserve the earliest possible effective date.

Split Ownership

Property in which the government has a partial ownership interest will be exempt to the extent of the government's interest.

¹⁵ Tenn. Code Ann. § 67-5-212(m).

¹⁶ See Tenn. Code Ann. § 67-5-203 for property used exclusively for governmental purposes; Tenn. Code Ann. § 67-5-204 for dedicated rights-of-way; and, Tenn. Code Ann. § 67-5-205 for State, County, and Municipal bonds.

¹⁷ Tenn. Code Ann. § 67-5-203 specifically provides “that real property purchased for investment purposes by the Tennessee consolidated retirement system shall be subject to property taxation.”

¹⁸ Tenn. Code Ann. § 67-5-204.

¹⁹ Tenn. Code Ann. § 67-5-205(a)(1) specifies that state or state agency bonds are subject to inheritance, transfer, and estate taxes.

PROPERTY OF HOUSING AUTHORITIES

Property owned by housing authorities may be exempt if the housing authority agrees to make a payment in lieu of taxes (a “PILOT”) to the appropriate government or political subdivision for “services, improvements, or facilities” provided by that subdivision for the benefit of that housing authority.²⁰

“Services” does not mean general services like access to roads, the court system, or protection by law enforcement, but more specific services such as utilities.²¹ 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 apply to the State Board.

HOUSING PROJECTS CONSTRUCTED WITH HOME OR HOUSING TRUST FUNDS²²

Properties that provide low-income housing for elderly²³ or disabled²⁴ individuals that are funded by one of two specific sources may be exempted. The properties must be funded by either the HOME Investment Partnerships Program,²⁵ 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 non-profit institution registered with the Tennessee Secretary of State. The IRS must recognize the 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 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 organizations with a similar purpose.

²⁰ Tenn. Code Ann. § 67-5-206. Property of housing authorities.

²¹ Tenn. Op. Att’y Gen. No. 96-097 (July 29, 1996).

²² Tenn. Code Ann. § 67-5-207(d).

²³ As defined, a household will qualify as “elderly” if it is 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 C.F.R. 891.205.

²⁴ As defined, a household will qualify as “disabled” if it 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 C.F.R. 891.305.

²⁵ 42 U.S.C. § 12701 et seq.

Property providing permanent housing for low-income disabled individuals or low-income elderly individuals may be exempt if certain specific requirements are met. These requirements can be complex.

First, the property must be owned by a 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 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) Upon dissolution, all remaining assets will be distributed only to non-profit organizations with a similar purpose.

Second, the property must be used to provide below-cost housing to households qualifying as either “low-income elderly” or “low-income disabled” under the appropriate regulations. Below-cost housing and “low-income” housing 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 specified income thresholds defined by the Department of Housing and Urban Development (“HUD”).^{27,28} A household is considered “elderly” if one or more people in the household are 62 years of age or older when initial occupancy begins.²⁹ Under the applicable federal regulations, a household will qualify as “disabled” if it contains: at least one adult (18 years or older) with a disability; two or more persons with disabilities living together, or one or more of such persons living with another who is determined by HUD, based on the certification of an appropriate professional (e.g., a rehabilitative counselor, social worker, or licensed physician) to be important to their care or well being; or, the surviving member or members of any household previously housing a disabled adult who is now deceased, provided they were living with the disabled adult at the time of his or her death.³⁰

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 1490(a) respectively);
 - 2) § 202 of the Housing Act of 1959 (12 U.S.C. § 1701q, § 221, § 223, § 231);

²⁶ Tenn. Code Ann. § 67-5-207.

²⁷ This information can be found by navigating to your county from: <https://www.huduser.gov/portal/datasets/il.html>

²⁸ 24 C.F.R. § 92.252.

²⁹ 24 C.F.R. 891.205.

³⁰ 24 C.F.R. 891.305.

- 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 the 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 by a state agency through a state program. An applicant wishing to qualify under this section must provide documentation regarding the financing of the housing project to show the original source of the funding. The application cannot be approved if the State Board is unable to identify the original source of funding.

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

Property financed by a grant remains exempt as long as it is used as below-cost housing for elderly or disabled individuals with a household income at or below the limit established by 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 percentage of the exemption must be provided to the county 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 enter, or attempt to enter, into a PILOT agreement with the tax jurisdiction(s) where the project is located. These payments should be negotiated to cover the costs of services, improvements, or facilities provided by the jurisdiction(s). If no PILOT agreement is entered into, the payments must be at least 25% of the amount of property taxes that would be collected if the project was not exempt.

PROPERTY OWNED BY CHARITABLE INSTITUTIONS FOR CONSTRUCTION OF RESIDENTIAL HOUSING FOR LOW-INCOME FAMILIES³¹

Subject to the general requirements of § 212, property owned by charitable institutions such as Habitat for Humanity may be exempted during the period of ownership to the date the property is conveyed to a qualifying low-income household. As defined for purposes of this section, a “low income household” is 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.³²

³¹ Tenn. Code Ann. § 67-5-221.

³² Tenn. Code Ann. § 13-23-103(12).

The property must be owned by a charitable institution and 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 and is a single lot for the construction of a single family home, it can be exempted for up to 18-months from initial ownership. 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 home past the first.

An exemption approved under this section ends when the property is conveyed to a qualifying household. If the property, or any portion of the property, is not developed and transferred to a low-income household within the exemption period established above all taxes that would otherwise have been due for the property, plus any delinquency penalties and interest, accrued from the date ownership began.

RECYCLING OR WASTE DISPOSAL FACILITIES³³

Property owned by a non-profit corporation that is used to recycle or dispose of waste products to produce heating or cooling of public facilities may be exempt, provided the state or any 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.

PRIVATE ACT HOSPITALS³⁴

The property of a private act hospital established under Title 7, Chapter 57, Part 6 of the Tennessee Code may be exempted.

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, a private act hospital may enter into a PILOT agreement with the creating or participating jurisdiction.

The hospital must apply to the State Board for exemption of properties that 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 “Medical Facilities and Nursing Homes” page 5 for more information.

BURIAL PLACES AND CEMETERIES³⁵

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 – instead, the assessor of the county in which the burial place is located will exempt the properties. If there is a charge to be buried on the property, the property may still be exempt, but the property owner must apply to the State Board.

³³ Tenn. Code Ann. § 67-5-208.

³⁴ Tenn. Code Ann. § 67-5-209.

³⁵ Tenn. Code Ann. § 67-5-214.

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 with the State Board.

CROPS, LIVESTOCK, AND POULTRY³⁶

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

Aged whiskey barrels, while owned or leased by a person that produces or manufactures whiskey in those barrels, are considered articles manufactured in the state.³⁷

PROPERTY PASSING THROUGH TENNESSEE

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

Property in Interstate Commerce³⁸

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 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 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 Zone³⁹

Tangible personal property which is imported from outside the United States and held in a foreign trade zone or subzone for the purpose of sale, processing, assembly, grading, cleaning, mixing, or display is exempted while in the foreign trade zone, so long as it is to be transported outside of Tennessee.

IMPROVEMENT OR RESTORATION OF HISTORIC PROPERTIES⁴⁰

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

³⁶ Tenn. Code Ann. § 67-5-216.

³⁷ Tenn. Code Ann. § 67-5-216(c).

³⁸ Tenn. Code Ann. § 67-5-217.

³⁹ Tenn. Code Ann. § 67-5-220.

⁴⁰ Tenn. Code Ann. § 67-5-218.

when performing restorations or renovations. Exemption under this section is only available in counties with a population of 200,000 or higher according the 1970 or any subsequent federal census 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 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 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 the 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 historic 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, rather than the State Board.

Historic Properties Owned by Charitable Institutions⁴¹

Property that is on the National Register of Historic Places 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.

⁴¹Tenn. Code Ann. § 67-5-222.

First, the property must not be rented out 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 costs and upkeep of the property.

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 additional guidelines for these plans.

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

PUBLIC-USE AIRPORT RUNWAYS⁴²

Airport runways and aprons belonging to private public-use airports are exempt from property taxes.

COMMUNITY AND PERFORMING ARTS CENTERS⁴³

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 or administrative space).

First, this exemption is only available in counties that approve this exemption by a 2/3 vote of the county's governing body. The county's governing body may require any properties exempted under this section to be periodically reviewed by local authorities, or that the exemption be renewed.

Second, 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 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

⁴² Tenn. Code Ann. § 67-5-219.

⁴³ Tenn. Code Ann. § 67-5-223.

- loan is secured by the institution's property; and,
- o No member of the governing body may profit from any of the shows, exhibits, etc., for which the property is used, unless this compensation is normal pay as an employee.

Finally, if any exempt property of the institution is to be sold, the institution must provide notice to the Tennessee Attorney General and Reporter of the intention to sell. 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 assessor of 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 county assessor with a report listing the activities and uses of the exempt property, current financial statements, and any other information the county assessor requires. Finally, the county assessor must maintain an estimate of the market value of the property as of the date of the last county-wide reappraisal.

FAMILY WELLNESS CENTERS⁴⁴

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.
- The institution 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; and,
 - o Services for disabled children and adults.
- The institution 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 exempted as a qualifying § 501(c)(3) under the Internal Revenue Code.

⁴⁴Tenn. Code Ann. § 67-5-225.

- 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) organization.

The institution must apply to the State Board to be approved under this section.

MUSEUMS⁴⁵

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 § 501(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 that is located on land owned by state or local governments. To be exempt under this section, the museum must:

- 1) Display items of historic significance and instruction;
- 2) Be designated by the State of Tennessee as an official state repository and archive;
- 3) The institution seeking exemption must be exempted as a § 501(c)(3);
- 4) The institution's board of directors or other governing body or officers must receive no compensation for their service; and,
- 5) The institution must manage and staff the museum.

Property qualifying under this section is fully exempt but must apply with the State Board.

APPLYING FOR PROPERTY TAX EXEMPTION³⁴

Initial Application

Except as previously identified, an application must be filed with the State Board for a property to receive an exemption. An exemption application may be filed online by going to the State Board's <https://www.comptroller.tn.gov/boards/state-board-of-equalization/property-tax-exemptions.html>. A separate application must be filed for each parcel for which exemption is sought.

⁴⁵ Tenn. Code Ann. § 67-5-226.

⁴⁶ Tenn. Code Ann. § 67-5-212; Tenn. Comp. R. & Regs. 0600-08-.01.

There are two basic items that will be required with every application: proof of ownership of the subject property (i.e., a quitclaim or warranty deed), and payment of the filing fee. Please note that a deed of trust is not sufficient proof of ownership for exemption purposes. Without these two items, an application is deemed incomplete and will not be processed. An applicant must also submit their institution’s charter and bylaws or other governing documents.

The filing fee for an application is based on the value of the subject property up 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.

<u>Aggregate Value of the Property:</u>	<u>Application Fee:</u>
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 after filling out the application and uploading all required documentation. If an applicant is unable to pay the filing fee, they may contact the State Board.

In addition to evidence of ownership and the filing fee, the applicant should provide the organization’s articles of governance (e.g., the organization’s charter and bylaws) and recent financial documentation (e.g., income statement, tax return, or other reliable documentation). Although an application will be accepted with only proof of ownership and payment of the filing fee, it will not be approved without these additional documents.

PROCESSING APPLICATIONS AT A GLANCE

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

REQUESTS FOR ADDITIONAL INFORMATION

Whether a property qualifies for exemption depends on the facts of each case. 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 to render an accurate determination.

A request for additional information will be sent to the e-mail listed on the application or, if one is not provided, to the applicant’s address. The Exemption Designee may wish to discuss the request for information by telephone to ensure the applicant knows what information is

needed and how to provide it. For all of these reasons, an applicant must keep his or her contact information up to date with the State Board.

A request for additional information will include the Exemption Record number (“ER#”), and parcel identification number. It will specify 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 within the time provided the application may be denied.⁴⁷

At the Exemption Designee’s discretion, additional efforts may be made to gather any necessary information. This could include sending additional requests, requesting the county assessor review a property or, if appropriate, the exemption designee personally reviewing the property.

INITIAL DETERMINATIONS

After the Exemption Designee has gathered the necessary information and is able to make an accurate decision, he or she will issue an Initial Determination. An Initial Determination is issued in the form of a letter notifying an applicant and the relevant county officials (typically only the county assessor and county trustee) several important things.

First, the Initial Determination will identify the applications it applies to by referring to the ER#. The Initial Determination will also list the parcel identification numbers to identify the property or properties the determination applies to.

The Initial Determination will advise the recipients whether the application(s) is approved or denied and will briefly state why. If the application is approved in part the determination will explain why, and what portion of the property is exempt. The Initial Determination will also specify the date the exemption becomes effective (this is known as the “effective date” and will be explained in more detail on page 22).

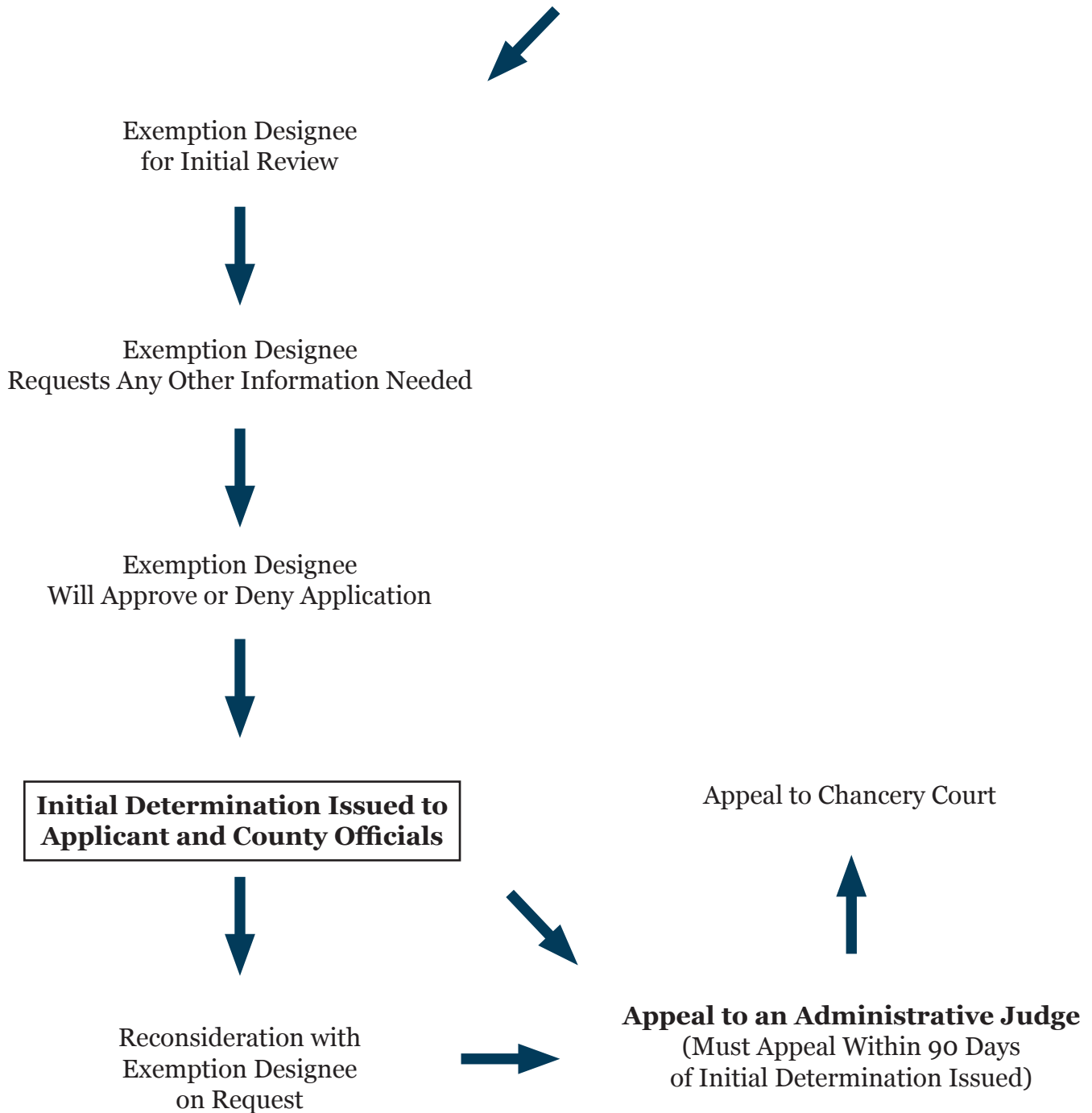
Finally, the Initial Determination will advise that both the applicant and the county tax assessor may appeal the determination, how to file the appeal, and that it must be appealed within 90 days of the date the notice is issued.

RECONSIDERATION

The Exemption Designee may reconsider his or her determination if the applicant can identify why the determination is incorrect. Reconsideration is at 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 suspended by conversations with the Exemption Designee about a reconsideration. If a subsequent Initial Determination is rendered, this is considered a separate action, and a new 90 day period to appeal begins to run.

⁴⁷“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).

Cycle of an 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 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. 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.

After the Exemption Designee has reviewed the case, he or she will send a letter advising the applicant of the status of their application. This may take the form of an 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 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 to advise that construction has been completed and an Initial Determination may be issued. 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 been completed the property owner may need to apply for 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 notifies the Exemption Designee that construction is complete. The institution must contact the State Board 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 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 will exempt the portion qualifying for exemption. 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 that is not exempt. In the case of the for-profit daycare, the Exemption Designee may specify that a number of square feet equaling that used by the daycare is no longer exempt.⁴⁸

If a property is used by more than one institution the exemption may be divided based on the 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.⁴⁹

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.⁵⁰

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.⁵¹

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.

How a partial exemption will be determined and what information will be needed is fact-dependent. Ultimately, the Exemption Designee will use the method that most accurately reflects the divided use of the property.

⁴⁸ *City of Nashville v. State Bd. of Equalization*, 360 S.W.2d 458, 468-69 (Tenn. 1962).

⁴⁹ *Christ Church Pentecostal v. Tennessee State Bd. of Equalization*, 428 S.W.3d 800, 808 (Tenn. Ct. App. 2013).

⁵⁰ *Memphis Dev't Foundation v. State Board of Equalization*, 653 S.W.2d 266 (Tenn. Ct. of Appeals 1983).

⁵¹ *Book Agents of Methodist Episcopal Church, S. v. State Bd. of Equalization*, 513 S.W.2d 514, 524 (Tenn. 1974).

EFFECTIVE DATE⁵²

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

If an exemption application is received by, or postmarked to, the State Board on or before May 20, the exemption can begin on January 1 of the year applied.

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 postmarked, the exemption will be granted as of the date the property was first used for that purpose. If the use of the property began more than 30 days before the application was received or postmarked, the effective date of the exemption will be the date the application was received or stamped.

If a property is not being used for an exempt purpose when the application is received but is by the time the application is processed, the Exemption Designee may approve the application; however, 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 INSTITUTIONS⁵³

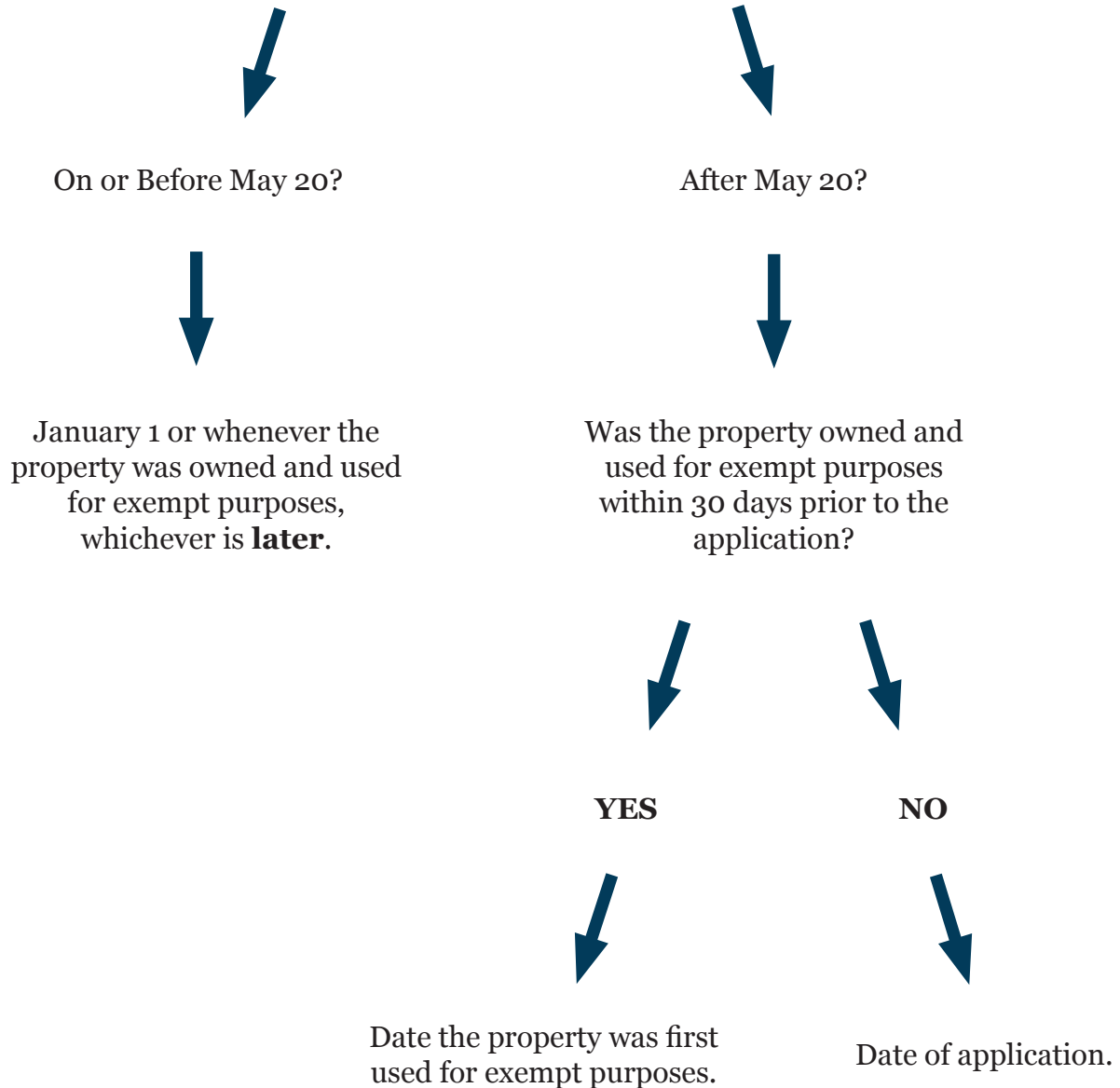
Religious institutions may benefit from one additional provision. If a religious institution purchases a property from another religious institution, and the property was exempt at the time of transfer, the exemption for the purchasing institution may be backdated, or “thrown back,” up to 3 years prior to the date of application, potentially closing any gap in the exemption. The property must have been exempt under the 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 property to replace its own exempt property, or if the institution purchases property previously approved for a religious exemption from a lender following foreclosure.

⁵² Tenn. Code Ann. § 67-5-212(b)(3).

⁵³ Tenn. Code Ann. § 67-5-212(b)(3)(B).

When would my Exemption be effective?

When did the State Board receive your application?



What Can be Appealed?

Most actions taken by the State Board regarding an exemption application can be appealed. This commonly includes:

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

This is discussed in more detail in the “Revocation of Exemption” section on page 25.

WHO CAN APPEAL?

Any party affected by an Initial Determination can appeal. In most cases, this will be either the applicant or county assessor.

HOW DOES AN APPEAL WORK?

An appeal must be filed with the State Board within 90 days of the Initial Determination or other appealable action. Once an appeal has been properly filed, the next step is to go before an Administrative Judge.

Hearings are held in person, virtually, or telephonically. The State Board will send a notice of hearing at least 30 days before the hearing advising when and where the hearing will take place. Both the taxpayer and county 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 made the wrong decision. The judge will issue an order with his or her 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 have some, all, or none, of the issues reviewed by the appointed members of the State Board of Equalization. Such members may choose or decline to accept the appeal. If the members decide to exercise review, a hearing may be scheduled before final action is taken and you will be provided additional instructions at that time.

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 qualifying 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 exempt and must know what the leasing institution uses the property for.

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

REVOCAION OF EXEMPTION

Exemptions previously granted by the State Board may lose their exempt status, either in whole or in part, for several reasons. Examples include exemptions based on fraud or misrepresentation, where the current owner no longer qualifies, and when the property is no longer being used for an exempt purpose (e.g., property used for revenue-generating purposes, property rented to a for-profit institution, abandoned property, and property declared unfit for human habitation).

A property will lose its exempt status through a revocation proceeding beginning with a probable cause review initiated upon the written complaint of any person or by the State Board itself. An Exemption Designee will start the review by investigating the property's use and ownership. The Designee will typically contact the property owner to ask questions and request additional information. Depending on the specific circumstances, the time required to complete the investigation can range from a few weeks to multiple months.

After the appropriate investigation takes place the Exemption Designee will either determine that insufficient probable cause exists to revoke or, with specific findings for one or more of the reasons above, that the property no longer qualifies for exemption. If probable cause is found, the Exemption Designee will issue written notice to the property owner, county assessor of property, and county trustee providing the basis for revocation and the date it becomes effective. Revocations are not retroactive unless the Exemption Designee provides a specific finding of fraud or misrepresentation on behalf of the applicant, or a failure of the applicant to give proper notice of the change in the use and/or ownership of the property as required by law. See the "Changes to Property After Initial Exemption" section on page 26 for more detailed information.

Should the property owner or county assessor disagree with the revocation notice, they may file an appeal with the State Board within 90 days of receipt. A revocation appeal is treated the same as an appeal of an Initial Determination of a property exemption and will be heard by an Administrative Law Judge assigned to the case by the Administrative Procedures Division of the Secretary of State's Office. Please see the "Appeals Process" section on page 24 for more information. If no appeal is filed, after 90 days the revocation becomes final.

Should the county assessor and property owner agree that all or part of an exemption should be revoked the Exemption Designee can expedite the revocation process by memorializing their agreement and sending it to the parties.

CHANGES TO PROPERTY AFTER INITIAL EXEMPTION

Change in Use of Property

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

A change in the use of property may occur if an institution begins to rent space to another entity, or if the use of the building changes.

NEW CONSTRUCTION AND RENOVATION OF EXEMPT PROPERTIES

Generally, if an exempt institution renovates property that is already exempt, the property will remain exempt during the period of construction or renovation.

Whether new structures are exempt or will require a new application depends on the specific situation. You may contact the State Board if you have questions, and taxpayers may choose to file a new application for exemption to preserve the earliest possible effective date.

CHANGE IN THE NAME OF AN EXEMPT INSTITUTION

Generally, when ownership of property changes, any existing exemption ends and the property is returned to the tax roll. However, this is not 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 do not change, the exemption may continue.

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

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

COMBINING PARCELS

Real property is typically identified and recorded by parcel identification number. An exemption of real property applies even if the exempt parcel is combined with another parcel. If an exempt parcel is combined with a non-exempt parcel, the exemption will continue for the exempt parcel and the non-exempt portion will remain taxable. In other words, a non-exempt parcel does not become exempt simply because it is combined with an exempt one. Of course, if two exempt parcels are combined the entire property is exempt.

TRANSFER OF EXEMPT PROPERTY

When an exempt property is transferred to another individual or institution, the property typically loses its exempt status.⁵⁴ 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 one of 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 the exempt status.

As previously identified, religious institutions can benefit from the special effective date provision contained in Tenn. Code Ann. § 67-5-212(b)(3)(B). See the “Special Effective Date Provision for Religious Institutions” section on page 22 for more information.

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.⁵⁵

The taxpayer may choose not to pay taxes if 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 they have paid the undisputed portion of the property taxes 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.

⁵⁴ The language of Tenn. Code Ann. § 67-5-201 is ambiguous; however, 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).

⁵⁵ 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.

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” on page 22.

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, the relevant statutes, and/or 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. Your application will generally be processed within 6 months unless your case is exceptionally complex or the application is placed on hold.

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 county 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.

<u>Aggregate Value of Property:</u>	<u>Application Fee:</u>
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.

Will the exemption be retroactive?

No, unless the organization qualifies for the limited throw-back provision contained in Tenn. Code Ann. § 67-5-212(b)(3)(B).

Do I have to reapply each year?

No, but you must notify the State Board 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 has no control over that. The State Board only determines whether your property is 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. Can we 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 via a hearing before an Administrative Law Judge.

Remember, the State Board only has the 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.

