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**Module #5 - Exempt Property**

**Minnesota Property Tax Administrator's Manual**

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Introduction

In Minnesota law, taxation is the rule and exemption is the exception. Exemption laws are to be strictly (not broadly) construed.

Ownership, use, and necessity of ownership are the three key elements in determining exemption. Absence of any of the three elements would likely disqualify a property from exemption unless specifically allowed by law. For example, a property may be owned by a church (an exempt institution), but if it is not used for church purposes, exemption should be denied.

Whenever property is removed from the tax rolls, the other taxpayers of that jurisdiction pay a higher share of the tax burden. Therefore, burden of proof is on the one seeking exemption to prove to the assessor that they are entitled to the exemption. The assessor has an extremely important responsibility in extending exemptions only to properties that meet the qualifications under law.

In terms of property taxation, lawmakers have decided that various types of property, or properties owned by specific organizations, are exempt from property taxes if they meet certain criteria. The purpose of this module is to assist assessors regarding potentially-exempt properties.

Most exempt property is defined in Minnesota Statutes, section 272.02 and the treatment of exempt properties has been addressed over time by Minnesota Tax Court, the Minnesota Supreme Court, and the Department of Revenue. While this module will not exhaustively describe the various nuances of property tax exemption guidelines, it will serve as a valuable resource to anyone with questions concerning exemption guidelines.

If an assessor is in doubt as to the taxable status of a property, the property should be placed on the tax rolls and the taxpayer should be allowed to appeal to Minnesota Tax Court. Or, if subsequent information cause the assessor to conclude the property should be exempt from property tax, the taxes may be abated pursuant to Minnesota Statutes, section 375.192.
Assessment Practices

Application requirements
It is required that all ownership entities seeking exemption must file an initial application with the county assessor, and each entity should include enough information to help the assessor to grant or deny the exemption. Initial applications for exemption are due to the assessor in the district where the property is located on or before **February 1** of the assessment year in which the exemption is first sought.

For most exempt properties, owners or authorized representatives must reapply for exemption every **three years**.

No matter what year the owner or authorized entity originally filed for exemption, **reapplications for property tax exemption must be filed in 2016, 2019, 2022, etc.**

Reapplication on a three-year rotating basis does not apply to the following properties only:

- churches or houses of worship
- property used solely for education purposes by academies, colleges, universities, or seminaries of learning
- property owned by the State of Minnesota or any of its political subdivisions
- exempt personal property
- domestic abuse shelters
- hydroelectric or hydromechanical power plant on a site owned by the federal, state, or local government
- state lands leased from the DNR as public campsites
- transitional housing facilities
- wind energy conversion systems
- agricultural chemical containment facilities
- photovoltaic devices/solar panels
- exempt ice arenas owned by a nonprofit corporation for use by youth and high school skating programs
- exempt baseball parks owned by a nonprofit corporation for use by amateur baseball players

Churches, houses of worship, and properties used solely for educational purposes by academies, colleges, universities, or seminaries of learning are required to file for an exemption once but only once (i.e. they are required to initially file a statement by February 1, but not after that approval).

Only properties owned by the state or a political subdivision of the state are not required to file a statement, but the assessor may ask for information necessary to grant an exemption.

Owners or authorized entities claiming an exemption on **personal property used for pollution control** must reapply for exempt status with the Department of Revenue on or before February 15 of each year for which the taxpayer claims exemption to be eligible for taxes payable the following year.
The assessor can request (in writing) that the taxpayer make available all records relating to ownership and/or use of the property that the assessor believes is needed to verify that the property meets requirements for exemption. If a property owner fails to file an exempt application or knowingly violates any of the filing requirements, the property may not receive exemption.

The assessor should retain the most recent application for as long as the exemption is granted, along with its supporting documents and notation of why or why not exemption was granted.

Please note that only the County Assessor may approve applications for exemption, not city assessors (except for cities of the first class that have a City Assessor who operates as the County Assessor in those jurisdictions). The County Assessor must sign all initial applications that are approved for exemption.

In the case of sickness, absence, or other disability, or for good cause, the assessor or the Commissioner of Revenue may extend the time for filing the exempt application for a period not to exceed 60 days.

Examples of common exemption applications are listed below and can be requested from the Information and Education Section of the Property Tax Division.
- PT63 “Application for Exemption of Tax on Property Used for Pollution Control”
- Application for Property Tax Exemption [General]
- Institution of Purely Public Charity Application for Property Tax Exemption
- Application for Property Tax Exemption for Nursing Homes and Boarding Care Homes

Primary Statutory References: 272.025
Conversion to Exempt or Taxable Uses

Any property **exempt** from taxation on January 2 of an assessment year, which loses its exemption prior to **July 1** of that year, shall be placed on the assessment rolls for that year.

- The valuation shall be determined with respect to the January 2 assessment of that year.
- The classification shall be based upon the use to which the property is put by the purchaser.
- In the event that the purchaser has not used the property by July 1, the intended use of the property, determined by the county assessor based on all relevant facts, will be used.
- Exempt property being listed for sale should also be considered taxable provided it is no longer used exclusively for its exempt purposes, and no longer meets the “necessity of ownership” requirement.

Property that is **taxable as of January 2** of an assessment year, which may become eligible for exemption **prior to July 1** of that year, may be exempt for that assessment year if it is used for an exempt purpose.

- Minnesota Statutes, section 272.02, subdivision 38, specifically clause (b) provides that “property subject to tax on January 2 that is acquired before July 1 of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivisions 2 to 8 [emphasis added].”
- If an exempt institution did not “acquire” the property after the assessment date, rather, they owned the property for several years and it was put to a taxable use, the acquisition qualifier is moot and the property should remain taxable for that assessment year.
- The exemption may be granted for the following assessment year if all other requirements are met.
- For example, a private college has owned a parcel of property for many years that was improved with a single family residence and was rented to others. The property was taxable and was classified as residential non-homestead. On January 2, the property was occupied by the tenants. Sometime after the assessment date, the tenants moved out, the college demolished the home, and applied for exemption. Since the property was not newly acquired by the college, the property must remain taxable for the current assessment year since it was used for taxable purposes on January 2.

- The cutoff date for **manufactured homes** with respect to determining exemption is the January 2 assessment date.

- Property which **forfeits to the state** for nonpayment of real estate taxes on or before **December 31** of an assessment year shall be removed from the assessment rolls for that year. Forfeited property that is repurchased or sold on or before **December 31** of an assessment year shall be placed on the assessment rolls for that year’s assessment.
It is important to note that exemptions may only be granted by the county assessor or by Minnesota Tax Court. They may not be granted by local or county boards of appeal and equalization.

The following “decision tree” may be useful in determining conversion of a property from taxable to exempt and vice versa.

Conversion to Exempt or Taxable Uses: Decision Tree

Primary Statutory References: 272.02, subd. 38
**Payment of Taxes and Assessments on Property Acquired by the State**

When the state or a political subdivision of the state (except the Minnesota Department of Transportation) acquires a fee interest in property before forfeiture, provision must be made to pay all taxes, including all unpaid special assessments and future installments that are unpaid on the property at the date of acquisition.

The date of acquisition is the date on which the acquiring authority is entitled under law to take possession of the property.

In cases of condemnation, the date of acquisition is the date of the filing of the petition in condemnation. Taxes which become a lien on the property after the date of acquisition and before the condemning authority are by law entitled to actually take possession shall, if paid by the owner, be added to the award. If not paid, they must be paid by the condemning authority.

Taxes lawfully levied shall not be abated. This shall not be construed to require the payment of accrued taxes and unpaid assessments on the acquired property which exceed the fair market value thereof. The state or a subdivision acquiring property may make provisions for the apportionment of the taxes and unpaid assessments if less than a complete parcel is acquired.

If such accrued taxes and unpaid assessments are not paid as required, then:

1. the county auditor of the county in which the acquired property is located shall notify the Commissioner of Finance of the facts
2. the Commissioner of Finance shall divert an amount equal to the accrued taxes and unpaid assessments from any funds which are to be distributed by the Commissioner of Finance to the acquiring authority,
3. the Commissioner of Finance shall pay over such diverted funds to the county treasurer of the county in which the acquired property is located in payment of such accrued taxes and unpaid assessments.

Property otherwise taxable, which is acquired by subdivisions of government, shall remain taxable until the acquiring authority is by law or by the terms of a purchase agreement entitled to actually take possession of it.

If the acquiring authority permits a person to occupy the property after the acquiring authority has become entitled to actual possession, the authority shall charge a reasonable rental and shall pay to the county treasurer 30 percent of the rental received to be distributed in the same manner as property taxes (or such percentage as may be otherwise provided by law).

When the political subdivision is a housing and redevelopment authority which has obtained the right to take possession of a property in a redevelopment project area, it may lease the property to the previous occupant for temporary use pending the relocation of the former occupant’s residence or business or may relocate such former occupant in any other property owned by it in such project area. The authority may agree with the municipality to the payment in certain sums in lieu of taxes on said property during such temporary occupancy, in which event, the payment of the sum agreed upon shall be in lieu of taxes as provide in Minnesota Statutes,
section 469.040, and the provisions of Minnesota Statutes, section 272.01, subdivision 2, and Minnesota Statutes, section 273.19 shall not apply to such property or to the use thereof.

Primary Statutory References: 272.68

**Listing Exempt Property**

Every sixth year (2010, 2016, 2022, etc.), the county auditor must prepare an abstract of exempt property. The abstract must contain the description of each tract of real property exempt by law from taxation, along with the name of the owner.

The assessor is required to value and assess the exempt property in the same manner that other real property is valued and assessed. The assessor must also designate in each case the purpose for which the property is used.

If an assessor is in doubt as to the taxable status of property of any institution or organization, or even of the county or any political subdivision, the assessor should place the property upon the tax rolls. If subsequent information causes the assessor to conclude that the property should be exempted, it can be abated pursuant to Minnesota Statutes, section 375.192.

Natural resources lands for which in-lieu payments are made under Minnesota Statutes, sections 477A.11 to 477A.14 must be listed. The assessor shall estimate its market value, provided that if the assessor is not able to estimate the market value of the land on a per-parcel basis, the assessor shall furnish the Commissioner of Revenue with an estimate of the average value per acre of this land within the county.

Primary Statutory References: 273.18; 477A.11-477A.14

**Special Assessments**

Unless specifically stated in statute, if a property is exempt from property tax, it is still subject to special assessments. Special assessments are a fee and not a traditional tax. They are levied in a different manner and exempt property must pay them unless specifically exempted from them by law.

This was confirmed in a 1956 Attorney General opinion which stated that though churches, church property, and houses of worship are exempt from general taxation, they are not exempt from special assessment. *(Op.Atty.Gen., 408C, Aug. 22, 1956.)*
Commonly Exempted Property Requiring Diligent Assessment

Church-Owned Property and Property of Religious Corporations
All churches, church property, and houses of worship are exempt per Minnesota Statutes. However, the Department of Revenue has consistently advised that to be exempted, the property must be used by the church for church purposes. For example, the department has advised that vacant land purchased by a church but not used for any church purpose should not be granted an exemption.

Court cases related to church exemptions are discussed here, as well as in the Court Cases section of this module.

Prior to 1906, the Minnesota Constitution read that “all churches, church property used for religious purposes, and houses of worship” were exempt. The constitution now states “churches, church property, and houses of worship.” In State v. Board of Foreign Missions of Augustana Synod, 221, 1946 (Minn. 536, 22 N.W.2d 642), the court held that the elimination of the words “used for religious purposes” was intended to extend the benefits of tax exemption to larger classifications of church property.

In the case of properties owned by religious corporations used for religious purposes, exemption is also granted unless the property is not being used for a church purpose; or is being leased or used for profit. For example, church property including the parsonage is not exempt if it is rented out to private individuals or corporations, or when the property is used for purposes other than those for which the church was established. The exemption granted to churches also does not apply to the property owned by a clergyman or to any property owned by an individual and used for church purposes.

The Minnesota Supreme Court concurs that the test for determining entitlement of church-owned property for a tax exemption is whether the property is devoted to, and reasonably necessary for accomplishment of church purposes. The Court has granted exemption in a case where a duplex located 30 feet from a church sanctuary and owned by the church, but occupied by a part-time janitor in one unit and the director of church music, the church liturgist, and the director of Christian education at the church occupied the other unit. The exemption was granted in this case on the basis that the duplex was devoted to and reasonably necessary for the accomplishment of church purposes (St. John’s Lutheran Church v. County of Hennepin, 1985, 373 N.W.2d 281).

The Department of Revenue has issued numerous opinions on church-owned property. Various court opinions have also outlined the importance of use in determining whether these properties should be granted exemption. For example, in State vs. Second Church of Christ, Scientist (240 N.W.2d 532), the Supreme Court said that the test is the use to which the property is devoted or about to be devoted. Other relevant court cases are noted in the “Applicable Court Cases” section of this module.
In many court cases, decisions were based on whether the “church organization” met the requirements of Article X, section 1 of the Minnesota Constitutions definition of a church; or the definition with Minnesota Statutes, section 272.02, subdivision 1. Organizations not meeting the requirements therein were denied exemption based on the fact that they were not, by legal definition, “church” organizations. [E.g. Ideal Life Church of Lake Elmo v. County of Washington, 1981; State of Minnesota, County of Hennepin v. American Fundamentalist Church, 1993.]

Primary Statutory References: 272.02, subd. 6

**Property Owned and Used by Institutions of Purely Public Charity**

**Court Cases as Precedent**

Prior to law changes in 2009, most of the requirements for an institution of purely public charity to qualify for property tax exemption were provided by court decisions rather than statute. First and foremost, the definition of what constitutes a “charity” had been considered in many court cases.

For many years, the courts basically used a two-step analysis in determining exemption: that the organization does something which benefits people, and that the organization does this in a way that does not produce material profits for private interests. These criteria were greatly expanded under the guidelines set forth in the 1975 North Star Research Institute v. County of Hennepin case (306 Minn. 1, 6, 236 N. W. 2d 754, 757).

These six guidelines were extensively used in determining tax exempt eligibility of institutions of purely public charity. The North Star case held the following six guidelines as useful in deciding tax-exempt claims:

1. whether the stated purpose of the undertaking is to be helpful to others without immediate expectation of material reward;
2. whether the entity involved is supported by donations and gifts in whole or in part;
3. whether the recipients of the “charity” are required to pay for the assistance received in whole or in part;
4. whether the income received from gifts, donations, and charges to users produces a profit to the charitable institution;
5. whether the beneficiaries of the “charity” are restricted or unrestricted, and if restricted, whether the class of persons to whom the charity is made available is one having a reasonable relationship to the charitable objectives; and
6. whether dividends, in form or substance, or assets upon dissolution are available to private interests.

Not all six guidelines needed to be met, and none of the six guidelines carried more weight than any other (Mayo Foundation v. Commissioner of Revenue, 1976, 236 N.W.2d 767).
Commonly Exempted Property Requiring Diligent Assessment

For institutions seeking property tax exemption, there was unpredictability in terms of whether the criteria would be met in a way which would qualify that property for exemption. Many counties noted the application of the *North Star* factors when determining property tax exemption eligibility in a 2008 survey, yet the unpredictability of criteria used in granting exemptions was very clear in those same survey results.

In *Junior Achievement of Minneapolis, Inc. v. State*, 1965 (271 Minn. 385, 390, 135 N.W.2d 881, 885), the Minnesota Supreme Court interpreted “lessening the burden of government” as a factor to consider for an institution of purely public charity to qualify for property tax exemption. This case, which predated the *North Star* decision, first articulated “lessening the burden of government” requirement, which has since been understood to be a sub-factor of the fifth factor of the *North Star* case.

Another court case used as precedent was *Assembly Homes, Inc. v. Yellow Medicine County*, 1966 (273 Minn. 197, 140 N.W.2d 336). In its decision, the Court decided that a nursing home was exempt from property taxes as an institution of purely public charity. At issue in this case was whether the institution served as a charitable organization while charging rates to its clientele that were similar to the rates charged elsewhere in the State of Minnesota by non-exempt nursing homes. Some of the payments received by Assembly Homes, Inc. were made by county welfare boards and federal institutions such as the U.S. Veterans Administration. The court decided that the exemption was allowable because there were some free services provided.

In 2007, the Minnesota Supreme Court refined their definition of property tax-exempt qualifying institutions in two cases: *Under the Rainbow Child Care Center, Inc. v. County of Goodhue* and *Afton Historical Society Press v. County of Washington*.

At issue in the *Afton* case was whether the organization was eligible for exemption from property taxes while maintaining for-profit book sales. Profits of the sales of some books were used to further the organization’s charitable mission of providing reading materials and books to others for free or at below-cost. Minnesota Tax Court found the Afton Historical Society Press not exempt because they failed to meet factors 1, 4, and 6 of the North Star case. However, the Supreme Court disagreed and granted exemption. The Supreme Court found that the organization should be allowed to carry on its for-profit book sales, as long as those book sales were subordinate to the overall charitable activities of the organization.

The Minnesota Supreme Court decided in *Under the Rainbow Child Care Center, Inc. v. County of Goodhue* that where a daycare center did not offer its services for free or at a reduced rate compared to the local market, it did not satisfy *North Star* factor three, and that the institution (Under the Rainbow Child Care Center) did not qualify for property tax exemption. In the past, numerous court cases cited the *North Star* factors as a whole while providing that not all six factors needed to be met and that no one factor was more determinative of eligibility for exemption. The Supreme Court for the first time held in *Under the Rainbow* that because *North Star* factor 3 “…is a core characteristic of an institution of public charity, we now clarify that the third factor must be satisfied if an
organization is to be deemed an institution of purely public charity [emphasis added].” The required expectation was that to be considered an “institution of purely public charity” for property taxation purposes, an institution must offer free or reduced rates for its goods or services. Among other issues, this was problematic for assessors if there was no definable local market to compare to, or when rates were pre-set by government entities.

Many nonprofit groups in the state felt that the Under the Rainbow decision could drastically change the ability of some organizations to be exempted from property taxes. The Department of Revenue did not feel that the decision represented a change. A memorandum to all county assessors following the decision stated that “For many years, we have held that for an entity to qualify as an institution of purely public charity there must be some sort of ‘gift’ or ‘charity.’” The department did not interpret the court’s decision as a change from what had been standard assessment practices.

2008 Legislation and Survey
In a response to 2008 legislation requiring a survey of assessment practices and providing a moratorium for granting exemptions to charitable institutions, the Department of Revenue invited various members of Minnesota nonprofit organizations to discuss their concerns about potential changes in exempt status for many institutions.

Many charitable organizations felt at risk of losing their tax-exempt status if the third North Star factor was not met based upon the court’s interpretation of necessary charitable activities. For example, organizations such as Meals on Wheels felt threatened based on the fact that there were no similar organizations with which to judge a market rate. It soon became clear that discussions would not be enough to address these concerns, and that clarifying legislation was likely needed.

The 2008 survey found that assessment practices widely varied. In response, nonprofit organizations and the department discussed in the spring of 2008 how it might be possible to introduce a bill to Legislature which would seek to clarify eligibility and to provide a more uniform standard by which property tax exemption eligibility would be determined. The potential for inconsistency was discussed, which would hinder equalization in the tax process.

With the legislative session nearing an end, it was determined that the best course would be to seek a moratorium on assessment practices with regards to institutions of purely public charity. This moratorium was granted in Minnesota Laws 2008, Chapter 366, Article 6, section 49, along with the directive to survey county assessors’ practices. The moratorium allowed the assessment and nonprofit communities to discuss concerns over how to prevent changes to the landscape of exempt charitable organizations.

2009 Legislation
After conducting a survey of all counties’ practices regarding property tax exemptions for institutions of purely public charity, the Department of Revenue met with members of Minnesota charitable organizations and members of the assessment community, including:
Multiple meetings were held at which the groups discussed both the survey results and what actions were needed in response to the findings. The survey found that the following types of organizations were commonly exempted for property tax purposes:

- Nursing homes
- Daycare centers
- Group homes
- Youth activity centers (Boy Scouts, Girl Scouts, youth camps, etc.)
- Animal shelters (Humane Society)
- Nature and history preservation sites (museums, Nature Conservancy land, etc.)
- Sobriety-based organizations (AA, Alano, rehabilitation, etc.)
- Senior citizen centers
- Organizations devoted to the training of disabled persons
- YMCA buildings
- Crisis pregnancy centers
- Salvation Army locations
- American Red Cross sites
- Food shelf/food bank locations
- Land owned by Habitat for Humanity (after homes are built on the land, the property becomes taxable)
- Transitional housing facilities
- Housing and services for persons with physical and/or mental disabilities
- Art and cultural institutions

The groups also developed potential legislative language, which was brought before the Minnesota House of Representatives and the Minnesota Senate. This language was intended to neither expand nor contract the historical guidelines for granting property tax exemptions, but to make the language clearer and more predictable for assessors and charitable institutions alike, and to provide for greater consistency in exemptions statewide. The resulting language was signed into law in Minnesota Laws 2009, Chapter 88, Article 2, section 4. This language amended Minnesota Statutes, section 272.02, subdivision 7.

It was not expected that this clarifying language would greatly change the number or type of exempt properties in any county. While a few properties may have lost exemption based on the new law and
new information an assessor gathered, other properties may have gained exemption based on 
clarification of some guidelines. However, these changes were expected to be rare.

Requirements
As stated, taxation is the rule and exemption is the exception. As with virtually any type of exempt 
property, the qualifying parcel must be owned by an exempt institution, used for exempt purposes, 
and the ownership must be reasonably necessary to further the mission of the exempt organization. 
This three-prong test must be kept in mind at all times when making these determinations.

Although the State of Minnesota has not adopted a statutory definition of a “charity” for property tax 
exemption purposes, it may be helpful to know that the United States Internal Revenue Service (IRS) 
outlines requirements for a charitable organization eligible for federal income tax exemption under 
section 501(c)(3) of the Internal Revenue Code. According to the IRS website (available at 
www.irs.gov), the requirements include that, “The organization must not be organized or operated 
for the benefit of private interests, and no part of a section 501(c)(3) organization's net earnings may 
inure to the benefit of any private shareholder or individual.” The IRS further defines exempt 
purposes as:

“... [C]haritable, religious, educational, scientific, literary, testing for public safety, 
fostering national or international amateur sports competition, and preventing cruelty to 
children or animals. The term charitable is used in its generally accepted legal sense and 
includes relief of the poor, the distressed, or the underprivileged; advancement of religion; 
advancement of education or science; erecting or maintaining public buildings, 
monuments, or works; lessening the burdens of government; lessening neighborhood 
tensions; eliminating prejudice and discrimination; defending human and civil rights 
secured by law; and combating community deterioration and juvenile delinquency.”

The 2009 legislation required that for an institution of purely public charity to meet requirements for 
exemption, it must first be exempt from federal income taxation under section 501(c)(3) of the 
Internal Revenue Code. Any institution of purely public charity which is not a 501(c)(3) 
organization is ineligible for property tax exemption. However, being granted 501(c)(3) status by 
the IRS does not automatically qualify an organization for Minnesota property tax exemption.

Apart from the requirement of 501(c)(3) tax-exempt status, the six North Star factors, as previously 
noted, were modified and then codified in law in 2009. A qualifying organization must meet all six 
requirements, unless there is a “reasonable justification” for failing to meet requirement 2, 3, or 5. 
Assessors may request additional information from the applicants in order to prove that “reasonable 
justification” for failing to meet a requirement is met. As always, the onus is on the taxpayer to 
prove eligibility for exemption.

When reading the examples under requirements 2, 3, and 5, keep in mind that in the “real world”, it 
is unlikely that the exact same circumstances would be found among different institutions. For all of 
the examples, it must be noted that determinations of failure to meet these requirements will be 
based on the unique facts of each individual case.
In practice, if an assessor determines that a requirement has not been met, the institution has the burden of proving to the assessor that it either (1) meets the requirement or (2) that the institution has a reasonable justification for failing the requirement. The assessor may request additional information.

**Requirement 1: The stated purpose of the undertaking of the organization is to be helpful to others without immediate expectation of material reward.**
- This factor MUST be met.
- This requirement is also necessary to receive 501(c)(3) exempt status from the IRS.
- Assessors may assume, given a 501(c)(3) determination letter, that this factor is met. Assessors may also refer to the organization’s Articles of Incorporation if necessary.

**Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.**
- Assessors may first refer to the Federal Form 990 and/or other income and expense statements to determine if this requirement is met.
- A “government grant” is defined for property tax exemption purposes under M.S. 272.02, subd. 7 as:

  “a written instrument or electronic document defining a legal relationship between a granting agency and a grantee when the principal purpose of the relationship is to transfer cash or something of value to the grantee to support a public purpose authorized by law in a general manner instead of acquiring by professional or technical contract, purchase, lease, or barter property or services for the direct benefit or use of the granting agency.”

For instance, one example of an institution of purely public charity which would receive government grants would be a clinic receiving federal funds under section 330 of the Federal Public Health Code.

Another example would be the Minnesota Pollution Control Agency providing grants for proposals for water quality management planning. The appropriation for grants to volunteer tax preparers by the State of Minnesota is another example of a government grant.

- “Reasonable Justification” may be given for not meeting this requirement.
- **EXAMPLES.**
  - An arts and culture center which operates as a 501(c)(3) nonprofit has a mission to support literary arts through educational opportunities, training, and showcasing local artists’ work. The organization receives community foundation support, individual
Commonly Exempted Property Requiring Diligent Assessment

gifts and donations, and government grants for its literacy program. The organization is supported by material donations, gifts, and government grants. This organization satisfies this requirement.

- A 501(c)(3) non-profit conserves land for the public benefit. For properties donated to the non-profit, the donation of the land may qualify as a “gift” for purposes of this second requirement if the land is given freely or sold at materially below market value for to the non-profit organization. If the value of the gift (the land) is material, the organization would satisfy requirement 2.

- A 501(c)(3) non-profit works with homeless populations to provide job training. By design, the organization conducts an annual fund drive every other year. It utilizes funds raised at its bi-annual drive through the next two years in advancement of its charitable mission. The funds raised through the drive were material. Although the organization has not participated in fund-raising for one year, the donations received through its bi-annual drive are material and this second requirement is met.

- A 501(c)(3) was organized two years ago under a significant endowment. During the last year, dividends and interest from the original endowment were sufficient enough to run the operation. Because of the endowment, the organization did not devote time to fundraising last year, as it was able to perform its exempt activities through the dividend and interest income. In other words, the endowment is considered the “fundraiser” for this organization. In the prior to the assessment year, the organization fails this factor. However, the organization is able to articulate the use of the endowment instead of other active fundraising for its financial support. The organization is able to prove to the assessor that it has reasonable justification for not receiving donations, gifts, or government grants in the previous year and the property may qualify for exemption.

- A non-profit printing press publishes some materials for retail sale for a profit, some materials are sold below cost, and some materials are donated. The organization has raised some funds through donations and gifts; however the printing press also uses the commercial sale of some of its books to offset the cost of making and distributing the educational materials which are available in a charitable manner. The organization is able to prove to the assessor that it is supported by material gifts and donations and that its revenue-generating activities are secondary and incidental to its charitable activities. The organization may be eligible for property tax exemption.

- A 501(c)(3) organization provides training and materials to disadvantaged persons so that they can create gift items (e.g. bird houses, dolls, candles, etc.) for sale. The items are created by participants of the organization and sold at the organization’s property. The participants are low income, and many are disabled or elderly. The organization receives very little donations, but does receive small government grants.
The organization uses the income received from the sales of these gift items to pay the participants and also to purchase more materials to continue with its mission. The assessor determines that the organization does not meet the requirements under clause 2. The organization feels that they have reasonable justification for not clearly meeting this requirement due to the nature of its mission, given their needy clientele the gainful employment provided to people who were otherwise not readily employable. The organization does give up some profits, and the support it receives is used for the furtherance of the organization’s mission. In other words, the organization has provided evidence of a reasonable justification for failing to meet this requirement and may be eligible for property tax exemption.

- A children’s theater is organized as a 501(c)(3) nonprofit and its mission is to provide meaningful educational and cultural theater experiences for young people. The theater’s sole source of revenue is from ticket sales, which are $30 per ticket. The theater does not attempt to fundraise and never applied for grants or other public financial support. Similar theater companies have received material donations; however, this organization does not try to raise funds in this manner. The organization does not meet the second requirement, nor does it have reasonable justification for failing to meet it; therefore, it does not qualify for property tax exemption.

- The test of reasonable justification only applies if the factor is not met. A non-profit may first work to demonstrate that it does, in fact, meet the requirement. If it cannot do that, it must demonstrate a reasonable justification for failure to do so. Each case of “reasonable justification” is to be looked at based on the unique facts of each individual situation. The onus is on the property owner to prove “reasonable justification” for failing to meet any requirement based on the nature of the organization. For example, if an organization chooses not to fundraise, while other organizations of the same type actively fundraise and receive donations and gifts, there is no reasonable justification for the organization to not fundraise. It was the choice of the organization not to engage in fundraising activities; it is not the nature of the organization or any other reasonable factor which precluded it from doing so.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government.
- “Reasonable justification” may be given for not meeting this requirement.
- An organization must either provide its goods or services at reduced or no cost to a material number of the recipients or must provide services that alleviate burdens or responsibilities that would otherwise be borne by the government to satisfy this factor. It does not need to meet both requirements.
- **EXAMPLES:**
  - A 501(c)(3) nonprofit childcare center cares for ten children from eight families. The organization makes free or reduced-cost childcare services available through a sliding-scale fee program. At any point, three to five children may utilize this program. Because the organization offers services at reduced or no cost to a material number of recipients, the organization satisfies this requirement.

  - A 501(c)(3) nonprofit youth diversion program provides court-ordered placement and services for youths as an alternative to a government-provided detention program. Because this organization alleviates the burden of government by providing alternative placement, this requirement is met.

  - A 501(c)(3) group home provides daily living supports for brain trauma patients, but does not provide its services for free or at a reduced cost. The institution accepts government payments at the rates set by government. Although the group home does not have proof of providing services for free or at a reduced cost in this case, based on the actual charitable activities of the organization and the recipients of the charity, the assessor determines that the organization has reasonable justification for failing to clearly meet the third requirement and may be eligible for property tax exemption.

  - A 501(c)(3) group home provides daily living supports for persons with developmental disabilities, but is unable to prove that those supports and services are provided for free or at reduced cost. The organization accepts government payments at the rates set by government. Although the group home does not have proof of providing services for free or at a reduced cost in this case, based on the actual charitable activities of the organization and the recipients of the charity, the assessor determines that the organization has a reasonable justification for failing to meet the third requirement and may be eligible for property tax exemption.

  - A 501(c)(3) nonprofit theater trust has a mission to engage the community in a diverse array of live performances and educational experiences so as to enrich lives, inspire an affinity for our historic theaters, and to contribute to the economic vitality of the community. The theater trust owns several theater properties. The trust receives monetary support from the local municipality to rehabilitate and maintain the historic theaters. The theater trust also provides material community education services at reduced or no cost that are in accordance with its stated mission. However, the theater trust gives away relatively few tickets for free or at a reduced cost. The theater trust engages community members in several other ways for free or at a reduced cost. Although the organization does generate revenue on ticket sales the organization provides its services for reduced or no cost to a material number of persons. Therefore, this third requirement is met.
- A 501(c)(3) childcare facility does not provide reduced rates for its families who are unable to pay and are referred to social services, and the same rate is charged whether the recipients of the childcare are paying directly or are using social assistance. The childcare center does not provide a sliding-scale fee setup (so that some recipients could receive rates below market rate), nor does the center provide vouchers or scholarships for those unable to pay market rates. Failure to provide payment assistance in any way to private individuals receiving the service is a failure to meet this requirement, and may make an institution ineligible for property tax exemption. The organization is given the opportunity to provide evidence of a reasonable justification for failing to meet the requirement, but cannot. The facility does not qualify for property tax exemption.

- A 501(c)(3) group home for the elderly that does not receive government grants (and the rates they charge are not mandated by government reimbursement rates) does not have a practice of reducing rates for clients unable to pay the full amount. The group home would not meet this factor. Because the group home does not provided services for free or at reduced cost, and because the group home does not have reasonable justification for not meeting this requirement, the group home would not qualify for exemption.

Each case of “reasonable justification” is to be looked at based on the unique facts of each individual situation. The onus is on the taxpayer to prove “reasonable justification” for failing to meet any requirement based on the nature of the organization. Organizations that could—but choose not to—provide goods or services for free or at reduced cost do not have reasonable justification for failure to do so.

Requirement 4: That the income received, including material gifts and donations, must not produce a profit to the institution which is distributed to private interests.

- This factor MUST be met.

- To be eligible for 501(c)(3) exemption, the Internal Revenue Code requires that “The organization must not be organized or operated for the benefit of private interests, and no part of a section 501(c)(3) organization's net earnings may inure to the benefit of any private shareholder or individual.” As such, a 501(c)(3) organization applying for property tax exemption may be assumed to have met this requirement.

- This is not to say that the organization must operate at a loss or at zero profit. Rather, the profits may be redistributed back into the organization for the organization’s purposes.

Requirement 5: That the beneficiaries of the charity must be unrestricted. If the beneficiaries are restricted, the class of persons to whom the charity is made available must be one having a reasonable relationship to the charitable objectives.

- “Reasonable justification” may be given for not meeting this requirement.
- **EXAMPLES:**
  - A 501(c)(3) nonprofit works worldwide to preserve ecologically important wildlife habitat for nature and for people. Part of the organization’s Minnesota-based operations include preserving a large tract of prairie in Northern Minnesota which has been identified as ecologically fragile, home to several endangered species, and critical to the health of the local watershed. In addition to preserving and maintaining this prairie land, the organization makes the land available for education, research, and low-impact recreational activities. The beneficiaries of the organization’s conservation practices are unrestricted as the general public benefits from this preservation and the general public is awarded the opportunity to use the lands. This requirement is met, and the organization may be eligible for property tax exemption.

  - A property is owned by a 501(c)(3) organization whose mission is to provide cultural and educational opportunities for inner-city Native American youth. The beneficiaries of this organization’s charity are restricted to inner-city Native American youth. However, in this specific case, the restriction is found to be directly related to the organization’s genuine charitable mission. The “class of persons to whom the charity is made available” is one “having a reasonable relationship to the charitable objectives” and this requirement is met.

  - A 501(c)(3) organization’s mission is to provide camping opportunities to disadvantaged youth and to promote wildlife preservation. The organization has fenced off access to its land and is awaiting future sale or development; however, the organization has not had any youth groups camping on this land. The organization’s owners allow access to a neighbor and that neighbor’s small group of friends or to private hunting parties each year. The beneficiaries of this wildlife area are restricted, but not in a manner which furthers the organization’s charitable cause. This property would not meet this factor and therefore would not qualify for exemption.

- In our opinion, the only case where it is acceptable to restrict the beneficiaries of a charity is when “the class of persons to whom the charity is made available [is] one having a reasonable relationship to the charitable objectives.” This is the only case of a “reasonable justification” for restricting the beneficiaries of a charity.
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Requirement 6: That dividends, in form or in substance, or assets upon dissolution are not available to private interests.
- This requirement MUST be met.
- An organization must also meet this requirement to be a 501(c)(3) tax exempt organization under the Internal Revenue Code. The IRS website (www.irs.gov) states:

“...[I]f an organization dissolves, its assets must be distributed for an exempt purpose, to the federal government, or to a state or local government for a public purpose. To establish that an organization's assets will be permanently dedicated to an exempt purpose, its organizing documents should contain a provision insuring their distribution for an exempt purpose in the event of dissolution. If a specific organization is designated to receive the organization's assets upon dissolution, the organizing document must state that the named organization must be a section 501(c)(3) organization when the assets are distributed.”

Because only 501(c)(3) organizations are eligible for exemption as institutions of purely public charity, a 501(c)(3) organization applying for property tax exemption will have met the sixth requirement.

Application Process for Institutions of Purely Public Charity
All institutions of purely public charity must apply for exemption.

When reviewing the application, all six requirements should be met, unless the organization is able to provide reasonable justification for failing to meet the second, third, or fifth requirement.

If a charitable organization is able to provide evidence of reasonable justification for failing to meet the second, third, or fifth requirement, the assessor should review that documentation before making a determination. If the assessor feels that there is insufficient evidence of reasonable justification, the assessor may allow additional time to produce such evidence. We recommend that the assessor allow for up to 60 days to receive the additional information.

If the assessor denies the original application, or denies an application based on the additional information provided, the assessor should respond in writing, clearly outlining the assessor’s determination for denying exemption. The letter informing the applicant of denial should also include information regarding the taxpayer’s opportunities for appeals. This includes both the formal Tax Court appeal and the advisory review board appeal discussed later in this section.

Applicants are to fill out each section of the application. For the sections pertaining to requirements 2, 3, and 5, there is space for the organization to provide additional information. This is because these factors may not be met in the traditional sense, but there may be reasonable justification for the organization failing to have met them, if the justification provided is reasonable in terms of the charitable goals of the institution.
Applications must be provided to the assessor’s office with the determination letter from the IRS granting status as a 501(c)(3) organization, income and expense statements (such as Federal Form 990), and the Articles of Incorporation. If the applicants do not meet requirements 2, 3, or 5, they may also wish to provide additional documentation outlining why these requirements are not met (or if such documentation is not provided, it may be helpful for the assessor to request this information).

There is also space on the application for the organization to outline uses of the property which are not directly related to the charitable mission of the organization. If there is a substantial use present that is not part of the organization’s charity, the exemption is provided pro rata. For example, if there is a substantial residential use of an otherwise exempt building, but the residential portion is not part of the exempt mission of the institution, that residential portion is not exempt from taxation.

On the following pages, we have included a checklist with notation that you may use when reviewing applications for institutions of purely public charity. If you use this checklist, you should keep it on file with the application for your records.
Optional checklist for determining exemption for institutions of purely public charity

Name of Organization: _______________________________________

Address of Organization:
_________________________________
_________________________________
_________________________________
_________________________________
_________________________________

Date of review: ________________________________________________

Documents provided for review purposes (check all that apply):

☐ The application for exemption;
☐ All supporting documents requested by the assessor or provided by the applicant;
☐ The Federal Form 990 and/or other income and expense statements for the previous three years;
☐ The IRS 501(c)(3) determination letter or substitute;
☐ The Articles of Incorporation;
☐ A detailed description of the organization’s function, outlining why the organization believes it qualifies for property tax exemption

Requirement 1: The stated purpose of the undertaking of the organization is to be helpful to others without immediate expectation of material reward.

Reasoning based on documents/proof provided (e.g. 501(c)(3) determination letter):
____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

Requirement met?
☐ Yes
☐ No
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Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part. “Reasonable Justification” may be given for not meeting this requirement.  
Reasoning based on documents/proof provided of either requirement or reasonable justification:
_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

Requirement met?
☐ Yes
☐ No
☐ No, but reasonable justification has been given

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government. “Reasonable justification” may be given for not meeting this requirement. 
Reasoning based on documents/proof provided of either requirement or reasonable justification:
_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

Requirement met?
☐ Yes
☐ No
☐ No, but reasonable justification has been given

Requirement 4: That the income received, including material gifts and donations, must not produce a profit to the institution which is distributed to private interests. 
Reasoning based on documents/proof provided (e.g. 501(c)(3) determination letter):
_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

Requirement met?
☐ Yes
☐ No
Requirement 5: That the beneficiaries of the charity must be unrestricted. If the beneficiaries are restricted, the class of persons to whom the charity is made available must be one having a reasonable relationship to the charitable objectives. “Reasonable justification” may be given for not meeting this requirement.

Reasoning based on documents/proof provided of either requirement or reasonable justification:
_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

Requirement met?
☑ Yes
☑ No
☐ No, but reasonable justification has been given

Requirement 6: That dividends, in form or in substance, or assets upon dissolution are not available to private interests.

Reasoning based on documents/proof provided (e.g. 501(c)(3) determination letter):
_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

Requirement met?
☑ Yes
☑ No
Reviewer’s Opinion

Property is determined to be:

☐ Taxable
☐ Exempt
☐ Pro-rata exempt (explain):

________________________________________________
________________________________________________
________________________________________________
________________________________________________
________________________________________________

☐ Indeterminate, more information needed:

________________________________________________
________________________________________________
________________________________________________
________________________________________________
________________________________________________
Appeal Options
First and foremost, it is the assessor’s duty to determine eligibility for property tax exemption. The assessor must consider all documentation provided by an applicant, including any documentation relating to a “reasonable justification” for failing to meet requirements 2, 3, or 5 previously discussed. The assessor must request any information he or she deems necessary before making this determination.

If an applicant applies for exemption as an institution of purely public charity but does not meet the six requirements and the assessor does not find that reasonable justification applies, there are two options for appeal:
1. an appeal to an advisory review board, which will provide advice to the assessor and/or the organization
2. an appeal to Minnesota Tax Court, which may grant or deny property tax exemption.

Exemption determinations are made only by assessors, the Tax Court, or the Minnesota Supreme Court. Exemptions may not be granted by the Department of Revenue, the advisory review board, local boards of appeal and equalization, county boards of appeal and equalization, or by any other local or county board.

Option 1: Advisory Review Board
The institution or assessor may request through the Department of Revenue that the eligibility for exemption be reviewed by an advisory board comprised of members of the Minnesota Council of Nonprofits, the Department of Revenue, and the Minnesota Association of Assessing Officers.

This review board will assess which factors the institution meets, and will determine if any of the factors are not met, and for which reasonable justification for the failure has not been given.

The review board may also determine whether the facts of the organization would be considered sufficient to either meet the statutory requirements or qualify for reasonable justification.

The review board will issue a written response to the assessor and the institution, outlining its advisory opinion as to whether or not the organization meets the requirements for property tax exemption. This opinion is non-binding, as the review board is not able to formally grant or deny exemption.

The review board will not hear appeals which have not first been reviewed by the assessor. The review board will also not hear appeals which are presented to Minnesota Tax Court prior to or at the same time as being presented to the review board.

Either the assessor or the applicant may request that the board review the application for exemption as an institution of purely public charity.
Commonly Exempted Property Requiring Diligent Assessment

**Review Board Process**

First and foremost, it is the assessor’s duty to determine eligibility for property tax exemption. The assessor must consider all documentation provided by an applicant, including any documentation relating to a “reasonable justification” for failing to meet statutory requirements 2, 3, or 5. The assessor must request any information he or she deems necessary before making this determination.

Either the assessor or the applicant/institution may request that the board review the application for exemption as an institution of purely public charity. The party seeking review should contact the Department of Revenue Property Tax Division via written request. The mailing address for requests is:

Review Board – Institutions of Purely Public Charity  
c/o Property Tax Division  
Mail Station 3340  
600 N. Robert Street  
Saint Paul MN 55146

The written review requests must be accompanied with all documentation appropriate to the organization’s application. This includes, but is not limited to:

- The application for exemption;
- All supporting documents requested by the assessor or provided by the applicant;
- The Federal Form 990 and/or other income and expense statements for the three previous years;
- The IRS 501(c)(3) determination letter or substitute;
- The Articles of Incorporation;
- A detailed description of the organization’s function, outlining why the organization believes it qualifies for property tax exemption;
- The assessor’s letter of denial, explaining the reasoning for the assessor’s decision (if any);
- Aerial photos of the property and/or a building diagram/site plan, if available.

*We ask that the applicant (assessor or organization) please not staple the documents prior to sending, and please avoid the use of post-its or other attached notes. The documents are electronically scanned for distribution and staples, paper clips, and post-its will have to be removed prior to scanning.* Using staples in particular damages the documents and makes scanning difficult.

The Department of Revenue organizes the meetings and disseminates all of the documentation for the institution(s) to be reviewed. The board generally meets every two to three months to discuss and review requests.

Each member group has one “vote” for purposes of determining exemption eligibility. The members may bring along one or two additional field experts (e.g. an attorney) if necessary to provide input or
further information to the review board. The assessor and the applicant are not asked to appear in person before the board.

The board reviews the organization’s documents and determines whether the organization meets the six statutory requirements for exemption.

The board has a history of determining that if an organization is exempt by the Internal Revenue Service as a 501(c)(3) nonprofit, then the organization meets statutory requirements 1, 4, and 6. The board then focuses on requirements 2, 3, and 5. The organization may be determined to meet or not meet any of those requirements, or the organization may be determined to not meet one of those requirements but have reasonable justification for failure to do so.

The board also determines whether the property meets the traditional understanding that ownership, use, and necessity of ownership are the three key elements in determining exemption. Absence of any of the three elements would likely disqualify a property from exemption unless specifically allowed by law. For example, a property may be owned by an exempt institution, but if it is not used for that institution’s stated mission and purposes, exemption would be denied.

An informal opinion is issued by the board within 60 days of a meeting. Again, this opinion is not binding on the assessor. Minnesota Tax Court (or Supreme Court) is the only authority eligible to make exemption determinations which must be acted upon by the assessor. However, the opinions of the board are to be carefully considered by the assessor when making a determination whether to follow the board’s advice regarding acceptance or denial for exemption as an institution of purely public charity.

The review board is neither required nor funded by legislation. Board members serve voluntarily and are not reimbursed by the state for travel or other expenses. Property Tax Division staff schedule and organize the meetings, share organizations’ documentation, records the final decision of the review board, and communicates the board’s decision with the institution(s) seeking a review.

**Option 2: Minnesota Tax Court**
The applicant may appeal its tax exempt status to Minnesota Tax Court. The deadline for appealing to Tax Court is April 30 of the year in which taxes become payable. The deadline is statutory and is not subject to change even if the property owner has applied for an informal appeal to the review board.

The decision of the Tax Court is official for property tax purposes. Tax Court appeal information can be found online at [www.taxcourt.state.mn.us](http://www.taxcourt.state.mn.us).
Commonly Exempted Property Requiring Diligent Assessment

General Agreements and Common Discussions of the Review Board

Membership fees that provide the “member” with market value goods or services are generally not considered donations. In other words, a membership fee which provides a return of something of material value is not considered a donation, but is more similar to a fee-for-service. However, in some cases, the membership “fee” is greater than the value of goods or services received for membership. The amount of that membership fee that exceeds the amount of goods or services received may be considered a donation (organizations are able to lay out for members which portion of their fee/donation is considered an exempt donation – the portion of the fee that exceeds the return).

For example, a non-profit radio station may host a “membership drive” as fundraising. “Members” of the public radio station may receive some goods or services for being a member, but in general the membership fee/donation exceeds the value of those goods or services. The portion of the fee/donation that exceeds the goods or services received would be considered a donation for purposes of property tax exemption determinations.

The use of the property must fulfill the organization’s mission. This is part of the umbrella requirement that for any property tax exemption, property must be owned by a qualifying organization, used for that organization’s purposes, and ownership of the property must be reasonably necessary to fulfill the organization’s mission.

Bare land owned by an organization, for example, may not be exempted unless there is a clear use of the property that fulfills the mission of the organization (e.g., bare land that is used for camping by a youth camping organization).

If the property use changes to a mission-based use, exemption eligibility may be reconsidered.

In the case of the lease, how does the tenant use the property? Does the tenant’s use coincide with the mission of the owner organization? The board has not developed a bright-line test on how tenant/owner relationships must coincide for property tax purposes.

We do know that if a nonprofit leases a portion of its property to a for-profit organization, the leased portion is taxable. However, if a nonprofit leases a portion of its property to another nonprofit, the lease is not necessarily taxable, but the review board would ask for much more information about the tenant’s use of the property, the lease fee, etc.

In general, the lessee organization needs to meet the same statutory standards for property tax exemption on its own merits in order to qualify. We would also recommend that assessors get as much additional information as possible for their own purposes, as well.

Who is benefiting from the property? While there are no requirements for “who benefits?” there have been discussions regarding cases where it has been unclear whether anyone benefits, whether anyone other than members benefit, and whether a good or service is provided that anyone “needs”.
In general, the expectation is that qualifying organizations would primarily benefit the public, with incidental private benefit not disqualifying a property from exemption.

However, a property that primarily benefits private interests with only incidental public interests would be questionable in terms of qualifying for property tax exemption. This is another instance where it is helpful to both the assessor and the review board if the organization is able to clearly outline who is benefitting from the good or service provided. [Please note that this is only in cases of properties seeking to qualify under clause 3 that do not alleviate burdens or responsibilities that would otherwise be borne by the government.]

Primary Statutory References: 272.02, subd. 7
Leasing Exempt Property
Whenever property that is exempt from property tax is leased, the exemption is put at risk because the property is not being used for the purpose for which the exemption was originally granted.

Remember, the exemption was granted based on ownership, use (by the owner) for an exempt purpose, and necessity of ownership to accomplish the stated purpose of the exempt organization.

Generally, the property is taxable under Minnesota Statutes, section 272.01 if the property is used by a private entity for profit, or under section 273.19 if the property is held under a lease for a term of at least one year (can be on a for profit or non-profit basis). There are some exceptions provided in each of these sections. Please consult the statute for the most up to date information. Some of the most common exempt leased-property situations are discussed on the following pages.

Primary Statutory References: 272.01; 273.19

Leased Publicly-Owned Land
In 2008, the department issued a bulletin regarding the assessment practices surrounding the valuation, classification, and taxation of property owned by either the United States [managed by the Bureau of Land Management (BLM)] or the State of Minnesota [managed by the Minnesota Department of Natural Resources (DNR) and individual counties] and leased to private individuals, usually for periods of 10 or 20 years.

In 2010, the Minnesota Legislature made changes to Minnesota Statutes, section 272.0213 which allows land leased from the federal government to be exempted without a county board resolution. However, the improvements continue to remain taxable to the lessee of the site.

The department recommends that assessors continue to review all property records for the federal, state, county, and city leases that are subject to personal property taxes.

- For federal and state lands leased by the DNR under Minnesota Statutes, section 92.46 as public campgrounds, the land is exempt but the improvements are subject to tax based on the value of the improvements only.
- For county and city lands, and state-owned tax-forfeited land, the land and improvements must be valued as if the lessee actually owns the land and must be taxed accordingly.

State Land Leases
The Minnesota DNR leases some hunting cabins to individual property owners. In addition, several counties and cities own properties that they lease to individuals for recreational
purposes. Finally, some counties lease state-owned tax-forfeited land for recreational purposes under Minnesota Statutes, section 282.04.

The DNR’s authority to enter into and manage these leases is found in section 92.46. This section provides that certain state lands may be designated as public campgrounds and leased for cottage and camp purposes with an annual lease payment equal to 5 percent of the appraised value of the land only.

Minnesota Statutes, section 272.02, subdivision 18, exempts section 92.46 land from taxation even if the land is leased to a private party. However, any improvements to the land are valued and taxed by the assessor. The tax is considered a personal property tax (a tax against the person) and the tax statement is sent to the lessee.

Only DNR lands leased under section 92.46 are exempt. Any other state leases are subject to the same rules as federal land.

**Federal Land Leases**

There are several hundred parcels of property owned by the United States in the Chippewa and Superior National Forests that are managed by the Bureau of Land Management (BLM) and are leased to private individuals for recreational purposes. Typically, these are lakeshore properties.

The process for leasing and managing these parcels is governed by federal law. There are restrictions on how the properties can be improved by the lessees. Generally, the main structure cannot exceed a given square footage and height. Decking may not exceed a given square footage, and the garage or storage area is also restricted. The lease excludes a strip of some feet from the high water mark that is retained by the federal government for public access.

Lessees are responsible for all improvements including structures, septic systems, electrical service, and road/access and maintenance. Leases are generally for a 20-year period and are usually eligible for renewal, but renewal is not guaranteed. If the lessee terminates the lease or if either party does not renew the lease, the lessee must remove all improvements and restore the property to its natural state.

Federal law requires that the lease payments be set by BLM at 5 percent of the appraised value of the land. The BLM must appraise the properties every 10 years and adjust the annual payments according to the appraised value. The lease then adds a Cost of Living Adjustment (COLA) for each of the succeeding nine years.

Beginning with the 2010 assessment for taxes payable in 2011, lands owned by the federal government and rented for non-commercial seasonal-recreational or non-commercial seasonal residential recreational use are exempt from taxation including the taxes imposed under section 273.19. No county board resolution is necessary for this exemption.
Commonly Exempted Property Requiring Diligent Assessment

**Taxation of Land Leases**
Beginning with the 2008 assessment, county boards may, by resolution, elect to exempt from taxation, including the tax imposed under section 273.19, qualified lands. Qualified lands include those that are:

1. Owned by a county, city, town, or the state; 
2. Rented by the entity for non-commercial seasonal recreational or noncommercial seasonal recreational residential use; and 
3. Rented as specified in #2 above and were exempt from taxation for the 2007 assessment for property taxes payable in 2008.

This means if the leases were not exempt for the 2007 assessment, they are not eligible to be exempt for 2008 and beyond.

Lands owned by the federal government and rented for non-commercial seasonal recreational or non-commercial seasonal residential recreational use are exempt from taxation, including the tax imposed under section 273.19.

Primary Statutory References: 272.01; 273.19; 272.0213; 92.46,

**Charter Schools**
Minnesota Statutes, section 272.02, subdivision 3 exempts all public schools from property tax. However, charter schools, while being public schools, rarely own the property where the charter school is located. Rather, they will often lease the property from another entity. The space may be leased from a private entity, a public or private non-profit entity, a school district, or a unit of government.

Minnesota Statutes, section 272.02, subdivision 42 outlines the requirements for a property leased to a school district or a charter school to be granted property tax exemption.

Property owned by an exempt entity leased to a charter school
If the owner of the property is not the charter school operating at the property, the owner must satisfy the new requirements for exemption under Minnesota Statutes, section 272.02, subdivision 42, paragraph (b) to qualify for property tax exemption.

Under this new paragraph, property owned by a not-for-profit entity other than the charter school may qualify for exemption if the statutory requirements are met. (See M.S. 272.02, subdivision 42, paragraph [b].)

- The lease must be for at least 12 consecutive months.
- The property must be owned by one of the following:
  - a 501(c)(2) or (3) non-profit
  - a private school district, college, or university
  - a private academy, college, university, or seminary of learning
Commonly Exempted Property Requiring Diligent Assessment

- a church
- the state or a political subdivision of the state

- The charter school must provide one of the following:
  - Direct k-12 instruction
  - Special education for disabled children
  - Administrative services directly related to the educational program at that site.

- The lease must provide the charter school with the exclusive right to use the property during the lease period (except for lease arrangements that allow shared use by the charter school and a school, state, subdivision of the state, or a church).

Provisions that allow the property to be used for adult basic education, community education programs, and preschool and early childhood family education do not apply to these exemptions for property leased to charter schools.

**Property owned by a private, for-profit entity leased to a school district**

Under that legislation, no changes were made to M.S. 272.02, subdivision 42, paragraph (a). This paragraph now reads:

“(a) Property that is leased or rented to a school district is exempt from taxation if it meets the following requirements:
(1) the lease must be for a period of at least 12 consecutive months;
(2) the terms of the lease must require the school district to pay a nominal consideration for use of the building;
(3) the school district must use the property to provide direct instruction in any grade from kindergarten through grade 12; special education for disabled children; adult basic education as described in section 124D.52; preschool and early childhood family education; or community education programs, including provision of administrative services directly related to the educational program at that site; and
(4) the lease must provide that the school district has the exclusive use of the property during the lease period.”

The Department of Revenue has interpreted “nominal” on various occasions to mean something less than the cost to break even, or something that is small in comparison to what might properly be expected. We maintain this definition of a nominal fee for properties leased to school districts.

As always, the lease to the school district must be for a period of at least twelve consecutive months, and the school must provide direct education in any grade K-12 and/or special education for disabled children.

The property may also be used to provide adult basic education as described in Minnesota Statutes, section 124D.52, preschool and early childhood family education or community education programs, and provide administrative services directly related to the educational program at that site. The lease must provide the school district exclusive use of the property during the lease period.

Primary Statutory References: 272.02, subdivisions 3 and 42
Leased Airplane Hangars
In the past, there has been significant confusion regarding the tax status of airplane hangars. As a result, we developed the following chart which summarizes the different types of ownership situations, uses, tax statuses, and classifications.

The chart assumes that hangars leased for personal aircraft storage are leased for a term of at least one year as they are taxable under section 273.19. This includes any agreement that gives the tenant the use of the property for a term of one year or more, including any future renewal periods that are at the option of the tenant.

The commercial-use hangars are taxable under section 272.01 as property made available to and used by a for-profit business whether by lease or otherwise.

For purposes of these exemptions, it is our opinion that an “aviation-related business” means a business engaged in providing aviation goods, services, or facilities to the airport or general public. It is our understanding that, in some situations, a business leasing a hangar may provide delivery and transportation services via aircraft. While these businesses consume aviation goods, services, and facilities, they are not providing such services based on what we understand. The business provided in those situations is air commerce, but not necessarily aviation-related business as we understand for purposes of the exemptions provided in Minnesota Statutes.

As another example, if the lessees had a subsidiary that operated a non-exclusive jet-fuel dispensing facility at an airport, that operation may be considered aviation-related business. The onus is on the taxpayer to prove eligibility for property tax exemption.

Note: if the property is leased by an aviation-related business located on an airport owned or operated by a town or a city with a population under 50,000, it is exempt under section 272.01, even if that business is conducted for profit.

Primary Statutory References: 272.01, 273.19
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<table>
<thead>
<tr>
<th>Who Owns the Hangar?</th>
<th>What is the Population of the City?</th>
<th>How is the Hangar Used?</th>
<th>Is the LAND Taxable or Exempt?</th>
<th>Is the HANGAR Taxable or Exempt?</th>
<th>What is the Classification?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government Entity</td>
<td>Less than 50,000</td>
<td>Leased to or used by Private Individual for Personal Aircraft Storage</td>
<td>Exempt</td>
<td>Exempt</td>
<td>NA</td>
</tr>
<tr>
<td>Government Entity</td>
<td>Less than 50,000</td>
<td>Leased to or used by Private Individual for Aviation-Related Business including fixed base operator, or providing aviation related goods or services</td>
<td>Exempt</td>
<td>Exempt</td>
<td>NA</td>
</tr>
<tr>
<td>Government Entity</td>
<td>Less than 50,000</td>
<td>Leased to or used by Private Individual for Commercial Business Use</td>
<td>Taxable as personal property</td>
<td>Taxable as personal property</td>
<td>Class 3a Commercial</td>
</tr>
<tr>
<td>Government Entity</td>
<td>More than 50,000 or owned by MAC</td>
<td>Leased to or used by Private Individual for Personal Aircraft Storage</td>
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<td>Class 3a Commercial</td>
</tr>
<tr>
<td>Private Party</td>
<td>Less than 50,000</td>
<td>Used by private individual for Personal Aircraft Storage</td>
<td>Exempt</td>
<td>Taxable as personal property</td>
<td>Class 4c(7)</td>
</tr>
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<td>More than 50,000 or owned by MAC</td>
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<td>More or Less than 50,000 or owned by MAC</td>
<td>Used for Commercial Business</td>
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<td>Taxable as personal property</td>
<td>Class 3a Commercial</td>
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</tbody>
</table>
Billboards, Cell Antennae/Towers, and Communications Antennae/Towers

For purposes of this section, a “site” may include land, but may also include a rooftop, steeple, wall, water tower, etc.

1. Billboard structures, cell antenna/tower structures, and other communication tower structures are exempt
   a) Billboards, along with the supporting framework and superstructure are exempt from ad valorem property tax as business equipment.
   b) Cell antennae/towers and communication towers are also exempt as equipment.

2. Billboard and cell/communication antenna/tower sites are taxable
   The site that billboards, cell antennae/towers, and other communication antennae/towers are located on are taxable. A sub-record may be created for the site, but the site is still taxable real estate. If the owner of the site is an exempt entity (e.g. the state of Minnesota), then the land is taxable in personam to the lessee of the site.

   A site can include another structure. For example, a cell array may be located on a high-rise building. The cell array is exempt, but the high-rise building is still taxable.

3. Classification of billboard and cell antenna/tower sites
   a) Because classification is based on the actual use of a property, our opinion is the appropriate classification for billboard sites should be 3a commercial property.
   b) For cell and other communication antennae/towers, the site should be classified as 3a commercial property.

4. Valuation of billboard and cell/communication sites
   a) For billboards, valuation should reflect the highest and best use of the site, consider market rents, and the location of the billboard site. For example, a billboard in a low traffic area may only be able to command minimal rents and the use may be only incidental. It may be appropriate to value that site no differently from the surrounding sites. However, a billboard located on a heavy-traffic highway area may generate significant income for the site that should be recognized when valuing the property.
   b) For cell and communication antenna/tower sites, the value should be based on the income approach and reflect a capitalization of the annual market rent payments the site would command.

When valuing the billboard or cell/communication sites, we recommend using a gross income multiplier (GIM). Annual market income is multiplied by the GIM to establish a value for those site rights. A GIM is usually established by identifying and verifying sales of similar properties, establishing the annual gross income, and dividing the sale price by the
gross income to determine the GIM. Assessors will need to gather and verify all necessary
data for their counties. Income data, applicable multipliers, and sale prices will vary
depending on the location of the billboard or cellular antenna and the details of the lease so
verification of income data is very important. This market is dominated by regional and
national players and any sale data may include multiple properties. As with other income
producing properties, the income used in any valuation model should be market rent.

It is possible that a value could be derived from a supportable rate such as dollars per traffic
count or through direct capitalization if expenses are verified and cap rates can be derived.
However, for uniformity, we are recommending the use of a GIM.

5. Creating a separate parcel identification (PID) for a billboard or cell/communication site
If an easement is recorded for site use rights for billboards or antenna sites, a separate PID
for that easement’s legal description may be created. *This is only for cases in which the
easement is for someone other than the property owner.* The PID is treated as real property,
and the taxes are the responsibility of the easement holder; delinquency or forfeiture
proceedings would result if that easement owner did not pay his or her taxes on that legally
described site right. The easement PID could forfeit if taxes were unpaid (and the holder of
the underlying land title would have first rights to repurchase the easement right). The
property taxes assessed to the easement are *in rem* (against the easement) rather than *in
personam* (against the owner of easement rights).
Types of Exempt Properties

Personal Property
In general, most personal property is exempt from property tax in Minnesota. Personal property equipment court cases are discussed in the Court Cases section of this module.

However, the following personal property is taxable:
- personal property which is part of an electric generation, transmission, or distribution system, a pipeline system transporting or distributing water, gas, crude oil, or petroleum products, mains and pipes used in the distribution of hot or chilled water, or steam for heating or cooling buildings and structures;
- railroad docks and wharves which are part of the operating property of a railroad company as defined in section 270.80;
- personal property as defined in section 272.03, subdivision 2, clause (3) [all improvements upon land the fee of which is vested in the United States, and all improvements upon land the title to which is vested in any corporation whose property is not subject to the same mode and rule of taxation as other property];
- leasehold or other personal property interests which are taxed pursuant to section 272.01, subd. 2 [exempt property used by a private entity for profit]; section 273.124, subd. 7 [buildings located on leased land]; or section 273.19, subd. 1 [exempt property held under a lease for at least a year]; or any other law providing the property is taxable as if the lessee or user were the fee owner;
- manufactured homes and sectional structures, including storage sheds, decks, and similar removable improvements constructed on the site of a manufactured home, sectional structure, park trailer, or travel trailer held as inventory by a licensed or limited dealer as inventory (as provided in section 273.125, subd. 8, paragraph [f]); and
- flight property as defined in section 270.071.

*For further information on manufactured homes, please see Module 2- Valuation*

Types of Exempt Public Properties
Per Minnesota Statutes, section 272.02 the following types of public property are exempted from property taxes:
- Public burial grounds (used specifically as such) [see “Private Cemeteries” below]
- Public schoolhouses [see “Education Institutions” below]
- Public hospitals
- Public property used exclusively for public purposes
Types of Exempt Properties

Much of this exemption law stems from Article X, Section 1 of the Minnesota Constitution, which states:

“public burying grounds, public school houses, public hospitals, academies, colleges, universities, all seminaries of learning, all churches, church property, houses of worship, institutions of purely public charity, and public property used exclusively for any public purpose, shall be exempt from taxation.”

Primary Statutory References: 272.02, subd. 2, 3, 4, 5, 6 and Minnesota Constitution, Article X

Property Managed by a Housing Redevelopment Authority or Public Housing Agency
Any property that is under the direct management and control of, but not owned by, a housing redevelopment authority or public housing agency, and is used in a manner authorized and contemplated by sections 469.001-469.046, and for which the authority or agency is eligible for assistance payments under federal law, is public property used for essential public and governmental purposes, and the property and the authority or agency is exempt from all taxes and special assessments of the city, the county, the state, or any political subdivision of the state in the same manner as property referred to in section 469.040, subdivision 1.

Payments in lieu of taxes for the property shall remain as provided in section 272.68 or 469.040, subdivision 3.

Primary Statutory References: 272.026, 272.68; Chapter 469

Private Cemeteries
All property owned by private cemeteries owned and managed by religious corporations, or corporations solely owned and controlled by and in the interest of any religious denomination is exempt. The parameters for exemption are:

- private cemeteries up to 100 acres for individuals; or
- up to 300 acres for cemeteries owned and managed by religious corporations.

Cemeteries may not be exempted if they are owned by a corporation, association, partnership, proprietorship or other organization unless no pecuniary gain is available to its shareholders and no dividends or pecuniary remuneration are paid directly or indirectly to its shareholders or members.

Private cemeteries, along with any entity requesting property tax exemption, must be used for the purposes which would grant it exemption. In other words, private cemeteries must be used for burial or plots, and no other commercial enterprises, to be granted exemption.

Primary Statutory References: 272.02, subd. 58; 307.09
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Types of Exempt Properties

Educational Institutions
All academies, colleges, universities, and all seminaries of learning are exempt, even private educational institutions which may be operated for profit. However, to meet the exemption requirements, the curriculum must parallel that of a public education institution. Cosmetology schools, barber colleges, dancing academies, and riding schools, for example, are not exempted.

The department has issued opinions on organizations that lease space to educational institutions for education purposes. In such a scenario, we rely on the concurrency of ownership and use. In a situation such as this, if the property were not owned by the educational institution, it is not exempt under these guidelines. The institution which owns the property would need to prove to the assessor whether they qualify for exemption under one of the other provisions.

The Minnesota Supreme Court decided in State v. Northwestern Preparatory School, 1957 (83 N.W.2d 242) that for purposes of meeting exemption requirements as a “seminary of learning,” an educational institution must meet the following three guidelines:
1. The institution is truly of an “educational” nature.
2. The institution provides at least part of the educational training that would otherwise have to be provided by publicly-supported institutions.
3. The public schools do, or would, give credit for educational credits earned at the institution.

Primary Statutory References: 272.02, subd. 5

Property Leased to School Districts
Property leased or rented to a school district for a period of at least 12 consecutive months may be exempt from property taxes if it also meets the following criteria:
- The terms of the lease must require the school district to pay a nominal consideration for use of the building;
- The school district must use the property to provide direct instruction for any grade kindergarten through 12, special education for disabled children, adult basic education, preschool and early childhood family education, or community education programs; and
- The lease must provide the school district with exclusive use of the property for the lease period.

The department has defined “nominal” rent as something less than the cost to break even.

Property that is leased or rented to a charter school may be exempt from property taxes if it meets all of the following requirements:
- The lease is for a period of at least 12 consecutive months;
- The property owned by a non-profit corporation or association exempt from federal income tax under section 501(c)(2) or (3) of the Internal Revenue Code, a public school district, college, or university, a private academy, college, university, or seminary of learning, a church, the state or a political subdivision of the state;
Types of Exempt Properties

- The charter school must use the property to provide direct instruction in any K-12 grade, special education for disabled children, or administrative services directly related to the educational program at that site; and
- Except for lease provisions which allow for the shared use of the property by the charter school and another public or private school, the charter school and a church, or the charter school and the state or a political subdivision of the state, the lease must provide that the charter school has the exclusive right to use the property during the lease period.

More information on charter school exemptions is covered in a previous section.

Primary Statutory References: 272.02, subd. 42

**Certain School District Property, Not Exempt**

Property owned, leased, or used by any public elementary or secondary school district for a home, residence, or lodging house for any teacher, instructor, administrator, and any property owned by any public school district which is leased to any person or organization for a nonpublic purpose for one year or more (pursuant to Minnesota Statutes, section 123B.51, subdivision 4) shall not be included in the exemption provided to other types of school district or educational property.

Primary Statutory References: 272.02, subd. 36

**Certain Hospital Property, Not Exempt**

Property owned, leased by, or loaned to a hospital and used principally by that hospital as a recreational or rest area for employee, administrators, or medical personnel shall not be included in the exemptions provided to other publicly available hospital property. As a rule, clinics are also ineligible for exemption (although in some extenuating circumstances, it may be prudent to examine the operations of the clinic to see if it may qualify for exemption under other scenarios, such as an institution of purely public charity).

The Department of Revenue has also issued opinions where an exempt hospital began constructing a clinic which would be taxable. The department advised that the property under construction be taxable, as its intended use was taxable and it was not being used for the purposes of the exempted hospital.

Primary Statutory References: 272.02, subd. 37
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Types of Exempt Properties

Ice Arenas; Baseball Parks
Real and personal property owned and operated by a non-profit 501(c)(3) organization is exempt if it is used
1. primarily for an ice arena or ice rink and used primarily for youth and high school programs; or
2. primarily used as a baseball park by amateur baseball players

The baseball park includes parking facilities and land necessary to the use of the baseball park. Any use of the property in any manner different from its use as a baseball park will not be considered. Baseball parks are still subject to special assessments levied by a political subdivision under Minnesota Laws, Chapter 429.

The necessity of use also applies to ice arenas. For example, a city owned a hockey arena which was exempt from taxes. However, a small portion of the building was leased for sales of sports equipment. That portion of the building used by individuals for retail sale of sports equipment was not eligible for property tax exemption and was to be taxed as personal property to the lessees as provided under Minnesota Statutes, section 272.01, subdivision 2.

It is important to note the 501(c)(3) status of the owning organization. The Department of Revenue has issued opinions in cases such as a Lion’s Club owning a ball park. Since the Lion’s Club operates as a 501(c)(2) organization (a title holding corporation for exempt organizations), a ballpark owned by it would not be eligible for exemption under this provision.

Primary Statutory References: 272.02, subd. 25

Municipal Recreation Facilities
Any and all properties acquired and used, whether under lease or otherwise, by a city that are declared to be public property exclusively used for a public purpose and as such are exempt from taxation. However, if that property is subleased to any private individual, association, or corporation in connection with a business conducted for profit and not for purely public purposes, for a term of three or more years, the exemption is nullified.

Primary Statutory References: 272.02, subd. 62

Emergency Shelters for Victims of Domestic Abuse
Properties used in a continuous program to provide emergency shelter for victims of domestic abuse are exempt, provided the organization that owns and operates the shelter is a 501(c)(3) non-profit organization as determined by the IRS.

Primary Statutory References: 272.02, subd. 13
Types of Exempt Properties

Nursing homes
A nursing home licensed under Minnesota Statutes, section 144A.02 or a boarding care home certified as a nursing facility under title 19 of the Social Security Act that is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code is exempt from property taxation if the nursing home or boarding care home either:

1. is certified to participate in the medical assistance program under title 19 of the Social Security Act; or
2. certifies to the Commissioner of Revenue that it does not discharge residents due to the inability to pay.

Title 19 of the Social Security Act refers to the Medicare and Medicaid programs.

Nursing homes used to be exempt as institutions of purely public charity. However, clarifying legislation in 2009 led some nursing home groups to believe that they might be ineligible for exemption as institutions of purely public charity. Legislature determined that it would be prudent to create a separate statutory exemption for nursing home facilities that did not discharge residents based on their inability to pay.

The Department of Revenue has created a form which nursing homes may use to apply for the exemption and certify either that they participate in medical assistance programs under title 19 of the SSA or that they do not discharge residents due to inability to pay. Nursing homes will not need to provide anything directly to the Department of Revenue; rather the department will be able to audit these forms for certification at the county level.

Primary Statutory References: 272.02, subd. 90

Property of Senior Citizens’ Groups (Local Option)
The governing body of a municipality may elect to exempt property in its jurisdiction owned and operated by a senior citizen group or association of groups. The senior citizens group or association must limit its membership to persons age 55 or older and must be organized for pleasure, recreation, and other non-profit purposes. No part of the net earnings of said group or association may benefit any private shareholder(s). The property may be used as a clubhouse, meeting facility, or recreational facility.

The property may not be used for residential purposes on either a temporary or permanent basis and may not exceed one acre in size.

The governing body of a municipality in which such a property is located must approve this exemption.

Primary Statutory References: 272.02, subd. 14
Types of Exempt Properties

**Children's Homes**
Personal and real property owned by a corporation formed under Minnesota Statutes, section 317A.907 is exempt. Corporations organized under this statute may be used for the following purposes:

1. securing homes for orphaned, homeless, abandoned, neglected, or mistreated children; or
2. establishing and maintaining homes for those children.

Primary Statutory References: 272.02, subd. 75

**Transitional Housing Facilities**
Transitional housing facilities may be exempted provided they meet the following requirements:

1. It provides temporary housing for individuals, couples, or families.
2. It has the purpose of reuniting families and enabling parents or individuals to obtain self-sufficiency, advance their education, get job training, or become employed in jobs that provide a living wage.
3. It provides support services such as child care, work readiness training, and career development counseling; and a self-sufficiency program with periodic monitoring of each resident’s progress in completing the program’s goals.
4. It provides services to a resident of the facility for at least three months but no longer than three years, except residents enrolled in an educational or vocational institution or job training program. These residents may receive services during the time they are enrolled but in no event longer than four years.
5. It is owned and operated under lease from a unit of government or governmental agency under a property disposition program and operated by one or more organizations exempt from federal income tax as a 501(c)(3).

Primary Statutory References: 272.02, subd. 20

**Agricultural Historical Society Property**
Properties owned by a non-profit charitable or educational organization qualifying for status as a 501(c)(3) organization may be exempted if it meets the following criteria:

1. The property is used primarily for storing and exhibiting tools, equipment, and artifacts useful in providing an understanding of local or regional agricultural history. (Primary use is determined each year based on the number of days the property is used solely for storage and exhibition purposes);
2. The property is limited to a maximum of 20 acres per owner per county, but includes the land and any taxable structures, fixtures, and equipment on the land;
3. The property is not used for a revenue-producing activity for more than ten days in each calendar year; and
4. The property is not used for residential purposes on either a temporary or permanent basis.
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Types of Exempt Properties

An example of an agricultural historical society property which has been granted exemption is a threshing society.

It is necessary for the organization to be devoted to “charitable or educational” purposes as stated above. The Department of Revenue has advised denying exemption to various threshing societies which were not deemed to meet the requirements that they be devoted to charitable/educational uses.

The Department of Revenue has also advised against exempting an agricultural historical society property in which the property was only used for an exempt purpose for a few days throughout the year. When that organization opened to the public with free admission every weekend from Memorial Day through Labor Day, the primary use of the property was deemed to be for a tax-exempt purpose. In that scenario, the assessor was advised to review financial information and other factors to ascertain whether the organization could be exempted from property taxes.

Primary Statutory References: 272.02, subd. 49

Wetlands

Wetlands are exempt in the following scenarios:

1. Public waters wetlands. "Public waters wetlands" means all types 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, that are ten or more acres in size in unincorporated areas or 2-1/2 or more acres in incorporated areas.

2. Land which is mostly under water which produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage, and grains (except wild rice). Minnesota Statutes, section 272.02, subdivision 11 states this:

   "...land which is mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice..."Wetlands" under clauses (i) and (ii) include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands, but do not include woody swamps containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms."

3. Land in a wetland preservation area (under Minnesota Statutes, section 103F.612 to 103F.616).

Wetlands qualifying under clauses 1 and 2 include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands, but do not include woody swamps.
Types of Exempt Properties

containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms.

Exemption of wetlands from taxation does not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership of the wetlands.

Types 3, 4, and 5 wetlands of 10 acres or more are designated with a “W” on the map filed in the county auditor’s, recorder’s, or zoning administrator’s office by the Department of Natural Resources (DNR) as part of the Waters Inventory Program. (Protected waters, which are different from wetlands and not eligible for exemption, are designated with a “P”.)

There are two classification methods used to determine if a property should receive the wetland exemption:
1. The Circular 39 system developed by the U. S. Fish and Wildlife Service in 1956; and

The Cowardin method was used to identify wetlands on the copy of the United States Fish & Wildlife map which you provided to us. The Circular 39 method was used to identify wetlands on the Waters Inventory Map.

The law clearly requires that the wetlands be a type 3, 4, or 5 wetlands using the Circular 39 method. The soil and water conservation district for each county works with the Minnesota DNR Waters, Water Management Section, in determining if property qualifies for the wetland exemption and may be a helpful resource to assessors.

It is important to note that if it were determined that part of a property were a type 3, 4, or 5 wetlands using the Circular 39 method, only the wetland portion of the property would be exempt—the remainder of the property would be valued and taxed in the normal manner.

Primary Statutory References: 272.02, subd. 11

Native Prairie
The Commissioner of the Department of Natural Resources (DNR) shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which these lands are located. These certified native prairie lands shall be exempted from taxation. Pasture land used for livestock grazing purposes shall not be considered native prairie for exemption purposes.

If the assessor receives application for exemption for which the commissioner of the DNR has not notified the assessor, the assessor shall refer the application to the DNR. The DNR shall notify the assessor within 30 days as to whether the land is native prairie and thereby eligible for exemption. Typically, the DNR has stated that to qualify as native prairie, a tract of private property must:
Types of Exempt Properties

1. never have been plowed;
2. not be in use as pasture (haying is allowed);
3. be at least five acres (smaller tracts with important rare species habitat or other significant prairie features may qualify);
4. be mostly native prairie vegetation.

In addition, the tract must not have been severely altered by:
1. plowing, heavy grazing, or seeding to non-native grasses or legumes
2. spraying with large amounts of herbicides

Exemption of native prairie land in this section shall not grant the public any additional or greater right of access to the native prairie or diminish any right of ownership to it.

Primary Statutory References: 272.02, subd. 12

Government Property; Lease or Installment Purchases
Real property acquired by a home rule charter city, statutory city, county, town or school district under a lease purchase agreement or an installment purchase contract during the term of the lease purchase agreement is exempt as long as, and to the extent that, the property is used by the jurisdiction and is devoted to a public use. It may not be subleased to any private individual or organization in connection with a business or enterprise operated for profit.

Primary Statutory References: 272.02, subd. 30

Business Incubator Property
Property owned by a 501(c)(3) non-profit organization that is intended to be used as a business incubator in a high-unemployment county, is exempt. A “business incubator” is defined in statute as a facility used for the development of nonretail business, offering access to equipment, space, services, and advice to the tenant businesses, for the purpose of encouraging economic development, diversification, and job creation in the area serviced by the organization. “High-unemployment County” is defined as a county that had an average annual unemployment rate of 7.9 percent or higher in 1997. Property qualifying under this subdivision is limited to no more than two contiguous parcels and structures that do not exceed in the aggregate 40,000 square feet. This exemption expires after taxes payable in 2016.

Primary Statutory References: 272.02, subd. 31

Unfinished sale or rental projects
If a building is to be constructed for sale or rent to a contracting party, the building is exempt from taxation as public property exclusively used for a public purpose until the building is first conveyed or first occupied by the lessee, in whole or in part, whichever occurs first, for up to a
Types of Exempt Properties

maximum of four years from the date of issue of bonds or notes for the project. The exemption must be applied for before October 10 of the year of the levy of the first taxes to which the exemption applies.

Primary Statutory References: 272.02, subd. 60

**Residential buildings on temporary sites**
A newly constructed building that is situated on real property is exempt if it meets the following criteria:

1. It is intended for future residential occupancy.
2. It is on a temporary foundation and is intended to be moved.
3. It is not sued as a model or for any other business purposes.
4. It is not connected to any utilities.
5. It is located on land that will not be sold with the building.

The exemption under this subdivision is allowable for only one assessment year after the date of the initial construction of the building.

Primary Statutory References: 272.02, subd. 46

**Modular Homes Used as Models by Dealers**
A modular home is exempt from property taxes if:

1. it is owned by a model home dealer and is located on land owned or leased by that dealer;
2. it is a single-family model home;
3. it is not available for sale and is used exclusively as a model;
4. it is not permanently connected to any utilities except electricity; and
5. it is situated on a temporary foundation.

This exemption is allowable for up to five assessment years after the date it becomes located on the property, provided that the modular home continues to meet all of the criteria each year. The owner of a modular model home must notify the county assessor within 60 days that it has been constructed or located on the property and must again notify the assessor if the modular home ceases to meet any of the criteria. If more than one modular home is constructed or situated on a property, the owner must notify the assessor within 60 days for each of the models placed on the property.

This subdivision defines a “modular home” as a building or structural unit that has been wholly or partially and substantially manufactured or constructed at an off-site location to be wholly or partially assembled on-site as a single-family dwelling. Construction of the modular home must comply with applicable standards adopted in Minnesota Rules authorized under Minnesota Statutes, chapter 16B. A modular home does not include a structure subject to the requirements of the
Types of Exempt Properties

National Manufactured Home Construction and Safety Standards Act of 1974 or prefabricated buildings, as defined in Minnesota Statutes, section 327.31, subdivision 6.

Primary Statutory References: 272.02, subd. 85

Comprehensive Health Association
All property owned by a Comprehensive Health Association as formed under the guidelines Minnesota Statutes, section 62E.10 is exempt.

Primary Statutory References: 272.02, subd. 57

Satellite Broadcasting Facilities
The following property is exempt if approved by the governing body of the municipality in which the property is located, and if construction commenced after June 30, 1983:

a. a “direct satellite broadcasting facility” operated by a corporation licensed by the Federal Communications Commission to provide direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band; and

b. a “fixed satellite regional or national program service facility” operated by a corporation licensed by the Federal Communications Commission to provide fixed satellite-transmitted regularly scheduled broadcasting services using satellites operating in the 6-ghz band

An exemption provided under this subdivision shall apply for a period not to exceed five years. When a property no longer qualifies for exemption, it shall be placed on the exemption rolls as provided by law (see “Conversion to taxable or exempt uses”).

Before approving a tax exemption under these guidelines, the governing body of a municipality shall provide an opportunity to the county board of commissioners of the county in which the facility is proposed to be located and the members of the school board of the school district in which the facility is proposed to be located to meet with the governing body. The governing body shall provide these boards with its estimate of the fiscal impact of the exemption. The tax exemption shall not be approved until the county board of commissioners has presented its written comment on the proposal to the governing body, or 30 days have passed from the date of transmittal by the governing body to the board of the information on the fiscal impact, whichever comes first.

Primary Statutory References: 272.02, subd. 16
Types of Exempt Properties

**Hot Water Heat; Generation and Distribution Property**
Real and personal property owned and operated by a private, non-profit, 501(c)(3) organization that is used primarily for the generation and distribution of hot water for heating buildings and structures, is exempt.

Primary Statutory References: 272.02, subd. 17

**Wastewater Treatment Systems**
Real property meeting the following criteria may be exempt:
1. It constitutes a wastewater treatment system that
   a. Is constructed by a municipality using public funds
   b. Operated under a state disposal system permit issued by the Minnesota Pollution Control Agency
   c. Applies its effluent to land used as part of an agricultural production;
2. It is located within a municipality of a population of less than 10,000;
3. It is used for treatment of effluent from a private potato processing facility; and
4. It is owned by a municipality and operated by a private entity under agreement with that municipality.

Primary Statutory References: 272.02, subd. 32

**Agricultural Containment Facilities**
Containment tanks, cache bins, and that portion of the structure needed for the containment facility used to confine agricultural chemicals as required by the Commissioner of Agriculture are exempt.

Without distorting the natural context of the subdivision, we parse out the different aspects of this subdivision for purposes of determining exemption eligibility. They are:

- Physical items
  - a. Containment tanks
  - b. Cache basins
  - c. That portion of the structure needed for the containment facility

The **physical items** must be part of a facility used to confine **agricultural chemicals**.

Agricultural chemicals are:
- Pesticides (MS 18D.01, subd. 3)
- Fertilizers (MS 18D.01, subd. 3)

The **physical items** are part of a containment facility required under MS 18B or 18C:
- 18B-Pesticide control statute
- 18C-Fertilizer, Soil Amendment, and Plant Amendment statute
As one would suspect, the need for clarity surrounds the third bullet of the physical items listed above ("portion of the structure needed for the containment facility") and results in this question being asked most frequently: Does the exemption include roofs and walls?

Neither a storage nor a loading area for agricultural chemicals is required by law or rule to have a permanent roof, if the structure has a large enough cache basin, and other safeguards are used.

However, a building’s design may include a roof for any number of containment-related functional and economic reasons. For example, a roof may allow the cache basin to be smaller (MR 1505.3080). It may be employed primarily to decrease corrosion and weathering of primary containers, or fixtures and equipment necessary to manage spills and prevent releases (MR 1505.3090). A roof may eliminate the need for a security fence around the facility (MR1505.3060, Subpart 5; 1505.3080). Therefore, if a containment facility includes a confinement structure, and that structure has a roof, the roof sheltering the chemicals is included in the exemption.

Under Minnesota Law, the phrase in the exemption statute, “portion of the structure needed for the containment facility…,” encompasses both portions of the structure that are absolutely necessary to the facility, and those portions reasonably necessary for the facility.

For the same reasons, a wall or portion of a wall of a storage or loading area is exempt, even if the wall or portion of the wall is not part of a dike or cache basin. However, as with most exemptions, if there are significant and substantial portions of the structure primarily devoted to another, non-exempt use such as office space, storage facilities, garage space, or any other use not specific to the containment facility, those portions are taxable unless some other provision applies.

For purposes of this subdivision the exemption does not apply to any portion of the land.

Any facility storing an agricultural chemical which does not have a containment system as required by the commissioner of agriculture is not just in violation of MS 18B and MS 18C, but then that facility is also fully taxable.

Primary Statutory References: 272.02, subd. 23

Manure pits
Manure pits and appurtenances, which may include slatted floors and pipes, installed or operated in accordance with a permit, order, or certification of compliance issued by the Minnesota Pollution Control Agency (MPCA) are exempt. The exemption shall continue for as long as the permit, order, or certificate issued by the MPCA remains in effect.
As always, the actual use of the property is necessary to determine exemption eligibility. The Department of Revenue has issued an opinion relating to a manure pit under a hog barn. The department determined that the hog barn was not exempt from property taxes, as the primary use of the property was still as a hog barn. The presence of the manure pit did not automatically allow for an exemption.

Primary Statutory References: 272.02, subd. 28

**Monosloped Roofs**

Single-pitched monosloped (skillion) roofs over manure storage areas or feedlots intended to prevent runoff may be exempt. Only the roofs are eligible for exemption; sidewalls or other improvements do not qualify for exemption. To be eligible for exemption, the roof must prevent runoff.

Some of the concern regarding the monosloped roof property tax exemption may relate to a lack of understanding the characteristics of a monosloped roof. A monosloped roof is more commonly known as a skillion roof in other parts of the country and the world. A skillion roof is generally defined as single pitched roof without a ridge or peak.

Assessors should consult with the Minnesota Pollution Control Agency if they are unsure as to whether a monosloped roof would meet these requirements. The Minnesota Pollution Control Agency (MPCA), or some delegated counties, maintains a list of registered feedlots. This information will be shared with each county assessor annually to aid in your identification of the feedlots.

Manure storage areas are where animal manure or process wastewaters are stored or processed. They can be a short-term stockpile in which the manure must be removed and land-applied within one year of the date when the stockpile was formed. Short-term sites do not need a permit if the owner is not the owner of the feedlot. A permanent stockpile allows for storage for over a year. Construction of permanent sites containing manure from 300 to 999 animal units requires a construction short form permit. A NPDES/SDS permit is required if the site contains manure from 1,000 or more animal units. Any permitting information will be shared with each county assessor annually to aid in your identification of the manure storage areas. The permitting and registration information will be distributed on or around July 1 of each year to coincide with the taxable-to-exempt conversion date.

In order to qualify for this specific exemption, a construction/site/use test must be met:

- Construction – structure must be a monosloped (single-pitch) roof without a ridge or peak;
- Site – roof must be over a feedlot (with a current MPCA or county registration) or a manure storage area (also with a current permit or registration); and
- Use – must actually be in place to prevent runoff.
Types of Exempt Properties

When using the construction/site/use test, there are some additional guidelines we feel would be helpful when determining qualification for exemption. The following are additional guidelines assessors should take into consideration:

**Construction Characteristics**
- A roof with more than one slope goes beyond the restrictions for the statutory exemptions and is thus taxable. A solar panel slope is considered a roof component and therefore making a roof with a sloped solar panel a multi pitched roof and taxable.
- An improvement with walls is considered a *structure* and not a roof, making it along with the roof taxable. Even though a structure may have a single-sloped roof, it is nonetheless a *building* which performs a shelter function and we believe it goes beyond what the legislation had envisioned with this exemption. The exemption is only for roofs, and not full structures or buildings.

**Site Requirements**
If the area underneath the monosloped roof does not meet one of the following definitions for feedlots or manure storage area, it would be taxable:
- Feedlots are part of livestock operations that confine animals in such a manner that manure accumulates and vegetation cannot be maintained.
- Manure storage areas are where animal manure or process wastewaters are stored or processed.

**Use Requirements**
The monosloped roof must prevent runoff in order to qualify for exemption. The assessor should verify that runoff is being prevented by the roof.

Assessors should adhere to a strict and narrow interpretation of the statute. This coincides with the interpretation for other exemptions. Remember, taxation is the rule and exemption is the exception and should be strictly construed. This will allow for more consistent and uniform administration statewide. The following information is most helpful to keep in mind when assessing monosloped roofs:
- Assessors should use the literal definition for a monosloped roof. It is a single-pitched roof, also called a skillion roof, and does not have a ridge or peak.
- Only monosloped roofs over feedlots or manure storage areas are eligible for exemption. Assessors should verify this requirement, either through proof of registration/permit for the feedlot or the manure storage area.
- Assessors should consult with the county’s feedlot official or the MPCA if they have any questions regarding the permitting or actual use of a feedlot or manure storage area.
- Assessors should consider the purpose of the monosloped roof; it must prevent runoff in order to qualify for property tax exemption.
- Assessors may only exempt the monosloped roof if it meets all requirements of this new legislation.
Types of Exempt Properties

- Only the monosloped roof and support structure qualify for the exemption to the extent it meets the three requirements. Sidewalls or other improvements do not qualify for exemption.

Primary Statutory References: 272.02, subd. 87

**Cooperative Farming Agreements**

Minnesota Statutes, section 97A.135, exempts cooperative farming agreements. On any public hunting, game refuge, wildlife management area, or scientific and natural area lands, the Commissioner of the Department of Natural Resources may enter into written cooperative farming agreements on a sharecrop basis, without competitive bidding, for the purpose of wildlife and plant management. Cooperative farming agreements may also be used to allow pasturing of livestock. The agreements may provide for the bartering of a share of any crop, produced from these lands, for services or products that will enhance or benefit the management of state lands for plant and animal species.

Primary Statutory References: 97A.135

**Economic Development; Public Purpose**

The holding of property by a political subdivision of the state for later resale and economic development purposes shall be considered a public purpose in terms of exemption for properties used for public purposes as described above. This shall not exceed a period of nine years, except that for property acquired after January 1, 2000 and before December 31, 2010 and located in a city, or property located in a city with a population under 20,000 located outside the metro area, the period must not exceed fifteen years.

The governing body which acquires the property shall certify to the city or county assessor whether the property is held for economic development purposes or housing purposes, or whether it meets the conditions of Minnesota statutes, section 469.174, subdivision 10 (redevelopment district).

If the property is acquired for economic development purposes and buildings or other improvements are constructed after acquisition if the property, and if more than one-half of the floor space of the buildings or improvements are available for lease to or use by a private individual or entity; the provisions of this exemption shall not apply to the property.

This shall not create an exemption from Minnesota laws regarding the taxation of or for payments in lieu of taxes for publicly held property which is leased, loaned, or otherwise made available for use by a private person (M.S. 272.01, subd. 2; M.S. 272.68; M.S. 273.19; and M.S. 469.040, subd. 3).

Primary Statutory References: 272.02, subd. 39
Types of Exempt Properties

Property of Volunteer Fire Departments
Minnesota Statutes, section 272.021 also exempts property of volunteer fire departments. This includes property of any volunteer fire department used exclusively for fire prevention and protection. This ownership and use designates the property as public property used for essential public and governmental purposes. They are exempt from all taxes and special assessments of the city, county, state, or any political subdivision.

Primary Statutory References: 272.021

Leased Municipality-Owned Property
Minnesota Statutes, section 471.191, provides that school district or city-owned recreational property may retain their exempt status even if they are managed by private individuals, associations, or corporations where the entity is for-profit or non-profit. Such recreational property includes marinas, golf courses, concert halls, skating rinks, swimming pools, athletic fields, museums, and other facilities for athletic or cultural participation. The lands and building may retain exemption, as well as the related parking facilities.

For example, a marina owned by the city of St. Paul, managed by a private management company, provided retail sales of boats. The Department of Revenue understands such a property to be exempt provided it meets the statutory requirements that “such property is devoted to said purposes and is not subleased to any private individual, association, or corporation in connection with a business conducted for profit, for a term of three or more years.”

Primary Statutory References: 471.191

Certain Low-Rent Public Housing
Minnesota Statutes, section 469.012 provides for property tax exemption for some low-rent public housing institutions that received financial assistance under the United States Housing Act of 1937 or successor federal legislation. The governing body that created the Housing and Redevelopment Authority (HRA) that created such low-rent public housing must make agreement with such an institution to provide for an ad valorem real and personal property tax exemption.

Property of HRAs is considered to be public property used for public purposes and may be exempt as such.

However, such property may still be liable for payments in lieu of taxes (PILT). After a qualifying housing project or housing development project becomes occupied in whole or in part, an authority must file by April 15 of each year a statement with the assessor which indicates the aggregate shelter rentals of that project collected during the preceding calendar year. Unless a greater amount has been previously agreed upon, 5 percent of the shelter rentals are charged to the HRA as a service charge for the services and facilities provided to the
Types of Exempt Properties

project. The service charge cannot exceed what the amount of the property taxes would have been.

Primary Statutory References: 272.02, subd. 57, 469.040

Indian Lands Held in Trust
Federal law holds that Indian tribal property is exempt from taxation. The State of Minnesota, an instrumentality of the federal government, is bound by these laws. Further, Minnesota Statutes, section 272.01, subdivision 1 explicitly exempts Indian lands from property subject to taxation. Lands and structures located on Indian reservations shall be exempt from property taxes, provided the land is held in trust. For anyone living on Indian lands and owning the land in fee, the property is taxable. Indian lands should still be assessed and listed on the exempt property abstract. Indian lands are not handled differently than non-Indian lands in terms of the July 1 cutoff date for taxable/exempt status.

Primary Statutory References: 272.01, subd. 3, para. (d)

Railroad Wye Connections
Any real or personal property of a railroad wye connection, including the track, ties, ballast, switch gear, and related improvements, is exempt if it meets all of the following:
1. is publicly owned;
2. is funded, in whole or in part, by state grants;
3. is located within the metropolitan area as defined in section 473.121, subdivision 2;
4. includes a single track segment that is no longer than 2,500 feet in length;
5. connects intersecting rail lines; and
6. was constructed after January 1, 2009.

Although not specifically limited, this exemption is targeted to a connection in New Brighton (Ramsey County).

Primary Statutory References: 272.02, subd. 91

Property used in mining subject to net proceeds tax
This provision grants an exemption from property tax for property used for mining that is subject to the net proceeds tax in section 298.015. This affirms a provision in section 273.11, subdivision 1. The exemption applies only after mining, quarrying, producing, or refining has started. The exemption includes lands, and all real and personal property used in mining, quarrying, producing, or refining ores, minerals, or metals. The exemption applies for each year that an individual is subject to the tax under section 298.015 (the net proceeds tax on mining).

Primary Statutory References: 272.02, subd. 97
Limited Applicability Special Exemptions

Property Used to Provide Computing Resources to the University of Minnesota
Real and personal property (including leasehold or other personal property interests) is exempt if it is owned and operated by a corporation of which more than 50 percent of the total voting power of the stock of the corporation is owned collectively by:

1. the Board of Regents of the University of Minnesota.
2. the University of Minnesota Foundation (an organization exempt from taxation as a 501(c)(3) organization).
3. a non-profit corporation organized under Minnesota Laws, Chapter 317A, which by its articles of incorporation is prohibited from providing pecuniary gain to any person or entity other than the regents of the University of Minnesota.

The property must be primarily used to manage or provide goods, services, or facilities utilizing or relating to large-scale advanced scientific computing resources to the regents of the University of Minnesota and others.

Primary Statutory References: 272.02, subd. 21

Superior National Forest; Recreation Property for Use by Disabled Veterans
Real and personal property located in the Superior National Forest which is owned or leased and operated by a non-profit 501(c)(3) organization may be exempted if it is used primarily to provide recreational opportunities for disabled veterans and their families. This exemption only applies to Cook, Lake, and St. Louis Counties.

Primary Statutory References: 272.02, subd. 27

Western Lake Superior Sanitary Board
All property owned, leased, controlled, used or occupied for public, governmental, and municipal purposes by the Western Lake Superior Sanitary Board is exempt as provided in Minnesota Statutes, section 458D.23.

Primary Statutory References: 272.02, subd. 59

Pedestrian Systems, Public Parking Structures
The pedestrian skyway system, underground pedestrian concourse, the people mover system, and publicly owned parking structures are exempt from property taxes.

Primary Statutory References: 272.02, subd. 61
Limited Applicability Special Exemptions

**Housing and Redevelopment Authority, Tribal Housing, and Other Housing Authority Property**
Property owned by a housing and redevelopment authority organized using the criteria of Minnesota Statutes, Chapter 469, or by a designated housing authority described in section 469.040, subdivision 5; section 469.042 is exempt from property taxes.

Primary Statutory References: 272.02, subd. 76

**Property of Regional Rail Authority**
Property of regional rail authority as defined in Minnesota Laws, Chapter 398A is exempt from property taxes.

Primary Statutory References: 272.02, subd. 78; M.S. 398A.05

**Spirit Mountain Recreation Area Authority**
Property owned by the Spirit Mountain Recreation Area Authority is exempt from property taxes.

Primary Statutory References: 272.02, subd. 79

**Certain Recreational Property for Disabled Veterans**
Real and personal property is exempt from taxation if it is located in a metropolitan county with a population of less than 500,000 according to the 2000 federal census, and owned or leased and operated by a non-profit organization, and primarily used to provide recreational opportunities for disabled veterans and their families. This provision specifically pertains to the Disabled Veterans Rest Camp located on Big Marine Lake in Washington County.

Primary Statutory References: 272.02, subd. 81

**Property Subject to Taconite Production Tax or Net Proceeds Tax**
Real and personal property described in Minnesota Statutes, section 298.25 is exempt to the extent the tax on taconite and iron sulphides under section 298.24 is described in section 298.25 as being in lieu of other taxes on such property. The exemption applies to each year that the tax under section 298.24 is payable with respect to such property. Deposits of mineral, metal, or energy resources the mining of which is subject to taxation under section 298.015 are exempt. Ore docks are not eligible for such exemption.

Primary Statutory References: 272.02, subd. 73
**Apprenticeship Training Facilities**

Apprenticeship training facilities may be exempt from property taxes for all or a portion of the building used exclusively for a state-approved apprenticeship program through the Minnesota Department of Labor and Industry if:

1. it is owned and operated by a non-profit corporation or non-profit trust;
2. the program participants receive no compensation; and
3. it is located:
   a. in the Minneapolis and Saint Paul standard metropolitan statistical area as determined by the 2000 federal census;
   b. in a city outside of the Minneapolis and Saint Paul standard metropolitan statistical area that has a population of 7,400 or greater according to the most recent federal census; or
   c. in a township that has a population greater than 2,000 but less than 3,000 determined by the 2000 federal census and the building was previously used by a school and was exempt for taxes payable in 2010.

Use of the property for advanced skills training of incumbent workers does not disqualify the property for the exemption under this subdivision. This exemption includes up to five acres of the land on which the building is located and associated parking areas on that land, except that if the building meets the requirements of 3c above (located in a qualifying township), then the exemption includes up to 10 acres of land on which the building is located and associated parking areas on that land. If a parking area associated with the facility is used for the purposes of the facility and for other purposes, a portion of the parking area shall be exempt in proportion to the square footage of the facility used for purposes of apprenticeship training.

Primary Statutory References: 272.02, subd. 86

**Fergus Falls Historical Zone**

Property located in the area of the campus of the former state regional treatment center in the city of Fergus Falls, including the five buildings and associated land that were acquired by the city prior to January 1, 2007, is exempt from ad valorem taxes levied under chapter 275.

The exemption applies for 15 calendar years from the date specified by resolution of the governing body of the city of Fergus Falls. For the final three assessment years of the duration limit, the exemption applies to the following percentages of estimated market value of the property:

1. for the third to the last assessment year of the duration, 75 percent;
2. for the second to the last assessment year of the duration, 50 percent; and
3. for the last assessment year of the duration, 25 percent.

Primary Statutory References: 272.02, subd. 88
Limited Applicability Special Exemptions

**St. Louis County Fairgrounds**
Land and buildings used exclusively for county or community fairgrounds in St. Louis County as provided in Minnesota Statutes, sections 383C.164, 383C.161, and 383C.16 are exempt from property taxes.

Primary Statutory References: 272.02, subd. 95

**Certain Elderly Assisted Living Facilities**

**Saint Paul**
Elderly assisted living facility property is defined in Minnesota Statutes, section 273.13, subd. 25a as “residential real estate containing more than one unit” along with “community rooms, lounges, activity rooms, and related facilities, designed to meet the housing, health, and financial security needs of the elderly.” For state licensure purposes, an elderly assisted living facility is a housing with services establishment, as defined in section 144D.01, subd. 4 that either (i) directly, or through contract, offers to persons residing in the housing with services establishment home care services, as defined in section 144A.43, subd. 3, or (ii) is licensed to offer to such persons services as an assisted living home care provider, as defined in section 144A.4605, subd. 1.

An elderly living facility may be exempt per Minnesota Statutes, section 272.02, subdivision 66, if it meets the following requirements:

- The facility is located in a city of the first class with a population of more that 350,000;
- The facility is owned by a non-profit corporation organized under Minnesota Laws, Chapter 317A;
- The facility was constructed between January 1, 2002 and June 1, 2003;
- The facility consists of two buildings, which are connected to a church that is exempted from taxation under subdivision 6;
- The land for the facility was donated to the non-profit corporation by the church to which the facility is connected;
- The residents of the facility must be at least 62 years of age or disabled;
- The facility operates an on-site congregate dining program in which participation by residents is mandatory;
- The facility provides assisted living or similar social and physical support services for residents; and
- At least 30 percent of the units of the facility are occupied by persons whose annual income does not exceed 50 percent of the median family income or the area.

A property qualifying based on the above requirements is determined to have met the “necessity of ownership” requirements. Any portion of the property not used for the purposes of the facility and not necessary to the aims of the organization will not be eligible for exemption.

A property qualifying for exemption under this subdivision is exempt for taxes levied in each year or partial year of the term of the facility’s initial permanent financing or 25 years, whichever is later.

Primary Statutory References: 272.02, subd. 66
Limited Applicability Special Exemptions

**Minneapolis**

The first $5,000,000 in market value of an elderly living facility is exempt from taxation if it meets all of the following requirements:

1. the facility consists of no more than 75 living units;
2. the facility is located in a city of the first class with a population of more than 350,000;
3. the facility is owned and operated by a nonprofit corporation organized under chapter 317A;
4. the owner of the facility is an affiliate of entities that own and operate assisted living and skilled nursing facilities that:
   i. are located across a street from the facility;
   ii. are adjacent to a church that is exempt from taxation under subdivision 6;
   iii. include a congregate dining program; and
   iv. provide assisted living or similar social and physical support;
5. the residents of the facility must be:
   i. at least 62 years of age; or
   ii. handicapped;
6. at least 30 percent of the units in the facility are occupied by persons whose annual income does not exceed 50 percent of median family income for the area; and
7. the facility has received approval of street vacation and land use applications from the city in which it is to be located before taxes payable in 2010.

For this exemption, "affiliate" means any entity directly or indirectly controlling or controlled by or under direct or indirect common control with an entity, and "control" means the power to direct management and policies through membership or ownership of voting securities. The exemption provided in this subdivision applies to taxes levied in each year or partial year of the term of the facility's initial permanent financing or 25 years, whichever is later. It was first effective for taxes payable in 2010. This provision was targeted to Catholic Eldercare in Minneapolis.

Primary Statutory References: 272.02, subd. 94

**Certain Property Owned by Indian Tribe**

Certain property located in Minneapolis owned by a federally recognized tribal government is exempt if the property is used for tribal purposes or as an institution of purely public charity (as described in section 272.02, subd. 7). A “tribal purpose” is defined as a public purpose and includes noncommercial tribal government activities. The exemption applies only to property used for non-commercial tribal government purposes. Property that is acquired for single-family housing, market-rate apartments, agriculture, or forestry does not qualify for this exemption. The exemption is limited to no more than two contiguous tax parcels, and the structures must not exceed in aggregate 20,000 square feet. The exemption expires with taxes payable 2024.

Primary Statutory References: 272.02, subd. 98
**Limited Applicability Special Exemptions**

**St. Paul Ballpark [CHS Field]**
A city-owned ballpark in St. Paul that is primarily used by a minor league baseball team (i.e., a ballpark for the St. Paul Saints) is exempt. The ballpark remains subject to special assessments levied for local improvement in amounts proportionate to the special benefit received by the properties from the improvement. No use other than as a ballpark may be considered when determining special benefit received. Additionally, language is included that exempts real or personal property subject to a lease or use agreement between the city and another person for uses related to the operation of the ballpark and related parking facilities. This does not apply to property that is used for residential, business, or commercial development or other purposes different from those necessary to the operation of the ballpark.

Primary Statutory References: Laws 2013, Chapter 143, Article 4, section 41

**Public Entertainment Facility [Target Center]**
Property owned, leased, controlled, used, or occupied by the city of Minneapolis for the primary purpose of providing an arena for a professional basketball team (i.e., Target Center) is exempt. The exemption does not apply to any portion of the facility leased for business purposes unrelated to the operation of the arena, including a restaurant open more than 200 days a year. The property remains subject to special assessments levied for local improvement in amounts proportionate to the special benefit received by the properties from the improvement. No use other than as a professional basketball arena may be considered when determining special benefit received. Additionally, language is included that exempts real or personal property subject to a lease or use agreement between the city and another person for uses related to the operation of the arena and related parking facilities. This does not apply to property that is used for residential, business, or commercial development or other purposes different from those necessary to the operation of the arena.

Primary Statutory References: Laws 2013, Chapter 143, Article 4, section 42
Exemptions Noted Elsewhere

Some property tax exemptions are not contained in Minnesota Statutes, chapter 272, but are listed elsewhere. The Department of Revenue continues to make efforts to identify and define these property tax exemptions for purposes of this administrator’s manual. A brief description of these exemptions follows. Greater detail may be found in the statutes cited:

- Airports (M.S. 360.035)
- St. Louis County schools/ISD 692 (M.S. 383C.48)
- Medical facilities (M.S. 447.47)
- Parking facilities – St. Paul and Minneapolis (M.S. 459.14)
- Personal property leased to the state pursuant to a master lease (M.S. 16A.85)
- Local transit commissions – St. Cloud and Duluth (M.S. 458A.09 and 458A.30)
- Regional railroad authorities (M.S. 389A.05)
- Community corrections facilities (M.S. 401.05)
- County law enforcement facilities (M.S. 641.24)
- Computer and telecommunications service cooperatives for educational services (M.S. 123A.21)
Certain Types of Energy Generation/Distribution Properties

**Hydroelectric/Hydromechanical Power**

Minnesota Statutes, section 272.02, subdivision 15, provides that real and personal property used or to be used primarily for the production of hydroelectric or hydromechanical power on a site owned by the federal government, the state, or a local governmental unit may be exempt from property tax for all years during which the site is developed and operated under terms of a lease or agreement as authorized in Minnesota Statutes, section 103G.535.

Primary Statutory References: 272.02, subd. 15; 103G.535

**Wind Energy Conversion Systems**

All real and personal property of a wind energy conversion system may be exempt from property taxes, except that the land on which the system is located remains taxable. The value of the land on which the system is located shall be valued in the same manner as similar land that has not been improved with a wind energy conversion system, if approved by the county board where the property is located. The land shall be classified based on the most probable use of the property if it were not improved with a wind energy conversion system. In other words, if a wind turbine were located on a productive farmland, the classification of the land upon which the wind turbine rests shall be classified as 2a productive agricultural land.

“Wind energy conversion system” means any device, such as a wind charger, windmill, or wind turbine which converts wind energy to a form of usable energy.

Primary Statutory References: 272.02, subd. 22

**Solar Energy Generating Systems (Solar Panels)**

Personal property of a solar energy-generating system, as defined in section 272.0295 is exempt from property taxes. This includes photovoltaic devices, as defined in Minnesota Statutes, section 216C.06, subdivision 16, installed after January 1, 1992, and used to produce or store electric power. If the real property on which a solar energy generating system is located is used primarily for solar energy production and is subject to the solar energy production tax under section 272.0295, the real property is to be classified as 3a. However, if the real property is not used primarily for solar energy production and is not subject to the production tax, then the real property is classified without regard to the system.

Primary Statutory References: 272.02, subd. 24
**Electric Generation Facilities; Personal Property**

The laws concerning electric generation facilities that qualify for exemption are very static. For the majority of these exemptions, construction must already be completed and therefore new facilities may not qualify; the exceptions are noted below. Additionally, for each of these facilities, the exemption applies only to attached machinery and other personal property. For all except the exemption provided under subdivision 29, the exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility. Lastly, please note that some subdivisions require the electric generation facility to pay Payments in Lieu of Taxes to local jurisdictions (e.g. subdivisions 92 and 93).

Rather than exhaustively describe each unique scenario, we will note that exemptions for electric generation facilities are noted in Minnesota Statutes, section 272.02, in the following subdivisions:

- subdivision 29
- subdivision 33
- subdivision 44
- subdivision 52
- subdivision 55* _an additional 750 megawatts of construction must be commenced before January 1, 2015_
- subdivision 56
- subdivision 68*
- subdivision 69*
- subdivision 70*
- subdivision 71*
- subdivision 84
- subdivision 89* _construction must begin before January 1, 2012_
- subdivision 92* _construction must begin before March 1, 2014_
- subdivision 93* _construction must begin before January 1, 2014_
- subdivision 96* _construction must begin before January 1, 2015_
- subdivision 99 _construction must begin before June 1, 2017_

*Must have resolution or other approval by local governing body for exemption [see specific statutes].
**Biomass Electric Generation Facilities; Personal Property**

For all biomass electric generation facilities, the exemption applies to attached machinery and other personal property.

For all of the following except that provided in subdivision 43, the construction of the facility must have already been completed, and therefore new facilities **do not** qualify.

Biomass electric generation facilities exempted as personal property are noted in the following subdivision of Minnesota Statutes, section 272.02:

- subdivision 43 (waste wood electric generation facility; **does not** include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or facility)
- subdivision 45
- subdivision 47 (poultry litter biomass generation facility)
- subdivision 54
- subdivision 82

**Property Used to Distribute Electricity to Farmers**

Electric power distribution lines and their attachments and appurtenances that are used primarily for supplying electricity to farmers at retail are exempt.

Primary Statutory References: 272.02, subd. 19

**Cogeneration Systems; Certain Property**

Attached machinery and other personal property which is part of a facility containing a cogeneration system may be exempt if the cogeneration system meets the following criteria:

1. The system utilizes natural gas as a primary fuel and the cogenerated steam initially replaces steam generated from existing thermal boilers utilizing coal;
2. The facility developer is selected as a result of a procurement process ordered by the Public Utilities Commission; and
3. Construction of the facility is commenced after July 1, 1994 and before July 1, 1997.

Primary Statutory References: 272.02, subd. 29
Certain Types of Energy Generation/Distribution Property

**Personal Property, Pollution Control**

*Personal Property Used for Pollution Control*

Personal property used primarily for the abatement and control of air, water, or land pollution is exempt to the extent that it is so used, and real property is exempt if it is used primarily for abatement and control of air, water, or land pollution as part of an agricultural operation, as a part of a centralized treatment and recovery facility operating under permit issued by the Minnesota Pollution Control Agency (MPCA), as a wastewater treatment facility and for the treatment, recovery, and stabilization of metals, oils, chemicals water, sludge, or inorganic materials from hazardous industrial wastes, or as part of an electric generation system.

For this, personal property includes ponderous machinery and equipment used in a business or production activity that at common law is considered real property.

Any taxpayer requesting exemption under this subdivision must file application with the commissioner of revenue. The MPCA, upon request by the commissioner of revenue, shall furnish information and advice. The MPCA must include statements as to whether the equipment, device, or real property meets a standard, rule, criteria, guideline, policy, or order of the MPCA, and whether the equipment, device or real property is installed or operated in accordance with it. On determining whether the property qualifies for exemption, the commissioner shall issue an order; and the exemption shall continue as long as the order issued by the commissioner remains in effect.

**Pollution Abatement Property**

Property, including real property, may qualify for exemption under the criteria above (“Personal property used for pollution control”) if the following conditions are met:

1. The property is part of a refuse-derived fuel facility converted from a coal-burning electric generation facility and the property consists of:
   a. Boiler modifications necessary to the efficient handling and burning of refuse-derived fuel and transfer of the heat produced by combustion of the fuel;
   b. Ash handling and storage systems, such as vacuum-pneumatic equipment, conveyors, crushers, and storage buildings to remove, convey, process, and temporarily store bottom and fly ash from the burning of refuse-derived fuel;
   c. Control systems, such as computers, to control the operation of equipment described in these clauses (a) to (d) and other pollution abatement equipment; and
   d. Equipment to monitor emissions into the air and combustion efficiency; or
2. The property is a solid waste resource recovery mass burn facility.

The property must have been constructed and must be operated under a contractual agreement providing for payment, in whole or in part, of the property tax on the property by a political subdivision of the state.

Primary Statutory References: 272.02, subd. 10

Primary Statutory References: 272.02, subd. 41
Exemption Programs

**Job Opportunity Building Zone (JOBZ)**

The 2003 Legislature enacted provisions allowing the creation of up to 10 Job Opportunity Building Zones (JOBZ) and 5 Agricultural Processing Facility Zones (APFZ) in which qualified businesses would be eligible for a variety of tax exemptions including a partial property tax exemption. The JOBZ program is overseen by the Department of Employment and Economic Development (DEED), and is largely maintained by local economic development personnel.

DEED designated 10 Job Opportunity Building Zones and one APFZ in December 2003. There are numerous subzones encompassing nearly 29,000 acres. The zones are established by DEED under Minnesota Statutes, section 469.314. Qualifying businesses in a zone are classified as 3a commercial, industrial, or utility property. Not all commercial businesses in a JOB Zone qualify, only those businesses that are classified under Minnesota Statutes, section 273.13, subdivision 24 (class 3a). Resorts, aircraft hangars, golf courses, and other commercial non-3a property do not qualify for JOBZ benefits. The Department of Revenue has also held that a farmer farming land in a JOB Zone should be assessed personal property taxes; and that assisted living facilities and nursing homes are not qualified businesses.

Businesses who wish to apply for JOBZ benefits must complete a business subsidy agreement, as required under Minnesota Statutes, section 469.313, with the local government unit where the qualifying parcel(s) is (are) located. The business seeking JOBZ exemption must also file application with the county assessor by July 1 and provide a copy of the business subsidy agreement along with it. Minnesota Statutes, section 469.310, subdivision 11, requires that the local government unit consider:

1. how wages compare to the regional industry average;
2. the number of jobs that will be provided relative to overall employment in the community;
3. the economic outlook for the industry the business will engage in;
4. sales that will be generated from outside the state of Minnesota;
5. how the business will build on existing regional strengths or diversify the regional economy;
6. how the business will increase capital investment in the zone; and
7. any other criteria the commissioner [of DEED] deems necessary.

**JOBZ and APFZ - Exemption**

The law provides for a partial tax rate exemption for property that is classified as Class 3a commercial/industrial/utility property and is located in a JOBZ or APFZ. The exemption applies to improvements to real and personal property in a JOB zone. The land is still taxable. The exemption applies to ad valorem taxes, therefore any special assessments or payments in lieu taxes are still assessed against these properties. The exemption does not apply to general obligation debt levies and pre-existing school referenda levies under Minnesota Statutes, section 126C.17. Existing buildings may be in the zone or out of the zone, and only a partial exemption may apply.
Businesses that relocate into a JOB Zone from another area may qualify for JOBZ benefits if they meet the following additional criteria:

1. increase full-time employment in the first full year of operation within the JOB Zone by a minimum of five jobs or 20 percent, whichever is greater, measured relative to the operations that were relocated and maintain the required level of employment for each year the zone designation applies; and
2. enter a binding written agreement with the commissioner [of DEED] that
   a. pledges to meet the requirements of part 1;
   b. provides for repayment of all tax benefits if part 1 is not met during the taxes payable year in which those requirements were not met; and
   c. contains any other conditions the commissioner deems appropriate.

Qualifying businesses must also pay their employees compensation (including benefits) of at least 110 percent of the federal poverty level. Public utility companies and retail businesses are not qualified JOBZ businesses.

July 1 Cutoff Requirements
To meet the July 1 exemption cutoff deadline, qualifying businesses must have a signed business subsidy agreement (or signed relocation agreement) by July 1 to be eligible for that assessment year for taxes payable the following year. The signature date on the business subsidy agreement is to be the date acknowledged by the assessor as the effective date of the agreement. The business must also occupy the property by July 1 of the assessment year to qualify. Simply owning the business by that date does not, on its own, qualify a business. The business subsidy agreement must be provided with the application for JOBZ benefits to the assessor by July 1.

In addition to the signed agreements, the law requires that the property be “occupied” by the qualified business by July 1 of the assessment year. Occupancy is different from ownership. The term occupancy means more than a token occupancy merely to obtain a tax advantage. The occupancy must be actual and substantial and business must be taking place there, or there must at least be substantial preparations for impending operations. It is suggested the assessors monitor JOBZ eligible properties around July 1 of each year to take note of such activity.

Businesses do not need to annually notify the assessor of their status but must notify the assessor immediately if they no longer meet the requirements for JOBZ benefits. Businesses must certify to the Department of Revenue by December 1 of each year whether they are in compliance with the business subsidy agreement. Failure to comply with the terms of the business subsidy agreement will make the business ineligible for JOBZ benefits.

The maximum duration of a zone is 12 years. All zones that were originally set to take effect on January 2, 2004 will therefore expire on December 31, 2015. The last year of property tax exemptions will be the 2015 assessment, for taxes payable in 2016.
Businesses that cease to operate will be required to repay the tax benefits in the taxes payable year in which they cease operations. A business that violates the written business subsidy agreement will also become ineligible for JOBZ benefits.

JOBZ values should be routinely determined by assessors in the same manner as any other property, since only a portion of the property is eligible for a partial tax rate exemption.

For property tax statements, the Department of Revenue advises that “JOBZ” be displayed immediately beneath the property classification, to serve as a flag to warn that values and taxes are affected by the program. The estimated market value should include the JOBZ value. The taxable market value should reflect that fully taxable market value, and exclude the JOBZ value. Additional information concerning tax notices, reporting, etc. is available in the Department of Revenue’s Auditor/Treasurer Manual.

Primary Statutory References: 272.02, subd. 64; Chapter 469
Exemption Programs

**Border City Development Zone Property**
Class 1, 3, 4, and 5 property that is located in a border city development zone and is newly constructed after the zone was designated, including the land that contains the improvements, is exempt from property tax per Minnesota Statutes, section 272.0212, subdivision 2. The exemption is meant to encourage economic development, to revitalize the designated areas, to expand the tax base and economic activity, and to provide job creation, growth, and retention.

A “zone” is a border city development zone designated under Minnesota Statutes, section 469.1731. The following cities are allowed to designate development zones: Breckenridge, Dilworth, East Grand Forks, Moorhead, and Ortonville.

All qualified property in such a zone is exempt to the extent, and for a period up to, the duration provided by the zone designation under M.S. 469.1731 to 469.1735. This exemption is available to a parcel only if the municipality determines that the granting of the tax exemption is necessary to enable a business to expand within a zone or to attract a business to zone.

Property in a zone is not exempt from the following:
- special assessments
- ad valorem property taxes specifically levied for the payment of principal and interest on debt obligations
- all taxes levied by a school district, except equalized school levies under M.S. 273.1398, subdivision 1, paragraph (e)

The city may limit the property tax exemption to a shorter period than the duration of the zone or to a percentage of the property taxes payable, or both. Property exempt under this section is included in the net tax capacity for purposes of computing aids under Minnesota Laws, chapter 477A.

*Primary Statutory References: 272.0212, Chapter 469*
Applicable Court Cases

Many court cases have molded how exemption policies and procedures have developed in terms of assessment practices. When statute is unclear the department often looks to past court cases and Attorney General Opinions for guidance in making administrative interpretations. When doing so, the department cannot depend on a single case where the decision is made based solely on the facts presented in that case. Therefore, the department must look at a variety of cases in order to identify general guidelines. Some examples are listed on the following pages. A more comprehensive guide may be found in Minnesota Statutes Annotated, section 272.02.

Taxation is the Rule

The most intrinsic procedure for assessing properties which may be eligible for exemption comes from Christian Business Men’s Committee of Minneapolis v. State, 1949 (228 Minn. 549, 38 N.W.2d 803), which held that, “Taxation is the rule, and exemption is an exception…so that presumption is that all property is taxable and he who seeks exemption bears burden of proof.” Time and again, the Department of Revenue has also advised that, when exempt status is not apparent to an assessor, the onus is on the taxpayer to provide whatever information necessary to prove that the property is being used for a purpose which would make it eligible for exemption.

An exemption from taxation is a privilege of such high order and is so rarely granted that it can be established or extended only by and according to the reasonable and natural import of clear and explicit language and not by implication or presumption. Ramaley v. City of St. Paul, 1948, 226 Minn. 406, 33 N.W. 2d 19.

When interpreting statutes that exempt property from taxation, the Supreme Court adheres to the proposition that taxation is the general rule and exemption the exception. ILHC of Eagan, LLC v. County of Dakota, 2005, 693 N.W.2d 412.

Administrative officers should not place property in the category of tax-exempt property unless the right to exemption is free from doubt. Op. Atty. Gen. 1930, No. 351, p. 298.d

If there is doubt as to the public charitable nature of a corporation the property should be assessed. Op. Atty. Gen. 414a-10, Mar. 15, 1967.

Basis for Exemption

The basis of tax exemptions is the accomplishment of public purposes and not the favoring of particular persons or corporations at the expense of taxpayers generally. Petition of Bd. Of Foreign Missions of Augustana Synod, 1946, 221 Minn. 536, 22 N.W.2d 642.
Reasonably Necessary
The Minnesota Supreme Court has established a test for determining whether a hospital owned building is entitled to exempt status. This test requires that “to justify exemption it must be established that the property involved is devoted to and reasonably necessary for the accomplishment of the purposes of the institution seeking exemption.” State v. Fairview Hospital Assn., 262 Minn. 184, 187, 114 N.W. 2d 568, 571 (1962).

The reasonable relation of property to accomplishment of the objectives of institution which owns the property, and the identity of those objectives with public welfare, are necessary for all tax exemption. Petition of Bd. Of Foreign Missions of Augustana Synod, 1946, 221 Minn. 536, 22 N.W.2d 642.

Mere fact that association owning land in question is organized under section 306.01 et seq., does not ipso facto render such land exempt from taxation, and the land is so exempt only if it is part of a greater area which as a whole constitutes one cemetery and if the land is essential to such cemetery. Op. Atty. Gen., 414-D-4, Feb. 5, 1946.

A cemetery association’s land platted, dedicated, and held for future use for burial purposes but used presently for agricultural purposes is not exempt from taxation as a “public burying ground.” An intention on the part of cemetery association to use its land in the future for burial of the dead affords no basis for exemption of the land from taxation as a public burying ground, and it is immaterial that present use of land for burial is prevented by city ordinances. State v. Ritschel, 1945, 220 Minn. 578, 20 N.W.2d 673.

Where defendant, a charitable corporation, maintained a hospital and owned a farm from which it derived an annual income applied to the relief of charity patients, but such farm was not part of the curtilage of the hospital, or essential or necessary to operate the same, the farm was not exempt from taxation as real estate. State v. Bishop Seabury Mission, 90 Minn. 96, 95 N.W. 882, distinguished. State v. St. Barnabas Hosp., 1905, 95 Minn. 489, 104 N.W. 551.

Student dormitories and faculty-occupied residences located upon college-owned lands, even though detached from the campus, were devoted to and reasonably necessary for the accomplishment of the institution’s educational purposes, and therefore exempt. State v. Carlton College 154 Minn. 280, 286, 191 N.W. 400, 403.

In exempting from taxation property of churches and charitable institutions, there must be a concurrence of ownership of property by a ‘church’ and use of property for purpose for which church was organized. Ideal Life Church of Lake Elmo v. Washington County, 1981 (301 N.W.2d 308).
Applicable Court Cases

**Pro Rata Exemption**
Where building is owned by charitable or other tax-exempt institution and one substantial part thereof is directly, actually, and exclusively occupied by such institution for purpose, for which it was organized, and another substantial portion thereof is primarily used for revenue by rental to general public, building with grounds thereof is pro rata exempt from taxation and pro rata taxable according to its separate uses. Op. Attty. Gen, 414-D-12, Feb. 25, 1954 (Opinion #364 of 1936 overruled).

In determining whether a portion of a building devoted primarily to a tax exempt use is substantial, what is substantial is a question of fact to be determined in light of a reasonable, natural and practical interpretation of that term. *Christian Business Men’s Committee of Minneapolis v. State*, 1949, 228 Minn. 549, 38 N.W.2d 803.

Where institution of purely public charity was equitable owner of realty under executory contract for deed and occupied basement, second, and third floors for purpose for which it was organized and first floor was primarily used for revenue by rental to general public, building with grounds thereof was pro rata exempt from taxation and pro rata taxable according to separate uses. *Christian Business Men’s Committee of Minneapolis v. State*, 1949, 228 Minn. 549, 38 N.W.2d 803.

**Definition of “Church”**
Where non-profit corporation which was organized by religious society was not subject in any way to control by church body, property owned by corporation was not exempt from ad valorem taxes as church property. *Petition of United Church Homes, Inc.*, 1972, 292 Minn. 323, 195 N.W.2d 411.

Purported religious organization which was organized and operated primarily for motive of tax avoidance by private individuals in control of corporation, had no formally trained or ordained ministry, had no sacraments, rituals, education classes or literature of its own, had no liturgy other than simple meetings resembling mere social gatherings or discussion groups and did not require a belief in any supreme being or other being, and whose doctrine and beliefs were intentionally vague and nonbinding upon its members and whose members freely continued to practice other religions, was not a “church” as such term was used in state’s tax exemption laws. *Ideal Life Church of Lake Elmo v. Washington County*, 1981, 304 N.W.2d 308.

Threshold question in determining whether real property is “church” entitled to tax exemption is whether entity claiming exemption is “church” within meaning of statute. In re Collection of Delinquent Real Property Taxes, *State of MN v. American Fundamentalist Church*, 1995, 530 N.W.2d 200 rehearing denied.
Test for determining whether organization is “church” entitled to tax exemption is subjective one, focusing on sincerity of belief and taking into account evidence on objective issues. In re Collection of Delinquent Real Property Taxes, State of MN v. American Fundamentalist Church, 1995, 530 N.W.2d 200 rehearing denied.

Principal motivation for organizing religious corporation was tax minimization and, therefore, organization was not “church” and, therefore was not entitled to real property tax exemption in view of evidence that most of financial contributions to organization came from individual founder, that most of founder’s income came from taxpayer, that founder was primary beneficiary of organization’s financial actions, and that founder and his wife, who was co-founder, dominated meetings of organization’s board of trustees. In re Collection of Delinquent Real Property Taxes, State of MN v. American Fundamentalist Church, 1995, 530 N.W.2d 200 rehearing denied.

Public Hospitals

A “public hospital,” within statutes granting exemption from taxation was one that was open to public generally and was operated without private profit, but it was not necessary that the hospital be owned by the public, that it dispensed public charity, or rendered its services without charging for them. Village of Hibbing v. Commissioner of Taxation, 1944, 217 Minn. 528, 14 N.W.2d 923.

Community hospital association operating without stockholders and without profit to any individual is a “public hospital” for tax exemption purposes. Fairmont Community Hosp. Ass’n v. State, 1945, 221 Minn. 107, 21 N.W.2d 243.

Hospital owned by individual and operated with intent to make private profit was not exempt from taxation as “public hospital,” notwithstanding there was no profit during year for which taxes were imposed. State v. Browning, 1934, 192 Minn. 25, 255 N.W. 254.

To qualify for property tax exemption as public hospitals, auxiliary facilities must, first of all, be devoted to what it is that public hospital does, and secondly be reasonably necessary to accomplish that purpose; test measures degree to which auxiliary facilities and public hospital are functionally interdependent. Chisago Health Services v. Commissioner of Revenue, 1990, 462 N.W.2d 386.

Medical clinic owned and operated by city was not “public hospital,” though clinic served to generate patients for nearby hospital, where clinic was not the only clinic to furnish patients hospital, and where clinic was not essential to continued existence of hospital. City of Springfield v. Commissioner of Revenue, 1986, 380 N.W.2d 802.

Government payments to hospital under Medicare and Medicaid programs were payments for services rendered, not donations, for purpose of determining extent to which hospital auxiliary facility was supported by donations, and thus qualified for property tax exemption as institution
Applicable Court Cases


Tax Court’s finding that medical clinic owned and operated by city was not “used exclusively for public purpose,” so as to be exempt from state property taxation, was supported by sufficient evidence, though city purchased clinic to insure that city was provided with medical doctors, where physicians used clinic to conduct their private medical practices for fee. *City of Springfield v. Commissioner of Revenue*, 1986, 380 N.W.2d 802.

**Institutions of Purely Public Charity**


In view of the long-standing unchallenged opinion of attorney general of 35 years, ruling that an art gallery was an “institution of purely public charity” and belief that art was not limited to the still arts, real property leased by the T.B. Walker Foundation to the Guthrie Foundation and sublet to the Minn. Theatre Company Foundation was exempt from ad valorem taxation because of Const. Art. 9, sec. 1 [see now, Const. Art. 10, sec. 1] Op.Atty.Gen., 414-d-2, Aug. 22, 1963.

On June 23, 1966, Minnesota Tax Court determined that the (i) T.B. Walker Foundation, Inc. (owner of the site of the first Guthrie Theater); (ii) Tyrone Guthrie Theater Foundation (lessee under a 25 year ground lease); (iii) Minnesota Theater Co. Foundation (sublessee); and (iv) Walker Art Center (licensee) are all institutions of purely public charity, and that the property was used in furtherance of their charitable missions to education people about performance and visual art.

**Educational Institutions**

An education institution may teach a variety of useful accomplishments and yet not be equivalent of a tax exempt academy, college, university, or seminary of learning, and therefore, whenever tax exemption is claimed, it is essential first to determine as a fact question the actual function the institution performs in field of public education as reflected by the basic nature, thoroughness, scope and purpose of educational program which it regularly offers to its students. *State v. Northwestern Preparatory School*, 1957, 249 Minn. 552, 83 N.W.2d 242.

Accomplishment of requisite public purposes necessary to enable seminaries of learning to obtain tax exempt status is that of providing some substantial part of the educational training which otherwise would be furnished by the various publicly supported schools, academies, colleges, and seminaries of learning, and which to such extent, thereby lessen tax burden imposed upon our citizens as result of our public education system. *State v. Northwestern Preparatory School*, 1957, 249 Minn. 552, 83 N.W.2d 242.
Equipment as Personal Property
To be “equipment” and thus exempt from tax on real property, an item must perform functions distinct and different from functions ordinarily performed by buildings and other taxable structures. *Crown CoCo, Inc. v. Commissioner of Revenue*, 1983 336 N.W.2d 272.

A canopy over self-service gasoline pumps served same shelter function as buildings and other structures to extent that it protected persons and items from forces of nature, and was thus “structure” subject to tax on real property, notwithstanding contention that canopy was “equipment” in that it was integral to operation of self-service station. *Crown CoCo, Inc. v. Commissioner of Revenue*, 1983 336 N.W.2d 272.

Such an interpretation was upheld in *Leonard S. Busch v. County of Hennepin*, 1985, in which greenhouse structures were deemed taxable (not “equipment”). Oil tanks were also deemed taxable structures (not “equipment”) under *Barton Enterprises, Inc. v. County of Ramsey*, 1985.

In *KDAL, Inc. v. County of St. Louis*, 1976, the Minnesota Supreme Court upheld the exemption of a television antenna. Here, the court determined that the television tower to support the antenna was essential to the function of the business of the taxpayer (the “functionality” test). It therefore qualified as equipment attached to real property for use in a business or production activity. The framework and superstructure of billboards was deemed exempt in the case of *Skoglund Communications, Inc. v. County of St. Louis*, 1978. The billboard equipment, which was used for business conducted on property where signs were located, was deemed to be exempt equipment essential to the function of the business of the taxpayer. Further, it was understood by the court that the framework for the billboards could serve no other purpose.

One exception to the property tax exemption for equipment is when equipment is incorporated into real property and performs a shelter function. In *Southern Minnesota Beet Sugar Coop v. County of Renville*, 2007 (737 N.W.2d 545), the Supreme Court upheld the definition of taxable real property to include tanks, bins, and silos that had walls, a roof or ceiling, and floors that provided a shelter function. The court noted that the terms “real property” and “equipment” are not mutually exclusive, and therefore property may be considered “equipment” but if that equipment has been attached to or installed in real property, has an exterior shell that provides structural, insulation, or temperature control functions, or provides protection from the elements, the exterior shell is included in the definition of real property for tax purposes. In this specific case, the court found that the involved tanks, bins, and silos had walls, a roof/ceiling, and floors. The court held that the exterior shell performed a structural function of shelter from the elements.