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Religious, Charitable, Scientific, Educational Institutions

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Religious, Charitable, Scientific, Educational Institutions

Reference Number: CTAS-1536

There shall be exempt from property taxation the real and personal property, or any part of the real and personal property, owned by any religious, charitable, scientific or nonprofit educational institution that is occupied and actually used by the institution or its officers purely and exclusively for carrying out one or more of the exempt purposes for which the institution was created or exists. There shall further be exempt from property taxation the property, or any part of the property, owned by an exempt institution that is occupied and actually used by another exempt institution for one or more of the exempt purposes for which it was created or exists under an arrangement in which the owning institution receives no more rent than a reasonably allocated share of the cost of use, excluding the cost of capital improvements, debt service, depreciation and interest, as determined by the board of equalization or which is solely between exempt institutions that originated as part of a single exempt institution and that continue to use the property for the same religious, charitable, scientific, or nonprofit educational purposes, whether by charter, contract, or other agreement or arrangement.¹

"The tax exemption statutes in Tennessee are construed liberally in favor of religious, charitable and educational institutions.²The basis for a liberal construction is a 'benefit conferred on the public by such institutions, and a consequent relief, to some extent, of the burden upon the state to care for and advance the interests of its citizens.'"³However, the mere "fact that an organization is chartered for the general welfare, or not for profit, is not sufficient to entitle its property to tax exempt status."⁴In order to be tax exempt, the property must be used "purely and exclusively" for one or more of the purposes for which the institution seeking a tax exemption was created. In a series of cases, the Tennessee Supreme Court has held "that the use requirement for property to be tax exempt is met where the use is 'directly incidental to or an integral part of' one of the recognized purposes of an exempt institution."⁵Pursuant to the application of the use requirement, employee parking lots owned by non-profit hospitals, employee lunch rooms owned by non-profit corporations, and off-campus housing facilities owned by non-profit educational institutions have been found to be exempt from property taxation.⁶However, property that is owned by a charitable institution but not used for any purpose but held for future development does not qualify as tax exempt property.⁷

The property of the institution will not be exempt from taxation if the owner, or any stockholder, officer, member or employee of the institution receives or may be lawfully entitled to receive any pecuniary profit from the operations of the property in competition with like property owned by others that is not exempt, except reasonable compensation for services in effecting one or more of such purposes, or as proper beneficiaries of its strictly religious, charitable, scientific or educational purposes.⁸The property of the institution will not be exempt if the organization of the institution for any avowed purpose is merely a guise or pretense for directly or indirectly making a pecuniary profit for the institution, or for any of its members or employees, or if it is not in good faith organized or conducted exclusively for one or more of the avowed purposes.⁹If the real property of an institution is not used exclusively for carrying out one or more of the stated purposes, but is leased or otherwise used for other purposes, it will not be exempt regardless of whether the income received is used for one or more of the avowed purposes. If a portion of any lot or building of an institution is used purely and exclusively for carrying out one or more of the stated purposes of the institution, then that lot or building will be exempt only to the extent of the value of the portion so used, and the remaining or other portion will be subject to taxation.¹⁰

No church will be granted an exemption on more than one parsonage, which may include up to three acres of land.¹¹

Land not necessary to support exempt structures or site improvements associated with exempt structures, including land used for recreation, retreats or sanctuaries, is not eligible for exemption beyond a maximum of 100 acres per county for each religious, charitable, scientific or nonprofit educational institution qualified for exemption pursuant to T.C.A. § 67-5-212. For purposes of applying this limit, land owned by an exempt institution is aggregated with land owned by related exempt institutions having common ownership or control. Qualifying land in excess of the limit must be classified as forest land upon application submitted pursuant to T.C.A. § 67-5-1006, or as open space land upon application submitted

pursuant to T.C.A. § 67-5-1007, and the effective date of the classification will be the date the property might otherwise have qualified for exemption.¹²

¹T.C.A. § 67-5-212(a)(1). See *Memphis Development Foundation v. State Board of Equalization*, 653 S.W.2d 266 (Tenn.Ct.App. 1983). See 2004 Public Chapter 635 for exception for institution which owns and operates parking garage which leases spaces to a metropolitan government hospital authority.

²*Book Agents of the Methodist Episcopal Church, South v. State Board of Equalization*, 513 S.W.2d 514, 521 (Tenn. 1974) citing *Peabody College v. State Board of Equalization*, 407 S.W.2d 443 (Tenn. 1966); *Mid-State Baptist Hospital, Inc. v. Nashville*, 366 S.W.2d 769 (Tenn. 1963). See also *Kopsombut-Myint Buddhist Center v. State Board of Equalization*, 728 S.W.2d 327, 332 (Tenn.Ct.App. 1986).

³*Id.*, citing *M. E. Church, South v. Hinton*, 21 S.W. 321, 322 (Tenn. 1893).

⁴*LaManna v. Electrical Workers Local Union No. 474*, 518 S.W.2d 348, 352 (Tenn. 1974) citing *Memphis Chamber of Commerce v. City of Memphis*, 232 S.W. 73, 74 (1921); *North Gates Elks Club v. Garner*, 496 S.W.2d 887, 889 (Tenn. 1973).

⁵*Methodist Hospitals of Memphis v. Assessment Appeals Comm'n*, 669 S.W.2d 305, 307 (Tenn. 1984). See also *Metropolitan Government of Nashville & Davidson County v. State Board of Equalization*, 817 S.W.2d 953, 955 (Tenn. 1991).

⁶*Metropolitan Government of Nashville & Davidson County v. State Board of Equalization*, 817 S.W.2d 953, 955 (Tenn. 1991) citing *Vanderbilt University v. Ferguson*, 554 S.W.2d 128 (Tenn.Ct.App. 1976); *Shared Hospital Services Corporation v. Ferguson*, 673 S.W.2d 135 (Tenn. 1974); *George Peabody College for Teachers v. State Board of Equalization*, 407 S.W.2d 443 (Tenn. 1966).

⁷*Oak Ridge Hospital of the Methodist Church, Inc. v. City of Oak Ridge*, 420 S.W.2d 583, 586 (Tenn.Ct.App. 1967) (the occupation and use of the property must be such as to contribute presently or in the very immediate future to the operation of the charitable institution if the institution is going to enjoy a tax exempt status of the property). See also *Memphis Development Foundation v. State Board of Equalization*, 653 S.W.2d 266 (Tenn.Ct.App. 1983) (Neither the Constitution nor the statute allows the ownership of unused property by a tax exempt organization to confer exemption upon the property. It is the use and not the non-use which confers exemption.).

⁸T.C.A. § 67-5-212(a)(3)(A)(i). See *Book Agents of the Methodist Episcopal Church, South v. State Board of Equalization*, 513 S.W.2d 514, 523 (Tenn. 1974).

⁹T.C.A. § 67-5-212(a)(3)(A)(ii). See *Summers v. Cherokee Children & Family Services, Inc.*, 112 S.W.3d 486, 502 (Tenn.Ct.App. 2002).

¹⁰T.C.A. § 67-5-212(a)(3)(B).

¹¹T.C.A. § 67-5-212(a)(4). See *Metropolitan Government of Nashville & Davidson County v. State Board of Equalization*, 817 S.W.2d 953 (Tenn. 1991); *Blackwood Brothers Evangelistic Ass'n v. State Board of Equalization*, 614 S.W.2d 364, 366 (Tenn.Ct.App. 1980) (Parsonages, per se, are not given exemption under the statute; only those pieces of property that are used purely and exclusively for religious, charitable, scientific or educational purposes are exempt.). See also *First Presbyterian Church of Chattanooga v. State Board of Equalization*, 2003 WL 21994804 (Tenn.Ct.App. 2003).

¹²T.C.A. § 67-5-212(o).

Application for Exemption

Reference Number: CTAS-1537

Any owner of real or personal property claiming exemption under T.C.A. § 67-5-212 or T.C.A. § 67-5-207, § 67-5-213 or § 67-5-219 must file an application for the exemption with the State Board of Equalization on a form prescribed by the board, and supply any further information as the board may require to determine whether the property qualifies for exemption. No property will be exempted from property taxes under these sections, unless the application has been approved in writing by the board. A separate application is required for each parcel of property for which an exemption is claimed. An application is deemed filed on the date it is received by the board or, if mailed, on the postmark date. The applicant must provide a copy of the application with any supporting materials to the assessor of property of the county in which the property is located. An application for exemption pursuant to T.C.A. § 67-5-212 or any other section referring to these procedures is treated as an appeal for purposes of T.C.A. § 67-5-1512.¹

The board makes an initial determination granting or denying an exemption through its staff designee, who sends written notice of the initial determination to the applicant and the assessor of property. Either the assessor of property or the applicant may appeal the initial determination to the board and is entitled to a hearing prior to any final determination of exemption. The assessor maintains on file copies of all approved applications. After an exemption has been approved, it is not necessary to reapply each year, but the exemption is not transferable or assignable and the applicant is required to promptly report to the assessor any change in the use or ownership of the property which might affect its exempt status.²

The board may by rule impose a fee for processing exemption applications. The fee cannot exceed \$120 and must be proportionate to the value of the property at issue. The total fees collected in any fiscal year cannot exceed the cost of processing exemption applications in that fiscal year.³

¹T.C.A. § 67-5-212(b)(1).

²T.C.A. § 67-5-212(b)(2).

³T.C.A. § 67-5-212(b)(2). 2010 Public Chapter 1074

Deadlines for Filing Application

Reference Number: CTAS-1538

An institution claiming an exemption under T.C.A. § 67-5-212 which has not previously filed an application for and been granted an exemption for a parcel must file an application for exemption with the State Board of Equalization by May 20 of the year for which the exemption is sought. If the application is approved, the exemption will be effective as of January 1 of the year of application or as of the date the exempt use of such parcel began, whichever is later. If application is made after May 20 of the year for which the exemption is sought, but prior to the end of the year, the application may be approved but will be effective for only a portion of the year determined as follows: (1) if the application is filed within 30 days after the exempt use of the property began, the exemption will be effective as of the date the exempt use began or May 20, whichever is later; or (2) if the application is filed more than 30 days after the exempt use began, the exemption will be effective as of the date of application.¹

If a religious institution acquires property that was duly exempt at the time of transfer from a transferor who had previously been approved for a religious use exemption of the property, or if a religious institution acquires property to replace its own exempt property, then the effective date of exemption shall be 3 years prior to the date of application, or the date the acquiring institution began to use the property for religious purposes, whichever is later.²

¹T.C.A. § 67-5-212(b)(3)(A). See *Metropolitan Government of Nashville & Davidson County v. Delinquent Taxpayers*, 1992 WL 124434 (Tenn.Ct.App. 1992).

²T.C.A. § 67-5-212(b)(3)(B).

Administrative and Judicial Review

Reference Number: CTAS-1539

All questions of exemption under T.C.A. § 67-5-212 are subject to review and final determination by the State Board of Equalization. However, any determination by the state board is subject to judicial review by petition of certiorari to the appropriate chancery court. All other provisions of law notwithstanding, no property is entitled to judicial review of its status under T.C.A. § 67-5-201 *et seq.*, except as provided by the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5 of the Code, and only after the exhaustion of administrative remedies as provided in T.C.A. § 67-5-212.¹

¹T.C.A. § 67-5-212(b)(4). See *State ex rel. County of Hamblen v. Knoxville College*, 60 S.W.3d 93 (Tenn.Ct.App. 2001)(college's failure to pursue its statutory remedies during the requisite time periods rendered the Board's decision final, and the Chancery Court was without jurisdiction to entertain the appeal).

Revocation of Exemption

Reference Number: CTAS-1540

The State Board of Equalization may revoke any exemption approved under T.C.A. § 67-5-212 if it determines that the exemption was approved on the basis of fraud, misrepresentation or erroneous information, or that the current owner or use of the property does not qualify for exemption. The Executive Secretary of the board may initiate proceedings for revocation on the Executive Secretary's own motion or upon the written complaint of any person upon a determination of probable cause. Revocation will not be retroactive unless the order of revocation incorporates a finding of fraud or misrepresentation on the part of the applicant or failure of the applicant to give notice of a change in the use or ownership of the property as required by T.C.A. § 67-5-212.¹

¹T.C.A. § 67-5-212(b)(5).

Charitable Institution Defined

Reference Number: CTAS-1541

As used in T.C.A. 67-5-212, "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.¹

A long, nonexclusive statutory list of organizations and institutions which may qualify for property tax exemption include nonprofit organizations chartered by the United States Congress;² labor organizations;³ nonprofit artificial breeding associations;⁴ fraternal organizations exempted from the payment of federal income taxes;⁵ nonprofit county fair associations;⁶ property containing a residential dwelling located in a community park that meets certain conditions;⁷ property upon which a caretaker's residence is located that meets certain conditions;⁸ property owned by a public radio station meeting certain conditions;⁹ property owned by a public television station;¹⁰ and property owned by a religious or charitable institution that is used by the institution for a thrift shop, provided certain conditions are met.¹¹

¹T.C.A. § 67-5-212(c). See *Downtown Hosp. Ass'n v. State Board of Equalization*, 760 S.W.2d 954 (Tenn.Ct.App. 1988) (under T.C.A. § 67-5-212, any nonprofit organization or association which devotes its efforts to improvement of conditions in the community is a charitable institution and exempted from property taxation).

²T.C.A. § 67-5-212(d).

³T.C.A. § 67-5-212(e).

⁴T.C.A. § 67-5-212(f).

⁵T.C.A. § 67-5-212(h).

⁶T.C.A. § 67-5-212(i).

⁷T.C.A. § 67-5-212(j).

⁸T.C.A. § 67-5-212(k).

⁹T.C.A. § 67-5-212(l).

¹⁰T.C.A. § 67-5-212(m).

¹¹T.C.A. § 67-5-212(n).

