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Exemptions and Tax Relief

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

Exemptions and Tax Relief	3
Exemptions	3
Real Property Transferred between Exempt and Nonexempt Persons ...	3
.....	
Trust Estates	4
Government Property	5
Public Ways	5
Government Bonds and Notes	5
Housing Authorities	6
Low Cost Housing for Elderly Persons	7
Property Used to Recycle Waste Products	8
Private Act Hospital Authorities	8
Charter or Contract Exemptions	8
Religious, Charitable, Scientific, Educational Institutions	8
Application for Exemption	10
Deadlines for Filing Application	11
Administrative and Judicial Review	11
Revocation of Exemption	11
Charitable Institution Defined	12
Property of Certain Educational Institutions	12
Cemeteries and Monuments	13
Personal Bank Accounts and Other Personal Property	13
Growing Crops	13
Property in Transit	13
Historic Properties	14
Airport Runways and Aprons	15
Property Held in Foreign Trade Zone	15
Property Owned by a Charitable Organization for Low-Income Hous- ing	15
Historic Properties Owned by Charitable Institutions	15
Nonprofit Community and Performing Arts Organizations	16
Economic Development	17
Family Wellness Centers	17
Museums	18
Educational Museums	18
Leased Tangible Personal Property	19
In Lieu of Tax or Tax Equivalent Payments	19
Tax Relief	20
Administrative Provisions	21
Elderly Low-Income Homeowners	22
Disabled Homeowners	22
Disabled Veterans	23
Additional Tax Relief	24
Property Tax Freeze Act	24
Real Property Tax Deferral	25
Chapter 831 Deferral	25
Chapter 659 Deferral	26

Exemptions and Tax Relief

Reference Number: CTAS-1524

Exemptions

Reference Number: CTAS-1525

"It is a fundamental rule that all property shall be taxed and bear its just share of the cost of government, and no property shall escape this common burden, unless it has been duly exempted by organic or statute law; and that one claiming such exemption has the burden of showing his right to it."¹ Pursuant to Article II, Section 28 of the Tennessee Constitution, the legislature may exempt certain types of property from taxation.

In accordance with the following provisions, all property real, personal or mixed shall be subject to taxation, but the Legislature may except such as may be held by the State, by Counties, Cities or Towns, and used exclusively for public or corporation purposes, and such as may be held and used for purposes purely religious, charitable, scientific, literary or educational, and shall except the direct product of the soil in the hands of the producer, and his immediate vendee, and the entire amount of money deposited in an individual's personal or family checking or savings accounts.²

Tennessee case law states that "this provision of our Constitution does not grant any tax exemption, does not establish any public policy of exemption, but merely authorizes, permits, the Legislature to grant exemption in the cases specified."³ Exemptions not meeting the specific requirements set out in Article II, Section 28 are not constitutionally permissible.⁴

Property does not become exempt from taxation because it may be difficult to assess it at its actual worth.⁵ Moreover, exemptions in tax statutes are construed strictly against the taxpayer and in favor of the state; and, the burden is on the taxpayer to establish the exemption.⁶ "The presumption is against the exemption, and exemption from taxation will not be read into a taxing statute by implication."⁷ However, once property has been exempted from taxation, it takes a showing of actual use for a nonexempt purpose to remove the exemption.⁸

¹*City of Nashville v. State Board of Equalization*, 360 S.W.2d 458, 594-595 (Tenn. 1962).

²Tenn. Const., art. II, §§ 28

³*City of Nashville*, 360 S.W.2d at 595-596; *Book Agents of the Methodist Episcopal Church, South v. State Board of Equalization*, 513 S.W.2d 514, 521 (Tenn. 1974).

⁴*See University of the South v. Franklin Co.*, 506 S.W.2d 779, 788-789 (Tenn.Ct.App. 1973). *See also* Op. Tenn. Atty. Gen. 86-142 (August 12, 1986), Op. Tenn. Atty. Gen. 83-418 (December 16, 1983).

⁵*Pryor v. Marion County*, 204 S.W. 1152, 1154 (Tenn. 1918). However, the legislature has determined that non-business tangible personal property is assumed to have no value and a tax is not imposed on this property. T.C.A. § 67-5-901(a)(3)(A). The no-value presumption for non-business personal property has been upheld, based on the fact that the tax produces little revenue in relation to its administration costs, as well as the long-standing rule that the legislature may choose the method of valuation as well as whether the tax itself has any practical value. *Sherwood v. Clary*, 734 S.W.2d 318, 320-321 (Tenn. 1987).

⁶*Feldman v. Huddleston*, 912 S.W.2d 161, 163 (Tenn.Ct.App. 1995); *Hearthstone, Inc. v. Moyers*, 809 S.W.2d 888, 890 (Tenn. 1991); *United Cannery, Inc. v. King*, 696 S.W.2d 525, 527 (Tenn. 1985).

⁷*Tennessee Farmers' Coop. v. State ex rel. Jackson*, 736 S.W.2d 87, 90 (Tenn. 1987).

⁸*Kopsombut-Myint Buddhist Center v. State Board of Equalization*, 728 S.W.2d 327, 335 (Tenn.Ct.App. 1986).

Real Property Transferred between Exempt and Nonexempt Persons

Reference Number: CTAS-1526

When exempt real property is conveyed or transferred by sale, lease or otherwise to a person, firm or

corporation, rendering the property nonexempt by reason of the transfer, the nonexempt grantee, lessor or other nonexempt taxpayer will be liable for the property taxes on the property from the date of the transfer to the end of the taxable year. The state, county or municipal collector of taxes will collect the property taxes due from the date of the transfer, on a pro rata basis for the current taxable year, notwithstanding the status of the property as of the assessment date of January 1 of each year. A tax lien attaches on the date of the transfer as otherwise provided by law. The nonexempt grantee remains personally liable for taxes resulting from the transfer of the property regardless of any subsequent transfer that may occur during that tax year.¹

An owner of tax-exempt property who sells or leases the property must promptly notify the assessor of property if the sale or lease renders the property as nonexempt.² This requirement applies to governmental entity owners and lessors as well as any other owners or lessors of the property.³ The person or entity buying or leasing tax-exempt property must also promptly notify the assessor of property of the change in the use or ownership of such property. The buyer or lessee of the real property is personally liable for all taxes, and penalties and interest, from the date of the transfer to the date the assessor is notified of the change in the use or ownership of property, and the collection of taxes against the buyer or lessee with respect to the property will not be barred. However, no tax lien arises against real property conveyed to a bona fide purchaser who records the deed for the property or notifies the assessor of the change in the use or ownership of the property. The burden of proving a bona fide sale is upon the owner of the property at the time of the recording or notification.⁴

In the event the ownership of real property that has heretofore been subject to assessment and taxation is conveyed or transferred to a person, firm or corporation that is exempt from property assessment and taxation and the real property is used for purposes that would render the status of the property as exempt from assessment and taxation under §§ 67-5-203, 67-5-204, 67-5-207, 67-5-208, and 67-5-211 — 67-5-217, the new owner of the property shall not be liable for the real property taxes thereon, from the date of transfer and change of use from a nonexempt ownership and use to an exempt ownership and use to the end of the taxable year, notwithstanding the status of the property as of the assessment date of January 1 of that year. The assessor of property will make an assessment of the property on the basis of its value and use to which it is put following its transfer; provided, that for the year in which the transfer of property occurred, the assessment will be prorated and the owner shall be liable only for the taxes for the portion of the year that the property was subject to assessment. The state, county and municipal tax collector will collect taxes on the basis of the assessment as prorated by the assessor of property.⁵

The grantor or lessor of nonexempt property must notify the assessor of any change in the use or ownership of the property that may affect its nonexempt status. This notice is required when the property is conveyed or transferred by sale, lease or otherwise to a person, firm, or corporation. The grantor or lessor of nonexempt property includes any person, firm, or corporation who is not otherwise exempt from property taxes. The nonexempt grantor's or lessor's notice of the change in ownership or use to the assessor is a prerequisite to the grantor or lessor seeking a refund of taxes paid related to exempt ownership or use of the property occurring after the date of transfer to the tax exempt grantee or lessee by sale or lease.⁶

¹T.C.A. § 67-5-201(a)(1) and (2).

²T.C.A. § 67-5-201(a)(3)(A).

³T.C.A. § 67-5-201(a)(3)(B).

⁴T.C.A. § 67-5-201(a)(3)(C).

⁵T.C.A. § 67-5-201(b)(1), (2) and (3). See *Senter School Foundation, Inc. v. Nobles*, 1990 WL 3983 (Tenn.Ct.App. 1990).

⁶T.C.A. § 67-5-201(b)(4)(A) and (B).

Trust Estates

Reference Number: CTAS-1527

Every trust estate is entitled to the same exemption as if owned by a single taxpayer.¹

¹T.C.A. § 67-5-202.

Government Property

Reference Number: CTAS-1528

All property of the United States, the state of Tennessee, any county, or any incorporated town, city or taxing district in the state that is used exclusively for public, county or municipal purposes is exempt from taxation. All property of an educational institution owned, operated or otherwise controlled by the state of Tennessee as trustee, or otherwise, is exempt from taxation. However, real property purchased for investment purposes by the Tennessee consolidated retirement system is subject to property taxation.¹

When the United States government, the state of Tennessee, or any agency or political subdivision thereof acquires property assessed as a single unit by the assessor of property of any political subdivision, any lien for property taxes assessed by the political subdivision for the year in which the property is acquired will be released on the approval of the assessor of property of the political subdivision assessing the taxes with respect to that portion of the taxes representing the remainder of the calendar year after the date of the instrument or conveyance by the property owner, or after the date of the entry of an order of possession if the property is acquired by condemnation. The property owner will be relieved of all personal liability for that portion of the taxes. Either the condemnor or the property owner may request the assessor to provide proration. Proration is based on the last assessment made and rate fixed and the trustee must accept tender of the amount determined to be owing.²

If real property owned by the state or any political subdivision of the state is leased to a person, corporation, or other business entity for the purpose of operating a golf course or for the purpose of developing and operating a golf course, the person, corporation, or business entity makes payments in lieu of ad valorem taxes. The payments will be in an amount equal to the ad valorem taxes otherwise due and payable by the taxpayer upon the current fair market value of the leased real property.³

¹T.C.A. § 67-5-203(a)(1) and (2). See *also* Op. Tenn. Atty. Gen. 86-64 (March 17, 1986). For a nonexclusive list of governmental property exemptions, see T.C.A. §§ 7-57-307 (Metropolitan Hospital Authority Act); 7-66-110, 111 (Tennessee Homestead Act); 7-82-105 (Utility District Law of 1937); 7-86-117 (Emergency Communications District Law); 13-22-107 (Tennessee Housing Development Agency); 13-23-127 (Tennessee Housing Development Agency Act); 13-27-108 (Tennessee Export Development Act of 1983).

²T.C.A. § 67-5-203(b)(1) and (2).

³T.C.A. § 67-5-203(c).

Public Ways

Reference Number: CTAS-1529

All roads, streets, alleys, and promenades intended for public use are exempt from taxation.¹

¹T.C.A. § 67-5-204.

Government Bonds and Notes

Reference Number: CTAS-1530

The principal and interest on bonds or notes issued by the state of Tennessee for any public purpose are exempt from taxation, except for inheritance, transfer and estate taxes.¹ The principal and interest on bonds or notes issued by any county, incorporated town or city, for any public purpose are exempt from taxation by the state or by any county or municipality in this state.² United States bonds are exempt from property taxation.³ A nonexclusive list of exempt governmental bonds and notes includes the following:

1. bonds and notes issued pursuant to the Tennessee Local Development Authority Act, T.C.A. § 4-31-101 *et seq.*, and the income therefrom are exempt from taxation by the state or any local governmental unit, except inheritance, transfer and estate taxes;
2. bonds issued pursuant to the Revenue Bond Law, T.C.A. § 7-34-101 *et seq.*, and the income therefrom are exempt from all state, county and municipal taxation except inheritance, transfer and estate taxes;⁴

3. bonds issued pursuant to the provisions of the Industrial Building Revenue Bond Act of 1951, T.C.A. § 7-37-101 *et seq.*, and the income therefrom are exempt from all state, county and municipal taxation except inheritance, transfer and estate taxes, except as otherwise provided by law;⁵
4. bonds issued by any municipality to provide sufficient funds to carry out energy production pursuant to the provisions of T.C.A. § 7-54-101 *et seq.*, and the income therefrom are exempt from all state, county and municipal taxation except inheritance, transfer and estate taxes;⁶
5. bonds and notes issued by a county pursuant to the Tennessee Home Mortgage Act, T.C.A. § 7-60-101 *et seq.*, and the income therefrom are exempt from taxation, except for inheritance, transfer and estate taxes;⁷
6. bonds issued by an authority pursuant to the Port Authority Act, T.C.A. § 7-87-101 *et seq.*, and the income therefrom are exempt from all state, county and municipal taxation, except for inheritance, transfer and estate taxes, and except as otherwise provided by law;⁸
7. bonds or notes issued by a local government pursuant to the Local Government Public Obligations Act of 1986, T.C.A. § 9-21-101 *et seq.*, and the income therefrom are exempt from all state, county and municipal taxation except for inheritance, transfer and estate taxes, and except as otherwise provided by law;⁹
8. bonds issued by an authority pursuant to the Airport Authorities Act, T.C.A. § 42-3-101 *et seq.*, and the income therefrom are exempt from all taxes;¹⁰
9. bonds issued by an authority pursuant to the Metropolitan Airport Authority Act, T.C.A. § 42-4-101 *et seq.*, and the income therefrom are exempt from all state, county and municipal taxation except for inheritance, transfer and estate taxes, and except as otherwise provided by law;¹¹ and
10. school bonds issued pursuant to the provisions of T.C.A. § 49-3-1002 and the income therefrom are exempt from all state, county and municipal taxation except for inheritance, transfer and estate taxes and except as otherwise provided by law.¹²

¹T.C.A. § 67-5-205(a)(1).

²T.C.A. § 67-5-205(a)(2) and (3).

³31 U.S.C. § 3124.

⁴T.C.A. § 7-34-116(b).

⁵T.C.A. § 7-37-114.

⁶T.C.A. § 7-54-106.

⁷T.C.A. § 7-60-211.

⁸T.C.A. § 7-87-109(d).

⁹T.C.A. § 9-21-117.

¹⁰T.C.A. § 42-3-111(d).

¹¹T.C.A. § 42-4-109(d).

¹²T.C.A. § 49-3-1002(c).

Housing Authorities

Reference Number: CTAS-1531

The property of housing authorities is exempt from all taxes and special assessments of the state or any county, city, town, or metropolitan government. In lieu of such taxes or special assessments, a housing authority must agree to make payments to the county, city, town, or metropolitan government for services, improvements or facilities furnished by the county, city, town, or metropolitan government for the benefit of a housing project owned by the housing authority. In no event may these payments exceed the estimated cost to the county, city, town, or metropolitan government of the services, improvements or facilities furnished.¹

The bonds or notes issued by a housing authority, together with the interest thereon and the income

therefrom, are exempt from all taxes.²

¹T.C.A. § 67-5-206(a).

²T.C.A. § 67-5-206(b).

Low Cost Housing for Elderly Persons

Reference Number: CTAS-1532

Property of Tennessee nonprofit corporations which is used for the permanent housing of low income persons with disabilities, or low income elderly or handicapped persons, is exempt in accordance with T.C.A. § 67-5-207. The property must be financed by a grant under § 811 or § 211 of the National Affordable Housing Act (42 U.S.C. §§ 8013, 12741) or the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11301 et seq.), or be financed or refinanced by a loan made, insured, or guaranteed by a branch, department or agency of the United States government under § 515(b) or § 521 of the Housing Act of 1949 (42 U.S.C. §§ 1485(b) or 1490a), § 202 of the Housing Act of 1959 (12 U.S.C. § 1701q), §§ 221, 223, 231 or 236 of the National Housing Act (12 U.S.C. §§ 1715l, 1715v, or 1715z-1), or § 8 of the United States Housing Act of 1937, as amended by the Housing and Community Development Act of 1974 (42 U.S.C. § 1437f). For the purposes of this section, a loan is considered to be guaranteed if the federal housing agency has consented to assignment of a housing assistance program contract as security for the loan. Eligibility for the exemption under these programs continues so long as there is an unpaid balance on the loan. Following payment of the loan in full, a property shall continue to be exempt from taxation so long as the project is restricted to use for elderly persons or persons with disabilities as defined in the programs. In the case of a property financed by a grant, eligibility for the exemption under these programs continues so long as the project is restricted to use for elderly persons or persons with disabilities as defined in the programs. The property must be used as below-cost housing for elderly or handicapped persons or persons with disabilities within the program definitions, who have incomes not in excess of limits established for the enumerated program by the department of housing and urban development (HUD). If a property was approved by HUD for participation in the program without specific low income guidelines, the property may nevertheless qualify for exemption on a pro rata basis if at least 50 percent of the residents (low income residents) have incomes which would qualify under HUD guidelines for any of the enumerated programs. In such cases the property shall be exempt in the same percentage which low income residents represent of the total occupancy of the property at full capacity, determined as of January 1 each year, on the basis of information supplied to the assessor on or before April 20.¹

Also exempted under T.C.A. § 67-5-207 is the property of not-for-profit organizations funded under the HOME Investment Partnerships Program (42 U.S.C. § 12701 et seq.) or the state-funded Housing Opportunities Using State Encouragement (HOUSE) Program, and used as permanent housing for low income and very low income elderly, disabled or handicapped persons.² To qualify for an exemption, a not-for-profit corporation must first be exempt from federal income taxation by virtue of qualifying as an exempt charitable organization or as an exempt social welfare organization under the provisions of the Internal Revenue Code.³ Additional requirements are set forth in T.C.A. § 67-5-207(b)(1) - (5). Furthermore, all claims for exemption under T.C.A. § 67-5-207 are subject to the provisions of T.C.A. § 67-5-212(b) regarding exemptions for charitable institutions.⁴

Certain facilities permitted by federal statute in such housing projects are not exempt from property taxation. For example, under Department of Housing and Urban Development regulations, these housing projects may contain such facilities such as snack bars, craft shops, grocery stores, restaurants, and beauty shops, which are not considered charitable and therefore not exempt from taxation.⁵

In lieu of any taxes for which a property is granted exemption under T.C.A. § 67-5-207, the owners of projects which exceed 12 units must agree to make payments to any county, municipality, metropolitan government, or district for improvements, facilities or services rendered by the county, municipality, metropolitan government or district, but if no amount is agreed the payments shall be not less than twenty-five percent (25%) of the amount of tax that would be due if the project were not exempt. In no event may such payments be required from public housing authorities operating under *Tennessee Code Annotated* Title 13, Chapter 20.⁶

¹T.C.A. § 67-5-207(a)(1).

²T.C.A. § 67-5-207(d).

³T.C.A. § 67-5-207(b).

⁴T.C.A. § 67-5-207(c).

⁵Op. Tenn. Atty. Gen. 79-140 (February 22, 1979).

⁶T.C.A. § 67-5-207(a)(2).

Property Used to Recycle Waste Products

Reference Number: CTAS-1533

Property owned by a non-profit corporation whose purpose is to convert waste products for heating or cooling public buildings or facilities is exempt from taxation if the reversionary interest is in the governmental entity. Some by-products of this recycling process can be furnished to private entities without changing the tax-exempt status.¹

¹T.C.A. § 67-5-208.

Private Act Hospital Authorities

Reference Number: CTAS-1534

In addition to all the rights and powers granted to a private act hospital authority under the provisions of T.C.A. § 7-57-601 *et seq.*, beginning with the 2001 tax year, and thereafter, a private act hospital authority will be exempt from the payment of any taxes or fees to the state or any subdivisions thereof, or to any officer or employee of the state or any subdivision thereof, except as provided in T.C.A. § 67-5-209. This exemption does not include fees paid by private act hospital authorities as required by T.C.A. § 68-11-216. The property of an authority is exempt from all county and municipal taxes; however, the authority must pay all county and municipal fees. An authority may agree to the payment of tax equivalents to the creating or participating governing authority or entity. Authorities shall be required to apply to the state board of equalization for claims for exemption of property residing outside the boundaries of their creating or participating governing authorities or entities. Exemptions will be (1) limited to property of the authority which would be exempt if owned and operated by a charitable hospital under T.C.A. § 67-5-212; and (2) granted in accordance with the same criteria used by the board of equalization in granting exemptions to property owned and operated by a charitable hospital under T.C.A. § 67-5-212.¹

¹T.C.A. § 67-5-209. *See also* T.C.A. § 67-9-201.

Charter or Contract Exemptions

Reference Number: CTAS-1535

All property protected by a valid charter or contract exemption is exempt from taxation.¹

¹T.C.A. § 67-5-211.

Religious, Charitable, Scientific, Educational Institutions

Reference Number: CTAS-1536

There shall be exempt from property taxation the real and personal property, or any part of the real and personal property, owned by any religious, charitable, scientific or nonprofit educational institution that is occupied and actually used by the institution or its officers purely and exclusively for carrying out one or more of the exempt purposes for which the institution was created or exists. There shall further be exempt from property taxation the property, or any part of the property, owned by an exempt institution that is occupied and actually used by another exempt institution for one or more of the exempt purposes for which it was created or exists under an arrangement in which the owning institution receives no more

rent than a reasonably allocated share of the cost of use, excluding the cost of capital improvements, debt service, depreciation and interest, as determined by the board of equalization or which is solely between exempt institutions that originated as part of a single exempt institution and that continue to use the property for the same religious, charitable, scientific, or nonprofit educational purposes, whether by charter, contract, or other agreement or arrangement..¹

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

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

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

Land not necessary to support exempt structures or site improvements associated with exempt structures, including land used for recreation, retreats or sanctuaries, is not eligible for exemption beyond a maximum of 100 acres per county for each religious, charitable, scientific or nonprofit educational institution qualified for exemption pursuant to T.C.A. § 67-5-212. For purposes of applying this limit, land owned by an exempt institution is aggregated with land owned by related exempt institutions having common ownership or control. Qualifying land in excess of the limit must be classified as forest land upon application submitted pursuant to T.C.A. § 67-5-1006, or as open space land upon application submitted pursuant to T.C.A. § 67-5-1007, and the effective date of the classification will be the date the property might otherwise have qualified for exemption.¹²

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

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

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

⁴*LaManna v. Electrical Workers Local Union No. 474*, 518 S.W.2d 348, 352 (Tenn. 1974) citing

Memphis Chamber of Commerce v. City of Memphis, 232 S.W. 73, 74 (1921); *North Gates Elks Club v. Garner*, 496 S.W.2d 887, 889 (Tenn. 1973).

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

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

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

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

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

¹⁰T.C.A. § 67-5-212(a)(3)(B).

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

¹²T.C.A. § 67-5-212(o).

Application for Exemption

Reference Number: CTAS-1537

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

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

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

¹T.C.A. § 67-5-212(b)(1).

²T.C.A. § 67-5-212(b)(2).

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

Deadlines for Filing Application

Reference Number: CTAS-1538

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

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

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

²T.C.A. § 67-5-212(b)(3)(B).

Administrative and Judicial Review

Reference Number: CTAS-1539

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

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

Revocation of Exemption

Reference Number: CTAS-1540

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

¹T.C.A. § 67-5-212(b)(5).

Charitable Institution Defined

Reference Number: CTAS-1541

As used in T.C.A. 67-5-212, "charitable institution" includes any nonprofit organization or association devoting its efforts and property, or any portion thereof, exclusively to the improvement of human rights and/or conditions in the community.¹

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

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

²T.C.A. § 67-5-212(d).

³T.C.A. § 67-5-212(e).

⁴T.C.A. § 67-5-212(f).

⁵T.C.A. § 67-5-212(h).

⁶T.C.A. § 67-5-212(i).

⁷T.C.A. § 67-5-212(j).

⁸T.C.A. § 67-5-212(k).

⁹T.C.A. § 67-5-212(l).

¹⁰T.C.A. § 67-5-212(m).

¹¹T.C.A. § 67-5-212(n).

Property of Certain Educational Institutions

Reference Number: CTAS-1542

The real estate owned by an educational institution that is used primarily for dormitory purposes for its students is exempt from taxation, even though other student activities are incidentally conducted there, and even though the student's spouse or children may reside there.¹ The residence of the chief executive officer of a college or university, and no more than three acres of its surrounding grounds, owned by a college or university, is exempt from taxation, if the chief executive officer of the institution is required to reside there as a condition of employment.² The residential units owned by a nonprofit college or university or nonprofit secondary school that boards all or some of its students and located on or immediately adjoining its campus are exempt from taxation if the residential units meet all of the following criteria: (1) the unit is occupied by a member of the faculty or staff of the institution; (2) occupancy is required as a condition of that person's employment as a convenience for the institution or to attend to plant or equipment; (3) the institution which owns the unit receives no income from the unit except a reasonable service and maintenance fee; (4) the employee occupying the unit receives no equity of ownership or any other thing of permanent or transferable value from occupancy of the unit; (5) the right of the employee to occupy the unit ends with the employee's tenure on the faculty or staff of that institution; and (6) the unit is occupied wholly by the employee and the employee's immediate family.³ A bookstore owned by a college or university which is located on the campus and is operated on a not-for-profit basis to furnish students at that institution with textbooks and other ancillary required materials is exempt from taxation, even though the bookstore may sell other items of a souvenir nature, such as wearing apparel, glassware, and china embossed with the name, seal or logo of the institution, or items such as toiletries or stationery supplies for the convenience of students.⁴

University bookstores and residential units owned by any nonprofit college or university or secondary school located in Hamilton County are not eligible for the exemption provided in T.C.A. § 67-5-213(c) and (d).⁵

¹T.C.A. § 67-5-213(a).

²T.C.A. § 67-5-213(b).

³T.C.A. § 67-5-213(c).

⁴T.C.A. § 67-5-213(d).

⁵T.C.A. § 67-5-213(c)(3) and (d)(2).

Cemeteries and Monuments

Reference Number: CTAS-1543

Places of burial, all nonprofit cemeteries, and monuments of the dead are exempt from taxation. Real property owned by cemeteries operated on a for-profit basis which has been prepared and is being held for burial purposes is exempt from taxation; provided, that the amount of such property does not exceed the reasonable expectation of public needs. Cemeteries are required to apply for exemption and obtain approval of exemption by the State Board of Equalization if charges are imposed for use of burial plots.¹

¹T.C.A. § 67-5-214.

Personal Bank Accounts and Other Personal Property

Reference Number: CTAS-1544

The entire amount of money deposited in an individual's personal or family checking or savings account and \$7,500 worth of personal household goods and furnishings, wearing apparel and other such tangible personal property in the hands of a taxpayer is exempt from taxation. Where the property is owned jointly by a husband and wife, the exemption is \$15,000 and any exemption applying to any minor child of the family living at home and not used by the minor child personally may be applied to the total family household goods and furnishings, wearing apparel, and other such tangible personal property used by the family in common.¹

¹T.C.A. § 67-5-215.

Growing Crops

Reference Number: CTAS-1545

All growing crops of whatever kind, including, but not limited to, timber, nursery stock, shrubs, flowers, and ornamental trees, the direct product of the soil of this state or any other state of the union, in the hands of the producer or the producer's immediate vendee, and articles manufactured from the produce of this state, or any other state of the union, in the hands of the manufacturer, is exempt from taxation. All livestock and poultry of whatever kind in the hands of the producer or the producer's immediate vendee is exempt from taxation.¹

¹T.C.A. § 67-5-216.

Property in Transit

Reference Number: CTAS-1546

Tangible personal property which is moving in interstate commerce through or over the territory of the state of Tennessee or was consigned to a warehouse within the state of Tennessee from outside the state of Tennessee, for storage, in transit, to a final destination outside the state of Tennessee, is deemed not

to have acquired a situs in the state of Tennessee for purposes of ad valorem taxation. Tangible personal property transported to a plant, warehouse or establishment within the state of Tennessee, from outside the state of Tennessee, for storage or repackaging, and held for eventual sale or other disposition, other than at retail, to a destination outside this state, is deemed not to have acquired a situs within the state of Tennessee for purposes of ad valorem taxation.¹

¹T.C.A. § 67-5-217.

Historic Properties

Reference Number: CTAS-1547

The value of any improvement made to or restoration of any structure included within the provisions of T.C.A. § 4-11-201 *et seq.*, or which is certified by a historic properties review board, as provided for in T.C.A. § 67-5-218(a)(2), is exempt from property taxation when the improvement or restoration is necessitated by (1) any comprehensive plan for the development of a district or zone authorized in T.C.A. § 13-7-401; (2) the official preservation plan of the state of Tennessee as required by the provisions of United States Public Law 89-665; (3) any other federal or state plan of development or redevelopment which includes the preservation and restoration of structures covered by T.C.A. § 67-5-218; or (4) the agreement of the owner of an individual structure to restore the structure in accordance with guidelines specified by a historic properties review board, as provided for in T.C.A. § 67-5-218, and to refrain from significantly altering or demolishing the structure during the period of exemption.¹

The provisions of T.C.A. § 67-5-218 only apply to counties having a population of 200,000 or more according to the 1970 federal census, or any subsequent federal census; and, which, by a majority vote of the governing body of the county, choose to come under its provisions.² The chief administrative officer of each county appoints a historic properties review board for that jurisdiction, to be approved by a majority vote of the county governing body. The review board consists of at least five members. One member of the review board must be an architect, if resident in the county, who is a member of the American Institute of Architects or meets the membership qualifications of that body. One member of the review board must be a member of the local planning commission. And, one member must be the county historian, a member of the county historical commission, or a member of the county historical society. The review board is required to formulate criteria for certification of historic properties with the assistance of the Tennessee Historical Commission, subject to review and comment by the state preservation officer.³

All structures (except those on the Tennessee or National Register of Historic Properties) whose owners seek to benefit from the provisions of T.C.A. § 67-5-218, must be certified in accordance with the criteria established by the local historic properties review board. The exemption of any structure certified in accordance with T.C.A. § 67-5-218, wherever located, will also include any structure or residence used in the management or care of the historical structure. Any structure 175 years of age or older is presumed to meet the criteria on the basis of age alone, any structure 125 years of age or older is presumed to meet the criteria unless established otherwise, and any structure 75 years of age or older is assumed to meet the criteria subject to individual review.⁴ Exemptions continue in effect for 10 years in the case of a partial or exterior restoration or improvement, as determined by the review board, and 15 years in the case of a total restoration, as determined by the review board. At the end of the applicable period, the structure is assessed and taxed on the basis of its full market value. If any structure receiving an exemption under T.C.A. § 67-5-218 is demolished or significantly altered, as determined by the review board, during the period of exemption, the exemption of the improved value will immediately end and the owner will be liable at that time for any difference between the tax paid and the tax which would have been due on the improved value. The exemptions and restrictions provided for in T.C.A. § 67-5-218 apply to the structure itself and pass with its title.⁵

¹T.C.A. § 67-5-218(a)(1).

²T.C.A. § 67-5-218(b) and (c)(1).

³T.C.A. § 67-5-218(a)(2).

⁴T.C.A. § 67-5-218(a)(3).

⁵T.C.A. § 67-5-218(a)(4).

Airport Runways and Aprons

Reference Number: CTAS-1548

The real property of private public use airports that is used for airport runways and aprons is exempt from property tax.¹

¹T.C.A. § 67-5-219.

Property Held in Foreign Trade Zone

Reference Number: CTAS-1549

Tangible personal property imported from outside of the United States and held in a foreign trade zone or foreign trade subzone, as defined in *Tennessee Code Annotated* Title 7, Chapter 85, for the purpose of sale, manufacture, processing, assembly, grading, cleaning, mixing or display is exempt from Tennessee ad valorem taxation while held in the foreign trade zone or subzone and thereafter, if the property is then exported from the foreign trade zone or subzone directly to a location outside of Tennessee.¹

¹T.C.A. § 67-5-220.

Property Owned by a Charitable Organization for Low-Income Housing

Reference Number: CTAS-1550

Under T.C.A. § 67-5-221, certain property owned by a charitable organization and held for the housing of persons with low income may be exempt from taxation upon the adoption of a resolution by two-thirds vote of the county legislative body.¹ If the provisions of T.C.A. § 67-5-221 are adopted and subject to the application requirements of T.C.A. § 67-5-212, land, including buildings on the land, owned by a charitable institution and held for the purpose of constructing one or more single family dwellings to be conveyed for use as the residence of a low-income household as defined in T.C.A. § 13-23-103(12), is exempt during the period of its ownership by the charitable institution until the date it is conveyed to the adult head of the low-income household, but not to exceed the periods established in T.C.A. § 67-5-221(b) and (c).² The effective date of exemption is determined under T.C.A. § 67-5-212. If a dwelling is not constructed and conveyed as provided in T.C.A. § 67-5-221 within the allotted periods, the property will be encumbered by the full amount of taxes together with penalties and interest which would otherwise have been due.³

If the property purchased is a single lot on which only a single family home may be constructed, the property is exempt for a period not to exceed 18 months.⁴ If the property is planned for subdivision into multiple single family lots according to plans filed by the organization, the period of exemption is 18 months plus six months for each additional lot planned beyond the first. If a lot is not developed as planned, a proportionate share of taxes which would have been due upon the lot, including delinquency penalties and interest, will accrue from the date of acquisition of the property by the organization. Taxes will accrue on individual lots within a multi-lot development at the time each lot is conveyed as provided in T.C.A. § 67-5-221.⁵

¹T.C.A. § 67-5-221(a) and (d).

²T.C.A. § 67-5-221(a).

³T.C.A. § 67-5-221(a).

⁴T.C.A. § 67-5-221(b).

⁵T.C.A. § 67-5-221(c).

Historic Properties Owned by Charitable Institutions

Reference Number: CTAS-1551

Under T.C.A. § 67-5-222, certain historical properties owned by charitable institutions are exempt from property taxation if the provisions of T.C.A. § 67-5-222 are adopted in a resolution by a two-thirds vote of the county legislative body.¹ Upon local approval and subject to the application requirements of T.C.A. § 67-5-212, property owned by a charitable institution receives a 100 percent exemption from property taxation if the property is (1) on the National Register of Historical Places; (2) used for occasional rentals which last for no more than two days at a time per event; (3) not rented out more than one hundred eighty days per year, and the proceeds received from rental periods are used solely for the purposes of defraying the maintenance and upkeep of the property; and (4) has been owned and maintained by the charitable institution for at least 10 years prior to the application for the exemption.²

The owner of the qualified property must submit a comprehensive preservation and maintenance plan to the historic properties review board that demonstrates how the property tax savings will be applied to the preservation and maintenance of the property. The plans must meet the guidelines established by the historic properties review board. The tax exemption is valid for a 10 year period; however, the owner of the property may apply for additional exemption periods; provided, that an updated preservation and maintenance plan is filed with the historic properties review board in accordance with its guidelines.³

¹T.C.A. § 67-5-222(d).

²T.C.A. § 67-5-222(a).

³T.C.A. § 67-5-222(b) and (c).

Nonprofit Community and Performing Arts Organizations

Reference Number: CTAS-1552

Under T.C.A. § 67-5-223, upon approval of a resolution by a two-thirds vote of the county legislative body, certain property owned by a non—profit community arts organization is exempt from property taxation. Upon adoption of the provision of T.C.A. § 67-5-223 and subject to the application requirements of T.C.A. § 67-5-212, property owned by nonprofit community and performing arts organizations and used by them or other nonprofit community and performing arts organizations is eligible for property tax exemption as a charitable or educational use of property upon compliance with the provisions of T.C.A. § 67-5-223. Real property owned by these organizations is eligible for exemption to the extent that it is used for public museums, art galleries, performing arts auditoriums and theaters, and any uses necessary and incidental to the foregoing. Personal property owned by these organizations is eligible for exemption to the extent it is used by the organization to equip and operate real property as set out above. Other personal property, regardless of its location, is eligible for exemption to the extent it is used for business or office operations of the organization or used in shows, exhibits or productions of the organization.¹

The organization seeking exemption shall meet the following requirements: (1) the property must be owned and used by a public benefit nonprofit organization established as either a nonprofit corporation or an unincorporated entity operating as an association, a trust or a foundation pursuant to written articles of governance; (2) the organization must be operated and governed by a board of directors of not less than 10 members, all of whom are natural persons, and all powers and affairs of the organization must be exercised under the authority of the board of directors; (3) not more than three members of the organization or its board of directors may be employees of the organization; (4) other than as an employee, no member, officer or director can be compensated for service as such; (5) other than for services as an employee, no member, director or officer of the organization, directly or indirectly,² may sell or provide, for monetary remuneration, any goods or services to the organization; (6) no member, director or officer of the organization may lend money to the organization if the loan is secured by the organization's property; (7) other than for services as an employee, no member, director or officer of the organization may profit from shows, exhibits or productions of the organization or have any monetary interest in shows, exhibits or productions of the organization; (8) in the event the organization sells any of its property which has been exempt from taxation, it must notify the attorney general and reporter of its intent to sell the property at least 21 but not more than 60 days before the date of sale; (9) the articles of governance of any unincorporated organization must include the provisions set out in T.C.A. § 67-5-223(b) or be specifically incorporated by reference; (10) the articles of governance of the organization, whether incorporated or not, and all amendments thereto must be filed with the assessor of property in the county in which the organization owns exempt property;³ and (11) the organization must supply the assessor of property with an annual report which includes a listing of activities and uses of the

property, current statements of financial condition, and any further information the assessor may require.⁴

The county governing body may impose a requirement of periodic local review or renewal of the exemption. The assessor of property must maintain with the records for the property an estimate of the market value of the property as of the date of the last county-wide reappraisal.⁵

¹T.C.A. § 67-5-223(a).

²"Indirectly" means through a business organization of which the employee, member, director or officer of the organization or a spouse, child or parent owns more than a three percent (3%) interest in the business.

³This requirement is not to be construed to override any other existing law as to filing of organizational documents.

⁴T.C.A. § 67-5-223(b).

⁵T.C.A. § 67-5-223(c).

Economic Development

Reference Number: CTAS-1553

Under T.C.A. § 67-5-224, an exemption for certain economic development activities applies to certain property in counties containing a national laboratory facility and counties immediately adjacent to such counties. In these counties and subject to the general requirements of T.C.A. § 67-5-212, real and tangible personal property owned and used by a nonprofit economic and/or charitable development organization is eligible for property tax exemption as a charitable use of property when the provisions of T.C.A. § 67-5-224 are met. The real and tangible personal property owned by a nonprofit entity, whether charitable or otherwise, that is recognized as tax exempt by the internal revenue service and is engaged in economic development, is eligible for property tax exemption to the extent the property is used to provide small business counseling and/or shared office and information systems infrastructure for small business development. The tangible personal property owned by a nonprofit charitable organization is likewise eligible for property tax exemption to the extent it is used to provide counseling, informational and technical assistance to other charitable organizations in applying for grants. Any owner of real or personal property claiming an exemption under T.C.A. § 67-5-224 must file an application for exemption with the State Board of Equalization on the same form and in the same manner prescribed in T.C.A. § 67-5-212(b).¹

¹T.C.A. § 67-5-224.

Family Wellness Centers

Reference Number: CTAS-1554

Real and personal property used as a nonprofit family wellness center is exempt from property taxes as a charitable use of property if the center is owned and operated as provided in T.C.A. § 67-5-225. "Family wellness center" means real and personal property used to provide physical exercise opportunities for children and adults. The property must be owned by a nonprofit corporation that is a charitable institution which (1) has as its historic sole purpose the provision of programs promoting physical, mental, and spiritual health, on a holistic basis without emphasizing one over another; (2) provides at least five of the following eight programs dedicated to the improvement of conditions in the community and support for families:

- (A) day care programs for preschool and school-aged children;
- (B) team sports opportunities for youth and teens;
- (C) leadership development for youth, teens, and adults;
- (D) services for at-risk youth and teens;
- (E) summer programs for at-risk and non-at-risk youth and teens;
- (F) outreach and exercise programs for seniors;

(G) aquatic programs for all ages and skill levels; and

(H) services for disabled children and adults; and

(3) provides all programs and services to those of all ages, incomes and abilities under a fee structure which reasonably accommodates persons of limited means and, therefore, ensures that ability to pay is not a consideration. The corporation must further meet the requirements of T.C.A. § 67-5-225(b).¹

In order to qualify for exemption, the nonprofit corporation must first be exempt from federal income taxation as an exempt charitable organization under the provisions of § 501(c)(3) of the Internal Revenue Code and any amendments thereto. In addition, the nonprofit corporation must provide that (1) the directors and officers will serve without compensation beyond reasonable compensation for services performed; (2) the corporation is dedicated to and operated exclusively for nonprofit purposes; (3) no part of the income or the assets of the corporation will be distributed to inure to the benefit of any individual; and (4) upon liquidation or dissolution, all assets remaining after payment of the corporation's debts will be conveyed or distributed only in accordance with the requirements applicable to a § 501(c)(3) corporation.² Furthermore, all claims for exemptions under T.C.A. § 67-5-225 are subject to the provisions of T.C.A. § 67-5-212(b).³

¹T.C.A. § 67-5-225(a). See Op. Tenn. Atty. Gen. 00-106 (June 9, 2000).

²T.C.A. § 67-5-225(b).

³T.C.A. § 67-5-225(c).

Museums

Reference Number: CTAS-1555

Subject to the applicable requirements of T.C.A. § 67-5-212, the real and tangible personal property owned and used by an organization as a museum receives a 100 percent exemption from property taxation if (1) the organization owns the real property for which the exemption is sought; (2) the organization owning the property is exempted from the payment of federal income taxes by § 501(c)(3) of the Internal Revenue Code; (3) the property is located within the limits of an incorporated municipality; (4) the exempt organization actually operates the museum; (5) the museum displays local, regional and state crafts and items of historical interest; and (6) the board members of the organization receive no compensation for their services.¹

Any owner of real or personal property claiming exemption under T.C.A. 67-5-226 is required to file an application for exemption with the State Board of Equalization on the same form and in the same manner prescribed in T.C.A. § 67-5-212(b).²

¹T.C.A. § 67-5-226(a).

²T.C.A. § 67-5-226(b).

Educational Museums

Reference Number: CTAS-1556

The real property and tangible personal property, owned or possessed by an organization and used exclusively by that organization for an educational museum, shall have a 100 percent exemption from property taxation, if: (1) the educational museum is located upon land owned by state, county or municipal government, or an agency or entity thereof, including any municipal or regional airport authority; (2) the educational museum exhibits historic artifacts and other items of historical significance and instruction; (3) the educational museum is designated, by Tennessee law, as an official state repository and archive; (4) the organization is exempt from payment of federal income taxes pursuant to § 501(c)(3) of the Internal Revenue Code; (5) the organization's board members receive no compensation for serving on the board; and (6) the organization's employees and volunteers actually manage and perform the daily operations and programs of the educational museum.¹

Any organization claiming such exemption must file an application for exemption with the State Board of Equalization, on the same form and in the same manner as prescribed in T.C.A. § 67-5-212(b).²

¹T.C.A. § 67-5-226(c)(1).

²T.C.A. § 67-5-226(c)(2).

Leased Tangible Personal Property

Reference Number: CTAS-1557

Inventories of merchandise held by merchants and businesses for sale and exchange by persons taxable under the business tax (*Tennessee Code Annotated*, Title 67, Chapter 4, Part 7) are exempt from property taxation. This exemption includes tangible personal property held for lease or rental, but does not include such property in the possession of a lessee. Leased personal property in the possession of the lessee is subject to property taxation and is classified and assessed according to the lessee's use.¹

¹T.C.A. § 67-5-901. *See also* Op. Tenn. Atty. Gen. 89-89 (May 30, 1989) (finding that the statute excepting categories of leased personal property from the property tax exemption for leased property is constitutional); Op. Tenn. Atty. Gen. 91-94 (November 27, 1991) (finding that the ultimate user of the tangible personal property in a business or profession is liable for the property tax, whether the user is a lessee or sublessee, and the owner, lessee, or sublessee from whom the ultimate user, lessee or sublessee obtained the property is not liable for the property tax assessment).

In Lieu of Tax or Tax Equivalent Payments

Reference Number: CTAS-1558

In lieu of tax or tax equivalent payments are not taxes. Payments in lieu of taxes are intended to replace lost property tax revenues. A governmental entity may not require payments in lieu of taxes without specific statutory authorization.

Municipal Gas System Tax Equivalent Law of 1987. Pursuant to the Municipal Gas System Tax Equivalent Law of 1987, T.C.A. § 7-39-401 *et seq.*, every municipality (county, city, town, or metropolitan government) may pay or cause to be paid from its gas system revenues for each fiscal year an amount for payments in lieu of taxes on its gas system and gas operations which, in the judgment of the municipality's governing body, represents the fair share cost of government properly to be borne thereby, subject to the conditions set forth in the statute.¹

Municipal Electric System Tax Equivalent Law of 1987. Pursuant to the Municipal Electric System Tax Equivalent Law of 1987, T.C.A. § 7-52-301 *et seq.*, every municipality (county, city, town, or metropolitan government) may pay or cause to be paid from its electric system revenues for each fiscal year an amount for payments in lieu of taxes on its electric system and electric operations which, in the judgment of the municipality's governing body after consultation with the supervisory body, represents the fair share of the cost of government properly to be borne thereby, subject to the conditions set forth in the statute.² Contracts for the distribution of tax equivalent payments are authorized.³ In the absence of an agreement, a formula has been established for apportionment and payment to the taxing jurisdictions in which its electric plant in service is located.⁴

Telecommunications Services. A municipality providing any of the services authorized by T.C.A. § 7-52-401 is required to make tax equivalent payments with respect to those services in the manner established for electric systems under T.C.A. § 7-52-301 *et seq.*⁵

Cable Television, Internet, and Related Services. A municipal electric system providing any of the services authorized by T.C.A. § 7-52-601 *et seq.*, is required to make tax equivalent payments with respect to those services in the manner established for electric systems under T.C.A. § 7-52-301 *et seq.*, provided, that the payments shall not include amounts based on net system revenues as provided in T.C.A. § 7-52-304(1)(B).⁶ In addition to the aforementioned tax equivalent payments, a municipal electric system providing cable or internet services must pay an amount in lieu of the following taxes to the same extent as if it were a private provider of those services: (1) excise and franchise taxes; (2) sales taxes; and (3) local privilege taxes.⁷

Industrial Development Corporations. Pursuant to T.C.A. § 7-53-305, an industrial development corporation and all properties owned by it, and the income and revenues therefrom, and all bonds issued by it, and the income therefrom, is exempt from all taxation in the state of Tennessee.⁸ A municipality

(county, city, town, or metropolitan government) has the power to delegate to an industrial development corporation the authority to negotiate and accept from the corporation's lessees, payments in lieu of ad valorem taxes; provided, that any such authorization will be granted only upon a finding that such payments are deemed to be in furtherance of the corporation's public purposes as defined in the statute. Municipalities that do not levy a property tax are prohibited from negotiating PILOT agreements unless the county signs off on the agreement or the municipality or the IDB agree to pay the county the property taxes that would otherwise be due.⁹ PILOT agreements for retail projects may only be negotiated if certain criteria are met. T.C.A. § 7-53-305, Pursuant to T.C.A. § 7-53-305, PILOT payments can be waived for 23 years without the approval of ECD and the comptroller. Under T.C.A. § 48-101-312(b), Health, Educational and Housing Facility Corporations are authorized to negotiate PILOT agreements with respect to tax-credit housing projects without any delegation from the municipality unless the municipality adopts an ordinance or resolution requiring the agreements to be approved by the municipality. Housing authorities have been granted this same authority in counties without such corporations. Industrial development Corporations have been granted this same authority with respect to tax-credit housing projects. T.C.A. § 7-53-305.

Housing Authorities. Housing authority property and its bonds and notes, together with the interest and income are exempt. In lieu of taxes, the housing authority must agree to make payments to the taxing jurisdiction for services, improvements or facilities furnished for the benefit of a housing project owned by the housing authority. Payments in lieu of taxes for services must not exceed the estimated cost of providing the services, improvements or facilities.¹⁰

Tennessee Valley Authority. In lieu of tax payments made by the Tennessee Valley Authority to the state replace tax revenue which the Tennessee Valley Authority would otherwise pay if it were not a tax exempt federal agency. The amount of the payments is determined by federal law.¹¹ Pursuant to the Tennessee State Revenue Sharing Act, T.C.A. § 67-9-101 *et seq.*, in lieu of tax payments received by the state from the Tennessee Valley Authority are apportioned between the state and local governments based on a formula determined by law.¹²

Local Hospital Authorities—Leased Commercial Real Property. A hospital authority, created by a county or municipality pursuant to private act, which owns real property leased for commercial purposes, must agree to the payment of tax equivalents to any municipality and county where the leased commercial property is located. The amount of the tax equivalent payments is fixed at the amount of ad valorem taxes otherwise due and payable by a tax paying entity upon the assessed value of the leased commercial property. If the leased commercial property is located within the boundaries of a municipality, pro rata shares of the total amount collected from the local hospital authority is distributed to the county and municipality based on the tax rates of each.¹³

¹T.C.A. § 7-39-404.

²T.C.A. § 7-52-304. *See also Knox County v. City of Lenoir*, 837 S.W.2d 382 (Tenn. 1992)

³T.C.A. § 7-52-306.

⁴T.C.A. § 7-52-307. *See also Knox Co. ex rel. Kessel v. Lenoir City*, 837 S.W.2d 382, 385 (Tenn. 1992) (holding that the 1987 Act specifically permits the allocation of payments among taxing jurisdictions to be established by means of a private act).

⁵T.C.A. § 7-52-404.

⁶T.C.A. § 7-52-606(a).

⁷T.C.A. § 7-52-606(b).

⁸T.C.A. § 7-53-305(a).

⁹T.C.A. § 7-53-305(b). *See also* Op. Tenn. Atty. Gen. 85-264 (October 22, 1985)(discussing the apportionment of in lieu of tax payments between various governmental entities).

¹⁰T.C.A. § 67-5-206.

¹¹16 U.S.C. § 831 *et seq.*

¹²T.C.A. § 67-9-101(a).

¹³T.C.A. § 67-9-201.

Tax Relief

Reference Number: CTAS-1559

The legislature has provided authority for tax relief programs in which the state pays a portion of the county property taxes due on residences of qualified taxpayers. The program authorizes payment, or reimbursement of taxes already paid, to the following taxpayers: (1) elderly low-income homeowners, (2) disabled homeowners, and (3) disabled veterans.¹

Counties may not provide tax relief by setting a lower tax rate, or by reducing penalty and interest, for particular classes of residents. Such provisions violate the uniformity provisions of Tenn. Const. art. II, § 28.² However, in 2006, the legislature amended T.C.A. § 67-5-701(j) to allow all counties to appropriate funds for tax relief for elderly low income homeowners, disabled homeowners and disabled veterans. 2006 Public Chapter 739. The total tax relief from the state and local appropriations cannot exceed the total taxes actually paid. Only the taxpayers eligible for the state program are eligible for tax relief from a county appropriation.³

¹T.C.A. § 67-5-701 *et seq.*

²Ops. Tenn. Atty. Gen. 96-044 (March 13, 1996) and 89-111 (September 5, 1989).

³T.C.A. § 67-5-701(j)

Administrative Provisions

Reference Number: CTAS-1560

The State Board of Equalization, through the Division of Property Assessments, is charged with the implementation of T.C.A. §§ 67-5-702 - 67-5-704, and promulgates all the necessary rules, regulations and procedures for their implementation.¹

Property tax relief is obtainable by submitting an application to the collecting official (i.e., county trustee) using a form approved by the State Board of Equalization. The collecting official will make a preliminary determination of eligibility and forwards the application to the state for final approval. The collecting official may allow the applicant a credit for the projected amount of property tax relief if the applicant appears from the application to be eligible and submits the balance of the property taxes due at the time the credit is given. The collecting official may present evidence of the credit to the director of the Division of Property Assessments, who then authorizes the payment to the tax jurisdiction of the amount for which the applicant was credited in taxes. If later processing of the application indicates that the applicant was ineligible or the credit was otherwise issued in error, the state notifies the applicant and the collecting official and may recover the erroneous payment from the tax jurisdiction. The amount represented by the erroneous payment then becomes due and payable by the applicant as property taxes, but the taxes do not accrue delinquency penalty or interest until 60 days from the date of the notification to the applicant.²

A county trustee may enter into a contract with a city collecting official to process tax relief applications received by the city collecting official.³

Any person who received tax relief payments in error for any tax year or years must repay the state the amount received in error. There is a bar against collection of repayments unless demand is made within two years following the due date for the tax year to which the erroneous payments relate. Any person who received tax relief payments in error may reapply and may obtain tax relief for a subsequent tax year; provided that eligibility is established and the person either pays the full amount of repayment due or applies one half of the tax relief amount for which the person may be eligible to repay the state for amounts received in error until no further repayment is due. The limited liability and right to reapply afforded under the statute is not be available to persons who willfully provide false information concerning eligibility. Any taxpayer who willfully provides false information concerning the taxpayer's income or other information relative to eligibility for tax relief will be required to immediately repay to the state the full amount of any tax relief received as a result of such false information, plus an amount equal to the penalty and interest calculated according to the rates specified in former T.C.A. § 67-1-801(b).⁴

All taxpayers otherwise eligible for tax relief under T.C.A. §§ 67-5-702 - 67-5-704, but who fail to apply for a refund or present a credit voucher for credit on their taxes within 35 days from the date taxes in the jurisdiction become delinquent for that year, are deemed ineligible for tax relief for that tax year. The payment of the full amount of taxes by the delinquency date is not a condition of eligibility for tax relief.⁵

Tax relief will be provided to only one recipient for a given property for any tax year and under no condition will any taxpayer receive tax relief for property taxes paid on more than one place of residence for any tax year.⁶

If a taxpayer eligible for tax relief pursuant to T.C.A. § 67-5-702 (elderly low-income homeowners) or T.C.A. § 67-5-703 (disabled homeowners) dies after applying for tax relief or after receiving a voucher, the surviving spouse, and only the surviving spouse, is qualified to present to the collecting official the tax relief voucher selected for the deceased and to receive a final payment for the tax year for which the voucher was selected, unless the taxes were paid prior to the taxpayer's death. If the taxes were paid at the time application was made and prior to the taxpayer's death, either the surviving spouse or any duly appointed personal representative of the decedent may receive the payment.⁷

¹T.C.A. § 67-5-701(a).

²T.C.A. § 67-5-701(c).

³T.C.A. § 67-5-701(l). 2010 Public Chapter 932.

⁴T.C.A. § 67-5-701(g).

⁵T.C.A. § 67-5-701(d)(1).

⁶T.C.A. § 67-5-701(f).

⁷T.C.A. § 67-5-701(h).

Elderly Low-Income Homeowners

Reference Number: CTAS-1561

Low-income taxpayers 65 years of age or older who owned and used a principal residence may qualify for tax relief for all or part of the local property taxes paid for a given year on that property.¹ Such reimbursement shall be paid on the first twenty-seven thousand dollars (\$27,000), or such other amount as set forth in the general appropriations act or as adjusted pursuant to subdivision (a)(3)(B), of the full market value of such property. Beginning for tax year 2018, and each subsequent tax year, the amount on which reimbursement shall be paid under subdivision T.C.A. § 67-5-702(a)(3)(A) shall be increased annually to reflect inflation, as measured by the United States bureau of labor statistics consumer price index for all urban consumers and shall be rounded to the nearest one hundred dollars (\$100). The comptroller of the treasury shall notify taxpayers of any change in dollar amounts made pursuant to this subdivision (a)(3)(B) and post the information in a readily identifiable location on the comptroller's website. The annual percentage changes used in this calculation shall be no less than zero percent (0%) and no more than three percent (3%)..²

For tax year 2007 and thereafter, the taxpayer's annual income from all sources can not exceed \$24,000, or such other amount as set forth in the general appropriations act. For subsequent years, the annual income limit is adjusted to reflect the cost of living adjustment for social security recipients as determined by the social security administration and is rounded to the nearest \$10. The income attributable to the applicant for tax relief shall be the income of all owners of the property, the income of applicant's spouse and the income of any owner of a remainder or reversion in the property if the property constituted the person's legal residence at any time during the year for which tax relief is claimed.³ Any portion of social security income, social security equivalent railroad retirement benefits, and veterans entitlements required to be paid to a nursing home for nursing home care by federal regulations is not considered income to an owner who relocates to a nursing home.⁴

Taxpayers who become 65 years of age on or before December 31 of the year for which an application for property tax relief is made and are otherwise eligible will be qualified as elderly low-income homeowners.⁵

¹T.C.A. § 67-5-702(a)(1).

²T.C.A. § 67-5-702(a)(3).

³T.C.A. § 67-5-702(a)(2).

⁴T.C.A. § 67-5-702(a)(2).

⁵T.C.A. § 67-5-702(c).

Disabled Homeowners

Reference Number: CTAS-1562

Taxpayers who are totally and permanently disabled who owned and used a principal residence may

qualify for tax relief for all or part of the local property taxes paid for a given year on that property.

Disability is determined by rules and regulations of the State Board of Equalization.¹ Such reimbursement shall be paid on the first twenty seven thousand dollars (\$27,000), or such other amount as set forth in the general appropriations act or as adjusted pursuant to subdivision (a)(3)(B), of the full market value of such property. Beginning for tax year 2018, and each subsequent tax year, the amount on which reimbursement shall be paid shall be increased annually to reflect inflation, as measured by the United States bureau of labor statistics consumer price index for all urban consumers and shall be rounded to the nearest one hundred dollars (\$100). The comptroller of the treasury shall notify taxpayers of any change in dollar amounts made pursuant to this subdivision T.C.A. § 67-5-703 (a)(3)(B) and post the information in a readily identifiable location on the comptroller's website. The annual percentage changes used in this calculation shall be no less than zero percent (0%) and no more than three percent (3%).²

For tax year 2007 and thereafter, the taxpayer's annual income from all sources shall not exceed \$24,000, or such other amount as set in the general appropriations act. For subsequent years, the annual income limit is adjusted to reflect the cost of living adjustment for social security recipients as determined by the social security administration and is rounded to the nearest \$10. The income attributable to the applicant for tax relief shall be the income of all owners of the property, the income of applicant's spouse and the income of any owner of a remainder or reversion in the property if the property constituted the person's legal residence at any time during the year for which tax relief is claimed.³ Any portion of social security income, social security equivalent railroad retirement benefits, and veterans entitlements required to be paid to a nursing home for nursing home care by federal regulations is not considered income to an owner who relocates to a nursing home.⁴

Taxpayers who become totally and permanently disabled on or before December 31 of the year for which application is made for property tax relief and are otherwise eligible will be qualified as disabled homeowners.⁵

¹T.C.A. § 67-5-703(a)(1).

²T.C.A. § 67-5-703(a)(3).

³T.C.A. § 67-5-703(a)(2).

⁴T.C.A. § 67-5-703(a)(2).

⁵T.C.A. § 67-5-703(c).

Disabled Veterans

Reference Number: CTAS-1563

Disabled veterans who owned and used a principal residence may qualify for tax relief for all or part of the local property taxes paid for a given tax year on that property.¹ Reimbursement is paid on the first \$175,000 of the full market value of the property.² Property tax relief will not be extended to any person who was dishonorably discharged from any branch of the armed services.³

For the purposes of T.C.A. § 67-5-704, a "disabled veteran" means a person who has served in the armed forces of the United States, and who has

1. acquired in connection with his or her military service a disability from paraplegia or permanent paralysis of both legs and lower part of the body resulting from traumatic injury or disease to the spinal cord or brain, or from legal blindness, or from loss or loss of use of two or more limbs from any service-connected cause;
2. acquired 100 percent permanent total disability, as determined by the United States Veterans' Administration, and the disability resulted from having served as a prisoner of war; or
3. acquired service-connected permanent and total disability or disabilities, as determined by the United States Department of Veterans' Affairs.⁴

The determination of the United States Veterans' Administration concerning the disability status of a veteran is conclusive for purposes of this statute.⁵

Property tax relief will also be extended to the surviving spouse of a disabled veteran who at the time of the disabled veteran's death was eligible for disabled veterans' property tax relief. If a subsequent

amendment to the law concerning eligibility as a disabled veteran would have made the deceased veteran eligible for disabled veterans' property tax relief, then property tax relief shall also be extended to the surviving spouse. A surviving spouse shall continue to qualify for disabled veterans' property tax relief as long as the surviving spouse does not remarry, solely or jointly owns the property for which tax relief is claimed, and uses the property for which tax relief is claimed exclusively as a home.⁶

Property tax relief will also be extended to the surviving spouse of a veteran whose death results from a service-connected, combat-related cause, as determined by the United States Veterans' Administration; provided that the surviving spouse does not remarry and the property for which tax relief is claimed is owned by and used exclusively by the surviving spouse as a home.⁷

Property tax relief will also be extended to the surviving spouse of a soldier whose death results from being deployed, away from any home base of training and in support of combat or peace operations; provided, that the surviving spouse does not remarry, solely or jointly owns the property for which tax relief is claimed, and uses the property for which tax relief is claimed exclusively as a home. T.C.A. § 67-5-704(g).

¹T.C.A. § 67-5-704(a)(1).

²T.C.A. § 67-5-704(3).

³T.C.A. § 67-5-704(c).

⁴T.C.A. § 67-5-704(b). See also Op. Tenn. Atty. Gen. 86-66 (March 17, 1986) (addressing the issue of combat-related injury).

⁵T.C.A. § 67-5-704(d).

⁶T.C.A. § 67-5-704(e).

⁷T.C.A. § 67-5-704(f).

Additional Tax Relief

Reference Number: CTAS-1564

The county legislative body may provide for the appropriation of funds for tax relief for elderly low-income homeowners as described in T.C.A. § 67-5-702, for disabled homeowners as described in T.C.A. § 67-5-703, and for disabled veterans as described in T.C.A. § 67-5-704. However, in no event may the total relief allowed by the state and county exceed the total taxes actually paid.¹ Only those taxpayers who qualify under T.C.A. §§ 67-5-702 - 67-5-704 are eligible for this additional tax relief, and the eligible taxpayers must have previously applied for and obtained the relief authorized by T.C.A. § 67-5-702, T.C.A. § 67-5-703 or T.C.A. § 67-5-704.²

¹T.C.A. § 67-5-701(j)(1).

²T.C.A. § 67-5-701(j)(2).

Property Tax Freeze Act

Reference Number: CTAS-1565

In 2007, the General Assembly enacted the Property Tax Freeze Act, T.C.A. § 67-5-705. The act authorizes the county legislative body, by resolution, to adopt the property tax freeze program according to the statute. The county legislative body is also authorized to terminate the tax freeze program by resolution, but the resolution terminating the program cannot have the effect of terminating the program until the following tax year.

In counties that have adopted the property tax freeze, taxpayers apply annually to the collecting official (county trustee) by the deadline established in the program rules, and applicants must qualify on the basis of age, income and ownership of eligible property. The trustee determines whether requirements for eligibility have been met, and the trustee's determination is final, subject to audit and recovery of taxes, including penalty and interest at the rates provided for delinquent taxes under T.C.A. § 67-5-2010, if the applicant is later determined to have not been eligible. Any taxpayer who knowingly provides false information concerning the taxpayer's income or other information relative to eligibility for such program commits a Class A misdemeanor.

Once the trustee approves the application, property taxes due upon the applicant's principal residence

shall be the lesser of: (1) the actual tax due; or (2) the base tax, provided the base tax shall be adjusted to reflect any percentage increase in the value of the property determined by the assessor to be attributed to improvements made or discovered after the time the base tax was established. The base tax shall be recalculated in any year in which the actual tax due is less than the previously established base tax for the property, and the recalculated base tax shall apply until further recalculated. "Base tax" is defined as the property tax due on the principal residence of a qualifying taxpayer at the time the jurisdiction levying the tax adopts a resolution approving the property tax freeze; provided, however, if the taxpayer did not qualify or did not own an eligible residence when the freeze was adopted, "base tax" means the maximum property tax due on the taxpayer's eligible residence for the year in which the taxpayer became eligible on the basis of an approved application. If a taxpayer reapplies after acquiring a new residence or after a period of ineligibility, the base tax shall be recalculated for the year of reapplication and reestablishment of eligibility.

To qualify for the property tax freeze, the applicant must be sixty-five (65) years of age by the end of the year in which the application is filed. The applicant must own and use the property as the applicant's principal residence for which the tax freeze is sought in the year of application or reapplication and through the deadline date for application or reapplication. The tax freeze only applies to the principal residence and no more than the maximum limit for land established by state rules. The state rules establish the maximum size limits for land which may qualify as a taxpayer's principal residence. The rules are to take into consideration lot size requirements under applicable zoning as well as property actually used to support residential structures; provided, however, the size limit cannot exceed five acres.

In addition to the qualifications stated in above, the applicant's income, combined with the income of any other owners of the property, the income of the applicant's spouse, and the income of any owners of a remainder or reversion in the property who used the property as their principal place of residence at any time during the year may not exceed the income limit set forth in the act. Income for purposes of qualification means income from all sources as defined by the program rules. The act provides that the income limit for the property tax freeze program shall be the greater of weighted average of the median household income for age groups sixty-five to seventy-four, and seventy-five or over, who resided within the county as determined in the most recent federal decennial census, or the applicable state tax relief income limit established under T.C.A. § 67-5-702. This limit is to be adjusted by the comptroller to reflect the cost of living adjustment for social security recipients as determined by the social security administration and shall be rounded to the nearest ten dollars. The adjusted weighted average median household income level for each county shall be published annually by the comptroller. The comptroller is authorized to perform income verification or other related services or assistance at the request of a county or municipality if the county or municipality agrees to pay fees sufficient to reimburse the actual costs of the comptroller in providing such services or assistance, unless or to the extent not appropriated by the General Assembly. Financial records filed for purposes of income verification are declared to be confidential and not subject to inspection under the Tennessee public records act, but are to be made available to local or state officials who administer or enforce the provisions of the law.

The property tax freeze program is subject to any uniform definitions, application forms and requirements, income verification procedures and other necessary or desirable rules, regulations, policies and procedures, not in conflict with the terms of the act, as may be adopted by the State Board of Equalization through the Division of Property Assessments.

Real Property Tax Deferral

Reference Number: CTAS-1566

Chapter 831 Deferral

Reference Number: CTAS-1567

Eligibility for Deferral. Pursuant to T.C.A. § 7-64-101, the legislative body of any county or municipality may provide by resolution that any single person age 65 years of age or older, or any married couple of which both are 65 years of age or older, or any person who is totally and permanently disabled, who owns real property, and who uses and occupies the property as a place of residence, may apply to the county trustee of the county where the residence is located for a deferral of payment of all real property taxes on that residence. The deferral of property taxes is not available to single persons age 65 years of age or older, or to married couples of which both are 65 years of age or older or to any family group which has more than one person residing permanently in the principal residence, whose combined gross income, as defined by the Internal Revenue Code, is greater than \$12,000 a year.¹

Limitations. The tax deferral provided for in T.C.A. § 7-64-101 applies to no more than \$60,000 of the

appraised fair market value, as determined from the records of the county tax assessor. In addition, the tax deferral applies only to the principal residence and no more than one acre of land.²

Application Process. Applications for the deferral of real property taxes is made annually, on or before March 1 of each year, unless a later date for applications is provided for by resolution of the legislative body of the county or municipality authorizing the program. Applications received by the county trustee after this date will be considered for deferral of real property taxes for the following tax year. Application forms are prepared by the state Division of Property Assessments. Pursuant to the statute, a \$5.00 application fee is imposed to defray the expenses of processing of the application. The fee must be paid when the application is submitted. The county trustee or appropriate municipal official furnishes the county assessor of property a copy of each application for the deferral of property taxes. Whenever an application for the deferral of real property taxes is made, the county assessor of the county where the residence is located must, within 90 days, reassess the property claimed for deferral and notify the county trustee or the appropriate municipal official of the amount of the reassessment and value for tax purposes. After the trustee determines that the applicant qualifies for deferral, the trustee will approve the application only after receiving written approval from the holder of a note secured by any mortgage or deed of trust on the residence. The trustee must provide the register of deeds notice of each approved application for the deferral of taxes.³

Lien for Unpaid Taxes. Whenever a deferral of real property taxes is granted, the assessment of taxes will continue on an annual basis; however, the taxes will not become due and payable until the deferral is terminated. The unpaid balance of assessed real property taxes constitutes a lien against the property, and is subject to interest at the rate of 10 percent a year. The accrued taxes and interest will be a lien of the first priority on the property in the particular local government. The lien will remain in effect until the taxes and interest are paid. The tax deferrals created pursuant to T.C.A. § 7-64-101 *et seq.* are not subject to the statutory penalties imposed on delinquent taxes, and the lien created in the local government is not subject to any applicable statute of limitation.⁴

Termination of Deferral. Deferrals on the payment of real property taxes, granted pursuant to T.C.A. § 7-64-101 *et seq.*, will be terminated (1) upon the death of the person to whom the deferral was granted and that person's surviving spouse if the spouse qualifies; or (2) when the residence is sold. When the termination is by death, the taxes and interest become due and payable within 18 months of the termination or the settlement of the estate, whichever occurs first. When the termination occurs as a result of the sale of the property, all unpaid taxes and interest thereon become due and payable within 60 days. A deed for the sale of the property will not be accepted for recordation in the office of the county register of deeds until all taxes and interest have been paid.⁵

¹T.C.A. § 7-64-101.

²T.C.A. § 7-64-102.

³T.C.A. § 7-64-103.

⁴T.C.A. § 7-64-104.

⁵T.C.A. § 7-64-105.

Chapter 659 Deferral

Reference Number: CTAS-1568

Eligibility for Deferral. Pursuant to T.C.A. § 7-64-201, the legislative body of any county or municipality may provide by resolution that

1. any taxpayer or spouse who is 65 years of age or older who owns residential property that is the person's principal place of residence will pay taxes on that property as any other taxpayer, but taxes on the property in the amount that exceeds the person's property tax for the year 1979 may be deferred at the interest rate set forth in T.C.A. § 7-64-209, with the deferred taxes to remain a lien upon the property as provided by T.C.A. § 7-64-209;
2. any taxpayer who reaches 65 years of age on or before March 27, 1980, who owns residential property that is the person's principal place of residence will thereafter pay taxes on the property in the same amount as other taxpayers, but that any taxes in excess of the 1979 taxes may be deferred until the date of sale of the property or the date of death of the taxpayer, or the death of the surviving spouse, and that any taxpayer who reaches 65 years of age after March 27, 1980, may defer any taxes in excess of the amount in effect in

the year the person becomes 65 years of age subject to the other provisions of T.C.A. § 7-64-201 *et seq.*; and

3. any taxpayer who is 65 years of age or older who purchases residential property as the person's principal place of residence after the person's 65th birthday may defer taxes in excess of the amount of tax in the year the person purchased the property subject to the provisions of T.C.A. § 7-64-201 *et seq.*¹

The deferral benefits provided by T.C.A. § 7-64-201 *et seq.* also apply to totally and permanently disabled taxpayers, as defined by T.C.A. § 67-5-703, and disabled veterans as defined in T.C.A. § 67-5-704.²

Whenever the fair market value of the property is increased as the result of improvements to the property after March 27, 1980, the assessed value of the property will be adjusted to include the increased value, and the taxes will also be increased proportionally with the increased value. The increased value will not be subject to the benefits of the tax deferment.³

Claim by Surviving Spouse. In the event of the death of one spouse of a married couple who has qualified for deferral pursuant to the statute, if the surviving spouse is over 50 years of age, that spouse can continue to claim the deferral benefits subject to the tax lien already accumulated against the property.⁴

Limitation on Eligibility—Taxpayer Income. No taxpayer or taxpayers whose income exceeds \$12,000 annually is eligible for the tax deferral.⁵ The limitation of \$12,000 on income from all sources applies to the combined income of both the husband and wife and/or all family members residing in the residence.⁶

Limitation on Value of Principal Residence. The limitation on the value of the principal place of residence is under \$50,000 and shall be determined by the appraised fair market value as it appears on the records of the county assessor and not the reduced assessment.⁷ In addition, the tax deferral applies only to the principal residence and no more than one acre of land.⁸

Application Process. Applications for the deferral of real property taxes is made annually, on or before March 1 of each year, unless a later date for applications is provided for by resolution of the legislative body of the county or municipality authorizing the program. Applications received by the county trustee or collector of municipal taxes after the appropriate date will be considered for deferral of real property taxes for the following tax year.⁹ Application forms are prepared by the state Division of Property Assessments. Pursuant to the statute, a \$6.00 application fee is imposed to defray the expenses of processing of the application. The fee must be paid when the application is submitted. The county trustee or municipal collector of taxes makes the final determination of eligibility of the applicant.¹⁰

Lien for Unpaid Taxes—Interest. In the event of a sale of the property, the deferred taxes are not subject to penalty as provided for delinquent taxes but are subject to interest at the rate of 10 percent per annum. The accrued taxes and interest at 10 percent per annum remain a first lien on the property in favor of the local government involved until paid and are not subject to the statutes of limitations.¹¹ The tax deferrals created pursuant to T.C.A. § 7-64-201 *et seq.* are not subject to penalties as provided in Tennessee statutes for delinquent taxes.¹²

Termination of Deferral. The deferred payments become due and payable at the time of sale of the residence and at the time of the death of the beneficiary. In addition, the deferred payments become due and payable in the event of a change of use of the property from the principal place of residence of the beneficiary or beneficiaries.¹³

¹T.C.A. § 7-64-201(a).

²T.C.A. § 7-64-211.

³T.C.A. § 7-64-201(b).

⁴T.C.A. § 7-64-205.

⁵T.C.A. § 7-64-202.

⁶T.C.A. § 7-64-203.

⁷T.C.A. § 7-64-206.

⁸T.C.A. § 7-64-201(c).

⁹T.C.A. § 7-64-212.

¹⁰T.C.A. § 7-64-207(a) - (c).

¹¹T.C.A. § 7-64-209.

¹²T.C.A. § 7-64-204.

¹³T.C.A. § 7-64-210.

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