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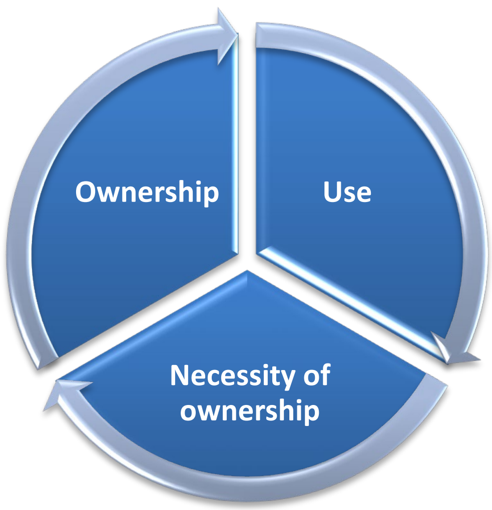
Introduction

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 certain *types of property*, **or** properties *owned by specific organizations*, are exempt from property taxes if they meet certain criteria. There are distinct ways in which a property may qualify. 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.

Introduction

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 causes 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. Each entity should include enough information to help the assessor determine whether 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 2025, 2028, 2031 etc.**

The commissioner of revenue is responsible for determining the types of exempt properties that must file applications and reapplications according to Minnesota Statutes, section 272.025, subdivision 3. To determine which exempt properties are required to only make an initial application and those that are required to reapply every three years, review the Exempt Property Filing Requirements chart located below.

Only properties owned by the state or a political subdivision of the state are not required to file an exemption application, but you may ask for information necessary to grant an exemption. Also, exempt properties that were **not required** to submit an initial application **prior to the 2018 law change**, such as wetlands, are not required to submit a reapplication.

Owners of property that received an order granting a property tax exemption for **pollution control property** must file a statement of exemption **each year by February 15** to continue receiving the exemption. The department administers the property tax exemption for pollution control property. See the department's Pollution Control Exemption webpage for more information.

What information can you request with an application?

The assessor can request 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 would not qualify for exemption.

According to M.S. 272.02 Subd. 35, for property owned or operated by an LLC with a single member, that member shall be treated as the owner or operator for exemptions found in M.S. 272.02, subdivisions 1-33. In those cases, the assessor may request information reasonably necessary to determine if the ownership meets the requirements for exemption. This ability to disregard the entity as owner or operator applies only to those designated subdivisions.

Only the County Assessor may approve applications for exemption, not city assessors. The County Assessor must sign all 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.

How long should you keep the application?

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.

The following retention schedule guidelines should be used for exempt applications:

- It is required that the most current application be kept on file in the assessor's office for as long as the current property owner receives exemption
- If at any time the ownership transfers (via sale or other means), the previous owner's application should be held for 10 years.

Examples of common exemption applications are listed below:

- Property Tax Exemption Application for Property Used for Pollution Control (Form PT-63)
- Property Tax Statement of Exemption for Property Used for Pollution Control (Form PT-64)
- 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

Filing Requirements

What are the filing requirements?

The chart below lists the types of properties required to make initial application and apply every three years. They are listed by title and the associated subdivision in Minnesota Statute 272.02.

M.S. 272.02 Exempt Property Filing Requirements				
Subd.	**Type of Property**	**Initial application only**	**Initial & every 3 years**	**Every year**
2	Public burying grounds	X		
3	Public schoolhouses	X		
4	Public hospitals	X		
5	Education institutions	X		
6	Churches and houses of worship	X		
	Church property		X	
7	Institutions of public charity		X	
8	Property used for public purpose (These are not properties owned by the state or a political subdivision of the state that are not required to file an application)	X		
10	Personal property used for pollution control			X
11	Wetlands	X		
12	Native Prairie	X		
13	Emergency Shelters for victims of domestic abuse		X	
14	Property for Senior Citizen groups	X		
15	Property used to generate hydroelectric or hydromechanical power	X		
16	Satellite broadcasting facilities	X		
17	Hot water heat; generation and distribution		X	
18	State leased lands		X	
19	Property used to distribute electricity to farmers		X	
20	Transitional housing facilities		X	
21	Property used to provide computing resources to U of M		X	
22	Wind energy conversion system	X		
24	Solar energy generating system	X		
25	Ice arenas; baseball parks		X	
27	Superior National Forest; recreational property for use by disabled veterans		X	
28	Manure pits	X		
29	Cogeneration system		X	
30	Government property; lease or installment purchase	X		

Filing Requirements

32	Wastewater treatment systems	X		
39	Economic development; public purpose	X		
41	Pollution abatement property		X	
42	Property leased to schools		X	
46	Residential buildings on temporary sites	X		
49	Agricultural historical society property		X	
57	Comprehensive Health Association	X		
58	Private Cemeteries	X		
59	Western Lake Superior Sanitary Board	X		
60	Unfinished sale or rental projects	X		
61	Pedestrian systems; public parking structures	X		
62	Municipal recreation facilities	X		
64	Job opportunity building zone property	X		
73	Property subject to taconite production tax or net proceeds tax		X	
74	Religious Corporations	X		
75	Children's Homes	X		
76	Housing and redevelopment authority and tribal housing authority property	X		
77	Property of housing and redevelopment authorities	X		
78	Property of regional rail authority	X		
79	Spirit Mountain Recreation Area Authority	X		
81	Certain recreational property for disabled veterans.		X	
85	Modular Homes used as models by dealers	X		
86	Apprenticeship training facilities		X	
87	Monosloped roofs for feedlots and manure storage areas	X		
88	Fergus Falls historical zone	X		
90	Nursing Homes		X	
91	Railroad wye connections	X		
95	St. Louis County fairgrounds		X	
98	Certain property owned by an Indian tribe	X		
101	Certain property owned by an Indian tribe		X	
102	Certain property owned by an Indian tribe		X	
103	Licensed child-care facility		X	
104	Certain property owned by an Indian tribe		X	
105	Certain elderly living facility		X	

Filing Requirements

Below are additional subdivisions listed in M.S.272.02. These types of property are required to make initial application only.

M.S. 272.02 Exempt Property Filing Requirements		
Subd.	Type of Property	Initial Application Only
33	Electric generation facility personal property	X
44	Electric generation facility personal property	X
45	Biomass electrical generation facility; personal property	X
47	Poultry litter biomass generation facility; personal property	X
52	Electric generation facility personal property	X
54	Small biomass electric generation facility; personal property	X
55	Electric generation facility personal property	X
56	Electric generation facility personal property	X
68	Electric generation facility personal property	X
69	Electric generation facility personal property	X
70	Electric generation facility personal property	X
71	Electric generation facility personal property	X
84	Electric generation facility personal property	X
89	Electric generation facility personal property	X
92	Electric generation facility personal property	X
93	Electric generation facility personal property	X
96	Electric generation facility personal property	X
99	Electric generation facility personal property	X
100	Electric generation facility personal property	X

These application requirements are for new claims of exemption applications filed after 2018. The requirement of filing an initial application has not changed, so we recommend having an initial application on file for verification of granting the exemption.

Primary Statutory References: 275.025

Filing Requirements

Conversion to Exempt or Taxable Uses

- Any property that is **exempt** from taxation on January 2 of an assessment year and loses its exemption prior to **July 1** of that year should 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 <u>acquired</u> 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 had 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.

Filing Requirements

- 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.

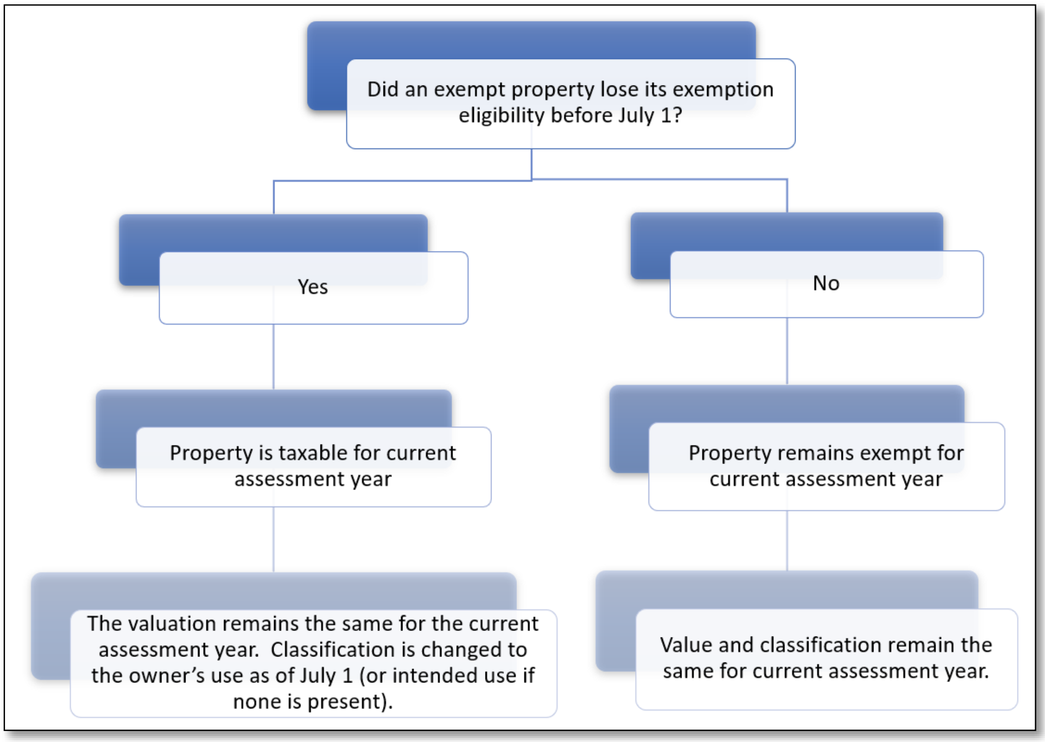
- It is important to note that exemptions may only be granted by the county assessor or by Minnesota Tax Court. They may not be granted by local or county boards of appeal and equalization.

- The flowcharts on the next page may be useful in determining conversion of a property from taxable to exempt and vice versa.

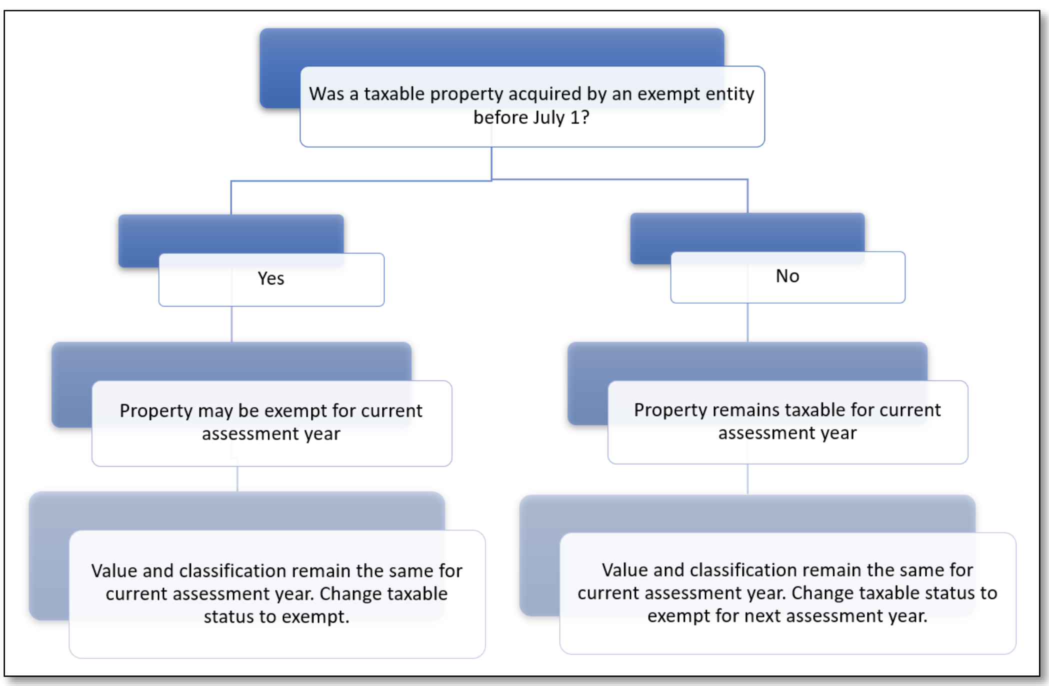
Primary Statutory References: 272.02, subd. 38

Filing Requirements

Conversion of Exempt to Taxable Property Flowchart



Conversion of Taxable to Exempt Property Flowchart



Filing Requirements

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, which is covered below) 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 is entitled to take possession, if paid by the owner, are added to the award. If not paid, they must be paid by the condemning authority.

Taxes lawfully levied cannot be abated. However, this does not require the payment of accrued taxes and unpaid assessments on the acquired property which exceed its fair market value. 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 in payment of such accrued taxes and unpaid assessments.

Property otherwise taxable that is acquired by subdivisions of government must remain taxable until the acquiring authority is by law or by the terms of a purchase agreement entitled to 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 must charge a reasonable rental and pay 30% (or other percentage prescribed by law) of the rent received to the county treasurer. This rent is to be distributed in the same manner as property taxes.

Filing Requirements

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. The authority may also relocate the former occupant to any other property owned by the authority in a project area. The authority may agree with the municipality to make payments in lieu of taxes on said property during such temporary occupancy. If an agreement is reached, 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 its use.

In the case of the Department of Transportation, per M.S. 117.135 Subd. 2 the date of acquisition shall be either the date on which the department enters into a written agreement to purchase the property or, in cases of condemnation, the date of acquisition shall be the date of the award of the court-appointed commissioners; except where the provisions of section 117.042 are exercised and apply.

M.S. 117.042 states that whenever the petitioner shall require title and possession of all or part of the owner's property prior to the filing of an award by the court appointed commissioners, the petitioner must notify the owner of the intent to possess at least 90 days prior to the date on which possession is to be taken. Before taking title and possession the petitioner shall pay to the owner or deposit with the court an amount equal to petitioner's approved appraisal of value. In this case, the date of acquisition will be the date on which the Department of Transportation is entitled to take possession.

Primary Statutory References: 272.68

Listing Exempt Property

Beginning with property tax data reported in 2020, the county auditor must submit the description of each tract of real property that is exempt from taxation by law, along with the name of the owner in PRISM submission 2.

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 must estimate its market value; if the assessor cannot estimate the market value of the land on a per-parcel basis, the assessor must furnish the Commissioner of Revenue with an estimate of the average value per acre of this land within the county.

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 determine the use of the property.

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.)

In 2016 the Minnesota Supreme Court reaffirmed that entities exempt from taxation must still pay special assessments for local improvements. This case, however, went into further review of what constitutes as a special assessment by reviewing a city's annual right-of-way assessment, which funds a wide range of city-wide maintenance services. The court determined that these assessments are a "tax," rather than a fee for service. *(First Baptist Church of St. Paul v. City of St. Paul*, 884 N.W.2d 355 (Minn. 2016)).

Valuing and Classifying Exempt Property

Valuation

Statute provides an exception to the general rule for valuation as it relates to exempt property. Every six years exempt properties are to be revalued, however all exempt values are reported yearly in PRISM submission 2. Therefore, values can remain stagnant until the sixth year. However, values may be adjusted annually on January 2 based on changes to market or property. Exempt properties that are adjusted annually for valuation purposes will allow assessors to respond more appropriately to the market conditions when an exempt property becomes taxable between the January 2 assessment date and July 1. The conversion from taxable to exempt does not allow valuations changes to the values set on January 2. It is important to note that although exempt properties escape taxation, exempt values are used for other property tax related programs such as PILT and Fire Aid.

There are other times when exempt values need to be updated before year six. These include:

Valuing and Classifying Exempt Property

- New construction – when there is new construction on exempt property, assessors are required to add that value to the record in the same manner as taxable property. This requires the assessor to revalue the property for the next assessment year.
- Demolition – like new construction, assessors are required to revalue the property when there is a loss of value.
- Sale of an exempt property – when an exempt property is sold and the new owner is also an exempt entity, the value must be updated based on the market value and reported that way. Do not wait for the sixth year to adjust the value in these situations.
- Dramatic changes to a market/cost schedule – when this situation arises exempt values should reflect those changes for reporting purposes.

Value changes would be identified in one assessment year and the value would be updated for the following assessment year, just like taxable property.

Classification

Classifying a property as "exempt" is not appropriate because the statute does not provide a classification for exempt property. Therefore, assessors should be classifying the exempt property according to its current use. Although some assessment software does not allow a property to be coded with both a classification and an exempt status, all property must be classified according to use on January 2, regardless of its exempt or taxable status. In situations where this is the case the assessor should work with the software vendor to enable this classification entry.

Classifications set by January 2 may only be changed by the assessor after the assessment date in two ways.

The first option is a classification change through the boards of appeal process. It is important to remember that a new owner will also have the right to appeal classification during the Board of Appeal process.

The second option allowed in statute is specific to an exempt property being sold to a non-exempt purchaser by July 1. Minnesota Statutes 272.02 Subd. 38 states: *the classification shall be based* ***upon the use to which the property was put by the purchaser****, or in the event the purchaser has not utilized the property* ***by July 1****,* ***the intended use*** *of the property, determined by the county assessor, based upon all relevant facts.*

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

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.

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

Minnesota Statutes, section 272.0213 allows land leased from the federal government to be exempted, while 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.

Leasing Exempt Property

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.

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.

Taxation of Land Leases

Qualified lands exempt from taxation includes those that are:

1. Owned by a county, city, town, or the state; and
2. Rented by the entity for noncommercial seasonal- recreational, noncommercial seasonal-recreational residential use, or class 1c commercial seasonal-recreational residential use.

Lands owned by the federal government and rented for noncommercial seasonal recreational, noncommercial seasonal-recreational residential, or class 1c commercial seasonal-recreational residential use are exempt from taxation, including the tax imposed under section 273.19.

Primary Statutory References: 272.01; 273.19; 272.0213; 92.46

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.

Churches and houses of worship must file an initial exemption application for the first assessment year they are seeking exemption. Reapplications are not required for churches and houses of worship. All other church property must file an application for exemption every three years. Court cases related to church exemptions are discussed here, as well as in the Court Cases section of this module.

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. Additionally, church property is not exempt 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 or not the property is devoted to and reasonably necessary for accomplishment of church purposes. The Court has granted exemption in a case where a duplex was located 30 feet from a church sanctuary and owned by the church, but one unit was occupied by a part-time janitor in one unit and the other occupied by the director of church music, the church liturgist, and the director of

Christian education at the church. 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). Furthermore, 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.

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

While many different types of property are specifically exempted under Minnesota Statute, property may also be exempt if it is owned and used by an institution of purely public charity. When reviewing an application for property tax exemption, the assessor should determine if the property is specifically exempted in statute before evaluating the application an institution of purely public charity. That is, if a property owned by a 501(c)(3) operates as a domestic violence shelter or nursing home, there are other subdivisions of Minnesota statutes that cover those exemption types.

Requirements and Background

As stated, taxation is the rule and exemption is the exception. 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 used when making these determinations. Absence of any of the three elements would likely disqualify a property from exemption unless specifically allowed by law.

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, the requirements include that, "an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to 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."

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.

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.

In 2009, past factors based on court cases were modified and codified in law. Since then, apart from the requirement of 501(c)(3) tax-exempt status, a qualifying organization must meet all six requirements in 272.02, subdivision 7, 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 burden 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 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.

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.

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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.
- Assessors may 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.

- **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 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

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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 burden 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 burden 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.

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- **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.

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 as explained at the beginning of this module. 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.

Applications must be provided to the assessor's office with:

- Determination letter from the IRS granting status as a 501(c)(3) organization
- Income and expense statements (such as Federal Form 990)
- Articles of Incorporation

Applicants are to fill out each section of the application. There is additional space by requirements 2, 3, and 5 in case the organization wishes to provide reasonable justification for not meeting these requirements or other additional information. 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).

If a charitable organization is able to provide evidence of reasonable justification, 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

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to produce such evidence. We recommend that the assessor allow for up to 60 days to receive the additional 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.

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.

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, keep it on file with the application for your records.

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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):

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

REVIEW OF REQUIREMENTS IN 272.02, Subd. 7:

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

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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
Determination:

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

  ____

  ____

  ____
- ❑ Indeterminate, more information needed:
- ❑ ____

  ____

  ____

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Additional Considerations when Reviewing Institutions of Purely Public Charity for Property Tax Exemption and Historical Cases

Below are some 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.

During the 2025 legislative session, additional language related to IPPCs that provide low-income residential housing was added. Property is not exempt if rental housing is the sole charitable purpose of the property. Instead, the exemption is limited to qualifying charitable organizations where providing rental housing furthers the charitable purpose, but where income-based rental housing is not the sole charitable purpose of the property.

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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.

Leasing Exempt Property

2009 Legislative Survey

A 2009 survey conducted across Minnesota counties and involving several charitable organizations found types of organizations were commonly exempted for property tax purposes.

Note: While these may be commonly exempted in 2009, every assessor must make the determination based on the facts on the specific property they are reviewing. Also keep in mind there has been additional exemptions put into law since 2009. For example, nursing homes used to be exempt as institutions of purely public charity. However, clarifying legislation in 2009 legislature created a separate statutory exemption for nursing home facilities that did not discharge residents based on their inability to pay.

The organizations they found commonly exempted are:

- 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

Historical Court Cases

The following cases were prior to the 2009 legislation:
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.

In *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 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. The Supreme Court found that the organization was eligible for the exemption and 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 generally, explaining 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 did not interpret the court's decision as a change from what had been standard assessment practices. 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.'" In a 2022 case, the court ruled that *Under the Rainbow* Child Care Center qualified for exemption as a seminary of learning. Details on that decision are provided in the *Applicable Court Cases* section at the end of this module.

Primary Statutory References: 272.02, subd. 7

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:

1. reach out to the advisory review board, which will provide non-binding opinion to the assessor and/or the organization or
2. an appeal to Minnesota Tax Court which may grant or deny property tax exemption.

Exemption determinations are made solely by an assessor, Tax Court, or the Minnesota Supreme Court. Exemptions for institutions of purely public charity 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 seeking exemption as an institution of purely public charity, or an assessor may request 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 requirements the institution meets, determine if any are not met, and review any reasonable justification for the failure to meet a requirement.

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

A written response to the assessor and or the institution outlining an advisory opinion will be issued 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 and/or
- are currently being presented to Minnesota Tax Court (or Supreme Court) prior to or at the same time as being presented to the review board.

How to have an institution reviewed by the Advisor Review Board:
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 at proptax.questions@state.mn.us.

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

- Application for exemption
- 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**
- IRS 501(c)(3) determination letter or substitute
- Articles of Incorporation
- A detailed description of the organization's function, outlining why the organization believes it qualifies for property tax exemption
- Assessor's letter of denial, explaining the reasoning for the assessor's decision (if any);
- Department of Revenue opinion (if any)
- Aerial photos of the property and/or a building diagram/site plan, (if available).

The Department of Revenue organizes the meetings and disseminates all the documentation for the institution(s) to be reviewed. The board generally meets every two to three months (or as needed), 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 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 deciding 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 mn.gov/tax-court.

Leasing Exempt Property

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
    - 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:

Leasing Exempt Property

"(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 unless they meet the requirements for exemption contained in section 272.01, subdivision 2. 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.

Leasing Exempt Property

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 unless meeting the requirements for exemption contained in subdivision 2.

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. This would include delivery, transportation, and other similar aviation uses if those services are available to the general public. In the past a commercial entity providing crop dusting services to area farms was found to meet this definition, while a private corporation leasing a hangar to store a private plane used to transport executives of that entity was not.

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.

Chart Assumptions:

- The hangar is located on city-owned airport.
- The hangar is leased for **personal-use** aircraft for a term of at least 1 year.
- If the lease term is less than 1 year, there is a potential for exemption, however lease terms which automatically renew are taxable.

Who Owns the Hangar?	What is the Population of the City?	How is the Hangar Used?	Is the LAND Taxable or Exempt?	Is the HANGAR Taxable or Exempt?	What is the Classification?
Government Entity	50,000 or less	Leased to or used by private entity for storage or repair of personal-use aircraft	Exempt	Exempt	Class 3a/4c(7)*
Government Entity	50,000 or less	Leased to or used by private entity as part of an aviation-related business	Exempt	Exempt	Class 3a Commercial
Government Entity	50,000 or less	Leased to or used by private entity for storage or repair of commercial-use aircraft or for a business purpose which is <u>not</u> aviation-related	Taxable as personal property	Taxable as personal property	Class 3a Commercial

Leasing Exempt Property

		(E.g. Corporate planes)			
Government Entity	More than 50,000 or owned by MAC	Leased to or used by private entity for storage or repair of personal-use aircraft	Taxable as personal property	Taxable as personal property	Class 4c(7)
Government Entity	More than 50,000 or owned by MAC	Leased to or used by private entity as part of an aviation-related business	Taxable as personal property	Taxable as personal property	Class 3a Commercial
Government Entity	More than 50,000 or owned by MAC	Leased to or used by private entity for storage or repair of commercial-use aircraft and business use which is not aviation-related	Taxable as personal property	Taxable as personal property	Class 3a Commercial
Private Entity	50,000 or less	Used by private entity for storage or repair of personal –use aircraft	Exempt	Taxable as personal property	Class 4c(7)
Private Entity	50,000 or less	Used by private entity for part of an aviation-related business	Exempt	Taxable as personal property	Class 3a Commercial
Private Entity	50,000 or less	Used for storage or repair of commercial-use aircraft, and business use which is not aviation-related	Taxable as personal property	Taxable as personal property	Class 3a Commercial
Private Entity	More than 50,000 or owned by MAC	Used by private entity for storage or repair of personal-use aircraft	Taxable as personal property	Taxable as personal property	Class 4c(7)
Private Entity	More than 50,000 or owned by MAC	Used by private entity as part of an aviation-related business	Taxable as personal property	Taxable as personal property	Class 3a Commercial
Private Entity	More than 50,000 or owned by MAC	Used for storage or repair of commercial-use aircraft, and business use which is not aviation-related	Taxable as personal property	Taxable as personal property	Class 3a Commercial

*For row 1, the property would likely be classified as 3a commercial when exempt, but if it became non-exempt it would likely be classified as 4(c)7; class 4(c)7 explicitly states that it cannot be exempt.

Leasing Exempt Property

Primary Statutory References: 272.01, 273.19

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
   a. 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.

   b. 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.

c) 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.

d) 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

a. 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 persona* (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."*

Property exclusively used for public purposes under 272.02, subdivision 8 should not be confused with property owned by the state of Minnesota or a political subdivision thereof that is not required to make application for exemption according to 272.025. Property exclusively used for public purpose and not owned by the state or political subdivision may still qualify for exemption under this subdivision in a case where it is owned by one of the entities identified in section 273.19 **and** that property is leased to the state or political subdivision for a public purpose. An example is found in *Inter-Faith Care Center v. Carlton County*, Dkt. No. 09-CV-11-992 (Minn. Tax. Ct. Apr. 24, 2014), where property owned by a qualifying benevolent society was leased to the state for use as a chemical dependency treatment facility, which qualified as a public purpose due to its participation in the Department of Health's addiction recovery program. Because the exempt property was leased for more than a year to the state, the property was considered for tax purposes to be the property of the state under section 273.19, subd. 1. The tax court then turned to 272.02, subd. 8 to determine that the property was therefore exempt as public property used for a public purpose.

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
Property that is under the direct management and control of a housing redevelopment authority or public housing agency but is not owned by that entity may be eligible for exemption. The property must:

- be used in a manner authorized and contemplated by sections 469.001-469.046
- the authority or agency is eligible for assistance payments under federal law,
- The property is public property that is used for essential public and governmental purposes and

Property qualifying under this section 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

Types of Exempt Properties

Private Cemeteries
All property owned by private cemeteries that are owned and managed by either 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

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

Types of Exempt Properties

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 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;
- 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

Types of Exempt Properties

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

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

Types of Exempt Properties

Municipal Recreation Facilities

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

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

Types of Exempt Properties

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

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 childcare, 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

Types of Exempt Properties

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 40 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.

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 10 or more acres in size in unincorporated areas or 2.5 or more acres in incorporated areas. Please note that the acreage requirements apply to the size of the **entire area of wetland**, not just the size of wetlands on one parcel. For example, if an 11 acre exempt wetland is split evenly between two parcels, both parcels may have their respective 5.5 acres of wetlands exempt.

Types of Exempt Properties

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

Wetlands are most often exempted under clause 1 as public waters wetlands, which means that assessors will need to determine whether or not wetlands that are present on a property are types 3, 4, or 5 wetlands. Previously, the department recommended that assessors use the DNR's Public Waters Inventory (PWI) maps. While these maps are still recommended by the DNR, they were created in the 1980s, and therefore there may have been changes since then. The DNR has also released the National Wetlands Finder in June 2019 which is a more up-to-date GIS overlay that attempts to catalogue all wetlands in Minnesota. However, the National Wetlands Finder also includes wetlands that do not meet the statutory definition of a public waters wetland, such as public waters lakes/basins. While both maps may be used as preliminary sources to determine if an exempt wetland exists on a property, the assessor still must verify that wetlands exist on the property that meet the statutory definition of type 3, 4, or 5 wetlands. This may require that the assessor or property owner to consult with the DNR, soil or water conservation district for the county, or other oversight entity to perform a field survey or other review of the property to determine if public waters wetlands exist.

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 of Exempt Properties

It is important to note that if it is determined that part of a property is 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:

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 least 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

Types of Exempt Properties

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, whichever comes first. This exemption is valid for up to a 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 used 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

Types of Exempt Properties

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 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

Types of Exempt Properties

An exemption provided under this subdivision cannot exceed five years. When a property no longer qualifies for exemption, it shall be placed on the tax rolls as provided by law.").

Before approving a tax exemption under these guidelines, the governing body of a municipality must provide an opportunity for the county board of commissioners and the members of the school board within the facility's proposed jurisdiction 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

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

Types of Exempt Properties

Agricultural Chemical Containment Facilities

An exemption was removed for real property used in agricultural chemical containment facilities for taxes payable 2016 (assessment 2015) during the 2017 legislative session. Any exemption that was granted in assessment 2015/payable 2016 and assessment 2016/payable 2017 will not lose its exempt status for those years. Before this repeal, real property used in agricultural chemical containment facilities was exempt under a statute enacted in 1992. Over the years, practices with respect to storage of the chemicals used in farming have changed considerably. It was unclear whether the exemption should apply to other types of fertilizer containment. The repeal simplifies valuation and exemption determination.

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.

Types of Exempt Properties

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.

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.

Types of Exempt Properties

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.
- 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

Types of Exempt Properties

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, then 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

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.

Types of Exempt Properties

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

Primary Statutory References: 272.02, subd. 76, 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 owned by the federal government and held in trust for the tribe. For anyone living on Indian lands and owning the land in fee, the property is taxable.

Indian lands should still be assessed and listed when exempt property is submitted through PRISM Submission 2. Indian lands are not handled differently than non-Indian lands in terms of the July 1 cutoff date for taxable/exempt status.

Types of Exempt Properties

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

Personal Property Located Within an Indian Reservation

The taxation or exemption of personal property located on reservation land is based on several factors. All personal property located on trust land is exempt regardless of ownership. However, the tax treatment of personal property located on fee land within the reservation is based on the ownership of the personal property. Personal property owned by a tribal member is exempt by federal law, regardless of the ownership of the underlying land. Personal property owned by anyone other than a tribal member and located on fee land is taxable.

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

Licensed Child Care Facility

This provision grants an exemption to child care facilities licensed under Minnesota Rules chapter 9503 or provides licensed or group family day care defined under Minnesota Rules, chapter 9502. The child care facility must accept families participating in a child care assistance program under Chapter 119B and must be owned and operated by a nonprofit charitable organization that qualifies for tax exemption under section 501(c)(3) of the Internal Revenue Code.

Primary Statutory References: 272.02, subd. 103

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

Limited Applicability Special Exemptions

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 1,400 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 (1) an establishment providing sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing, for a fee, one or more regularly scheduled health-related services or two or more regularly scheduled supportive services, whether offered or provided directly by the establishment or by another entity arranged for by the establishment; or

(2) an establishment that registers under section 144D.025.

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

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

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

St. Paul Soccer Stadium
The 2017 tax bill provided language for a property tax exemption for a Major League Soccer stadium in the city of St. Paul. The property is subject to special assessments levied for local improvements. The exemption does not apply to real property used for residential, business, commercial, or any other use that is not necessary for the operation of the stadium. This exemption is only effective upon approval by the St. Paul City Council and compliance with Minnesota Statutes, section 645.021.

Primary Statutory References: Laws 2017, Chapter 1, Article 2, Section 42

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

Limited Applicability Special Exemptions

Certain Property Owned by an Indian tribe

M.S. 272.02 contains multiple subdivisions related to specific properties around the state that are owned by an Indian tribe and have been exempted from property tax liability.

Certain Elderly Living Facility

The 2023 tax omnibus bill exempted a certain elderly living facility in Duluth, so long as it continues to meet the following conditions:

- Residents of the facility must be at least 55 years old or disabled
- At least 30% of the units in the facility are occupied by persons whose annual income is 50% or less

Primary Statutory References: 272.02 subd. 105

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. 398A.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 Property

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. **Real property** under the solar energy generating system is subject to property tax. If the solar energy generating system is subject to production tax under section 272.0295, the real property under the system is classified as 3a. If the solar energy generating system is not subject to the production tax, the real property is classified without regard to the system; except if there is more than one solar energy generating system on the same property with nameplate capacities that total more than 1 megawatt. In those instances, the real property under the multiple systems on one property is classified as 3a.

Primary Statutory References: 272.02, subd. 24

Certain Types of Energy Generation/Distribution Properties

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].**

Certain Types of Energy Generation/Distribution Properties

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

Property Used for Pollution Control

Property, equipment, or device used to control or abate pollution (pollution control property) may qualify for a property tax exemption.

Owners of pollution control property must apply and receive an order granting the exemption before they are able to receive the exemption.

After an owner receives an order granting a pollution control exemption, the owner must file a statement of exemption by February 15 of each year in order to continue receiving the exemption.

The department administers pollution control exemptions. See the department's Pollution Control Exemption webpage for more information, including the application, statement of exemption, and instructions.

Primary Statutory References: 272.02, subd. 10 & 272.02, subd. 41; 272.025

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 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.

Applicable Court Cases

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.Atty.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.

Applicable Court Cases

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 of purely public charity. *Chisago Health Services v. Commissioner of Revenue*, 1990, 462 N.W.2d 386.

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

A worthwhile objective alone does not justify classification as an institution of purely public charity for purposes of property tax exemption. *Croixdale, Inc. v. County of Washington*, 2007, 726 N.W.2d 483.

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.

Applicable Court Cases

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.

Hospitals Districts
Property of a hospital district formed under Minnesota Statute 447.31 is exempt. Typically, this exemption may include the hospital building and associated property, nursing homes, and additional facilities covered by Minnesota Statutes 447.31-447.50 owned/operated by a hospital district.

In *Perham Hospital District vs. County of Otter Tail,* 2021, the tax court found, and the supreme court affirmed, that clinics owned and operated by the hospital district were exempt. In light of the specific facts of this case, the clinics purchased and operated by the hospital district were used to improve and run the district's hospital, and the provisions of M.S. 447.31 Subd. 6 applied.

The determination in this specific situation does not impose a broad-based exemption for clinics owned and operated by a hospital district. Further, the decision does not impact the taxability of clinics not owned and operated by a hospital district.

When determining if property owned and operated by a hospital district is exempt, each situation must be looked at on an individual basis. A variety of factual considerations may apply to determine whether clinics are used to improve and run a hospital in a hospital district. Some of the facts that may be relevant, including some of the facts present in the *Perham* case, include:

- Is the clinic owned by a hospital district which is a political subdivision of the state?
- Can the applicant demonstrate that the clinic is needed to improve and run the hospital district? Such as:
    - Provide physical space for other hospital departments
    - Improve the hospital's overall operations and service delivery
    - Increase patient follow-up
    - Provide largely similar care as what would be found in the main hospital
    - Attract physicians and patients within the district
- Are the doctors conducting any private practice in the district clinic?
- Are the staff employees of the hospital district? If not, is there contract in place for any staffing needs, or is the clinic leased to another entity that staffs the facility?
- Does the hospital district retain control of the operation of the clinic even in situations where some or all staff are contracted by the district?
- Are services provided at the clinic largely similar to what is provided at the hospital?

- Has the area served by the district been designated under federal law as a "medically underserved area" without enough local providers to serve the population's medical needs?
- Was acquiring the clinics necessary to maintain a patient base that would support keeping the Hospital doors open?

In the *Perham* case, the review of relevant factors provided enough support for determining that the clinics were parts of the ongoing mission of that hospital district, and services provided at the clinics were used to improve and run the hospital in the district.

Childcare Centers Qualifying as Seminaries of Learning
Certain childcare centers may be exempt as seminaries of learning if they meet specified educational standards. In *Under the Rainbow Early Childcare Center vs. County of Goodhue,* 2022, the supreme court found Under the Rainbow Early Education Center met these standards and was exempt.

There are three types of childcare centers in Minnesota:

1. Licensed Childcare Centers (Under the Rainbow Early Education Center is this type)
2. Family Childcare
3. Certified Childcare (unlicensed)

Guidance from the court in the Under the Rainbow case applies only to "licensed childcare centers" regulated by the Department of Human Services under *Minnesota Regulations* chapter 9503. The decision did not directly address family childcare regulated under *Minnesota Regulations* chapter 9502 or certified childcare. Under the Rainbow Early Education Center participated in the Department of Human Services Parent Aware program earning a Parent Aware rating of 4. The court decision is most applicable to licensed childcare centers regulated under *Minnesota Regulations* chapter 9503 that are *also* Parent Aware rated level 4.

Below are key standards an assessor should use when determining if the childcare center qualifies as a seminary of learning, how to handle childcare centers that do not participate in the Parent Aware program, and more detail on certain ownership situations.

Key Standards

A licensed childcare center, or portions of it, may be exempt as a seminary of learning if three qualifications are met: (1) the organization must be educational in nature, (2) the organization must teach a broad general curriculum, and (3) the organization must be thorough and comprehensive in its educational work. Below are details of the requirements necessary to meet each qualification.

1. **The organization must be educational in nature**. A childcare center may establish that it is educational in nature by demonstrating that it meets state licensure and Parent Aware rating requirements such as:
   - Meet program requirements of Minnesota Rules 9503.0045 subp. 1(F)
     - "have stated goals and objectives to promote the physical, intellectual, social, and emotional development of the children in each age category"
   - Provide student assessments and evaluations. (Minnesota Rules 9503.0090 subp. 2)
     - "Parent conferences and daily reports. The license holder must ensure that the parent of a child is informed of the child's progress. The license holder must ensure that:
       - individual parent conferences are planned and offered by program staff at least twice a year; documentation is made in the child's record that individual parent conferences were planned and offered;
       - the status of the child's intellectual, physical, social, and emotional development is reported to the parent during the conference; and
       - daily written reports are made to the parent of an infant or toddler about the child's food intake, elimination, sleeping patterns, and general behavior."
   - Meet staff training and education requirements. (Minnesota Rules 9503.0032)

2. **The organization must teach a broad, general curriculum**.
   - This element requires that the curriculum should provide daily learning within each of the eight categories:
     - creative arts and crafts;
     - construction;
     - dramatic or practical life activities;
     - science;
     - music;
     - fine motor activities;
     - large muscle activities; or
     - sensory stimulation activities.
   - Implementing the Parent Aware "Creative Curriculum" further demonstrates a daycare center's broad, general curriculum that adds:
     - emotional, physical, and educational development of the child and
     - required daily lesson plans and child assessments.

3. **The organization's educational curriculum must be offered in a thorough and comprehensive manner.**

- This element requires that staff meet licensing requirements and maintain this status through continuing education.
- Student/teacher ratios must be maintained.
- Curriculum must meet licensing standards and must meet licensing review requirements.
- This element does *not* require that there be local school board evidence that the curriculum allows students to assimilate since that standard is more appropriate in school age instructional settings.
- A daycare center's Parent Aware rating may be considered as proof for purposes of determining that a daycare meets these requirements.

As stated above this case relates to a licensed childcare center, and does not specifically apply to other care centers, such as home-based/family childcare centers, or centers that are certified but not licensed.

The Minnesota Supreme Court did not consider whether family childcare programs licensed under Minnesota Rules 9502 would qualify as seminaries of learning. However, it is possible that if a family childcare program is also Parent Aware Level 4 rated it may be eligible for exemption. Certified childcare centers are not licensed and not required to meet any of the broad educational standards, so these centers are unlikely to qualify as a seminary of learning based on the ruling.

The case did not take into consideration areas of the building used for purposes not directly related to this educational standard.

The court noted that there may be issues with the standard if there are portions of the property used for non-educational purposes. Therefore, it would be appropriate to make a factual determination of whether the entire facility would qualify when determining if a licensed childcare center is exempt as a seminary of learning.

Parent Aware

The Court found that *both* the licensure under Rule 3 and the Parent Aware level 4 rating were central to their finding that Under the Rainbow Early Education Center was exempt as a seminary of learning. Both provided the educational standards and accountability that was required for Under the Rainbow Early Education Center to qualify as an exempt seminary of learning.

Applicable Court Cases

When an early education organization applies for a property tax exemption as a seminary of learning and is not licensed under Rule 3 as a childcare center as Under the Rainbow is, counties may wish to consider these things:

1. Does the early education organization otherwise substantially meet the requirements of Rule 3 and can demonstrate with thorough detailed accounting that they meet these requirements despite not being licensed, such as:
    - Childcare program plan requirements (Minnesota Rule 9503.0045)
    - Staff qualification requirements (Minnesota Rule 9503.0030)
    - Staff to child ratios and group size requirements (Minnesota Rule 9503.0050)
    - Parent visitation and information requirements (Minnesota Rule 9503.0090-.0095)

2. Is there any external system of accountability that the organization meets these requirements (examples in order as above)?
    - Lesson plans, student evaluations
    - Licensure of staff, ongoing education
    - Room plans
    - Parent policies, handbook, parent conferences, report cards

When an early education organization applies for a property tax exemption as a seminary of learning and does not participate in the Department of Human Services Parent Aware program (M.S. 124D.142) receiving a rating of 4, counties may wish to consider these things:

Does the early education organization otherwise substantially meet the requirements of the Parent Aware program (rating 4) and provide a detailed accounting of how they meet these standards, despite not participating in the Parent Aware program? These standards are:

- **Teaching and Relationships with Children**. This standard requires that the organization teach a preapproved curriculum by MDE. Does the organization teach a preapproved curriculum? In the alternative, does the organization have its own curriculum and did they submit it for review to DHS or MDE? Can they provide child evaluation forms and daily lesson plans to support this?
- **Assessment and Planning for Each Individual Child.** This standard requires that the organization provide at least twice a year assessments and planning

meetings for each child. Does the organization hold parent teacher conferences at least twice annually?

- **Professionalism**. This standard requires that staff must go beyond minimum continuing education and development hours for staff. Does the organization have such a requirement, and can they provide records to support that?

Ownership and Necessity of Ownership

Under the Rainbow (2022) did not change the ownership and necessity of ownership requirements for exemption.

A seminary of learning may be eligible for property tax exemption for property it does not own if the seminary of learning controls all aspects of the entity that owns the property, and the property owner exists solely for the benefit of the seminary of learning. A seminary of learning that seeks exemption for property that it does not own carries a greater burden of proof to demonstrate it qualifies. It will need to show that the substance of the arrangement between it and the property's owner is such that the property's owner has no purpose or existence apart from providing services to the seminary of learning.

Counties may wish to consider these things when reviewing an exemption application from a seminary of learning for property it does not own:

1. Does the seminary of learning control all aspects of the entity that owns the property?
    - Does the seminary of learning elect the property owner's board members and officers; audit, approve, and control the property owner's budget and expenditures; or provide finances to the property owner?
    - What is the legal relationship between the seminary of learning and the property's owner? Parent-subsidiary; affiliates, partnership, franchisor-franchisee, lessor-lessee? The counties should ask for all entity formation documents and all legal agreements between the seminary of learning and the owner.

If the entity formation documents and other information gathered by the county evidence separate and distinct entities with the seminary of learning having less than full control over the property owner denying the application is appropriate.

2. Does the property owner exist solely for the benefit of the seminary of learning?
    - Does the property owner hold title to other property used by an entity other than the property used by the seminary of learning?

Applicable Court Cases

- Does one or more non-seminary of learning entities use part of the property subject to the exemption application?
- Does the property owner profit from the seminary of learning's use of the property?
- Does the property owner profit from non-seminary of learning entities?
- Does the property owner offer services to entities other than the seminary of learning?

These questions, if answered affirmatively, evidence that the property owner is not in existence solely for the benefit of the seminary of learning and supports the denial of the exemption application.