



REVENUE CORRESPONDENCE:

Exempt Property

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Please understand that all answers are based on the specific question asked. If any of the facts of the situation change, our opinion will be subject to change as well.

This document is intended to be used as a supplement to the Property Tax Administrator's Manual, *Module 5: Exempt Property*.

Updated March 2024



Exempt Applications



January 21, 2016

Steve Hurni
Property Tax Compliance Officer
steve.hurni@state.mn.us

Dear Mr. Hurni:

Thank you for submitting your question to the Property Tax Division regarding exempt entities. You have provided the following questions.

Question 1: Are exempt entities that are eligible for payment in lieu of taxes (PILT) required to file an exempt application every three years?

Answer 1: No, PILT eligible lands are not required to re-file exempt applications (as PILT organizations) because they are owned by government entities. Minnesota Statutes 272.025 describes application requirements for exempt property and political subdivisions are not required to re-file every three years.

Question 2: Do Housing and Redevelopment Authority (HRA) owned properties need to re-file for exemption every 3 years?

Answer 2: HRA-owned property is not required to re-file exempt applications every 3 years for the same reasons above. However, assessors may request information necessary to grant an exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

November 6, 2017

Angela VanZee
Pope County Assessor's Office
Angela.VanZee@co.pope.mn.us

Dear Ms. VanZee,

Thank you for submitting your questions to the Property Tax Division regarding exemption of manure pits. You have provided the following questions:

Question 1: Does the exemption need to be applied for yearly, every three years, or just once?

Answer 1: After the initial application has been filed and accepted by the county assessor, owners or authorized representatives must reapply for exemption every three years. No matter what year the owner or authorized entity originally filed for exemption, ***reapplications for property tax exemption must be filed in 2019, 2022, 2025, etc.*** Please note that this reapplication requirement could change due to a recent law change that will go into effect for applications for exemption beginning in 2018. The commissioner will annually publish, on it's website, by January 1 which organizations must file applications or reapplications pursuant to Minnesota Statute 272.025. Once the list is published, county assessors will be notified.

Question 2: Is the entire building exempt when it qualifies for an exemption or just the manure pit?

Answer 2: According to MN statute, the actual manure pit and appurtenances, including slatted floors and pipes, are exempt as long as they are installed and/or operated in accordance with a permit, order, or certificate of compliance as issued by the Minnesota Pollution Control Agency (MPCA). Determining if the building qualifies for exemption is based on its ownership, use, and necessity of ownership. For example, the Department of Revenue has issued guidance relating to a manure pit under a hog barn. The department determined that the hog barn was not exempt from property taxes, as the primary use of the property was still as a hog barn. The presence of the manure pit did not automatically allow for an exemption.

Question 3: Does the County Assessor or the Commissioner of the Department of Revenue approve the application?

Answer 3: Only the County Assessor has legal authority to sign and approve applications for exemption. The Commissioner of Revenue may only extend the time for filing an exemption application in cases where the applicant has extenuating circumstances preventing timely filing (i.e. sickness, absence, disability or other good cause).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division



Assessor Duties

July 2, 2003

Carol Schutz
Chippewa County Assessor
Courthouse
629 North 11th Street
Montevideo, Minnesota 56265

Dear Carol:

In a recent email you asked how exempt property should be valued. Should it be valued each year as a part of the quintile (formerly quartile) assessment, or should it be assessed in its entirety once every six years?

In our opinion, exempt property should be assessed in its entirety once every six years. It should not be included as a part of the quintile assessment.

If exempt property were to be valued as a part of the quintile, the assessor would have to annually adjust the values of all properties not assessed in the quintile assessment so that all properties were valued on the same basis.

MS 273.18 provides that exempt property is to be assessed "In every sixth year after the year 1926,"

In our opinion, it is much more practical to distribute the assessment of taxable real and personal property within the quintile assessment. Exempt property should be assessed as provided for by statute - in its entirety once every sixth year.

Very truly yours,

JOHN F. HAGEN, Manager
Information and Education Section
Property Tax Division
Phone (651) 296-0336
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MINNESOTA • REVENUE

August 12, 2015

Steve Hurni
Property Tax Compliance Officer
steve.hurni@state.mn.us

Dear Mr. Hurni:

Thank you for submitting your question to the Property Tax Division regarding exempt application requirements for cemeteries. You have provided the following scenario and question.

Scenario:

Reapplications for property tax exemption must be filed in 2016 so questions have come up regarding requirements on what types of property need to reapply.

Question:

Are cemetery properties required to continue to reapply every three years for exemption?

Answer:

Cemetery properties are included in the exempt properties required to reapply for exemption every three years. Though most exempt properties must reapply for the exemption, there are a number of property types that this requirement does not apply to. Burial grounds, however, are not one of these property types.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us



Assisted Living Facilities

March 24, 2005

Marcy Barritt, Murray County Assessor
P.O. Box 57
2500 28th Street
Slayton, Minnesota 56172-0057

Dear Marcy:

Your e-mail question to John Hagen has been forwarded to me for reply. You have asked if we would be issuing specific criteria for determining the taxable or exempt status on congregate care and assisted living facilities in light of the Peterson Estates court case in Cottonwood County. You have also asked if you should review the congregate care facility that is attached to the nursing home in Fulda Minnesota, which we reviewed back in 1995.

As you know, there is no specific statutory exemption for congregate care or assisted living facilities in Minnesota. Therefore, they must attempt to qualify under one of the other provisions for exemption. The most likely provision is that for institutions of purely public charity. Without question, this is the most difficult exemption decision to make since Minnesota statutes do not specifically define what is or is not an institution of purely public charity. However, guidance does come from the 1975 Supreme Court Decision, *North Star Research Institute vs. County of Hennepin*.

As of now, we do not intend to issue additional formal directions to assessors. We issued an Elderly Assisted Living Care Bulletin in 2000 (copy enclosed). Since then, we have developed checklists for assessors to use when trying to make determinations of taxable status of assisted living facilities as well as other purely public charities (copies enclosed). In addition, we developed and presented a seminar at the MAAO Fall Conference in 2002. This same information has been presented in the PACE course. We have not made any changes in our procedures due to the tax court decision on the case in Cottonwood County because, in our opinion, each case must be reviewed individually and evaluated on its own merits as to how it meets the guidelines set forth in the *North Star* case.

Per your request, I have also reviewed the opinion we issued back in 1995 on the congregate care facility that is attached to the nursing home in Fulda (copy enclosed). At that time, we stated that there was no guarantee that the housing addition would be exempt from taxation. We did recommend that "the addition be granted exemption until the operation of its facilities can be further examined under actual operating conditions. We strongly suggest that if you grant such an exemption, you make the owner aware of its potential taxability if the above test factors are not met."

Institutions of purely public charity are one of the entities that are required to apply for exemption every three years after 1983 as stated in Minnesota Statute 272.025. If they are still listed as exempt, they should have most recently reapplied to you in 2004. If not, we recommend that you ask them to reapply and submit the supporting documentation immediately. If you would like our assistance in examining those documents, we would be happy to look at it for you.

If you have further questions, please contact our division.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section - Property Tax Division
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E-mail: stephanie.nyhus@state.mn.us

Enclosures (4)



February 20, 2015

Liz Lund
Roseau County Assessor's Office
liz.lund@co.roseau.mn.us

Dear Ms. Lund,

Thank you for contacting the Property Tax Division regarding exemption eligibility for multiple properties in your county.

Scenario 1:

- In your county, there are two subsidized/low income housing facilities.
- Both used to be low income senior housing and now one facility has broadened to be senior and multifamily too.
- Both are owned by non-profit entities and created for the sole purpose of providing low income housing.
- They were originally funded by the USDA/Rural Development and they are regulated by them.
- It is your opinion that these properties do not qualify for exemption and they might qualify for class 4d low income housing.

Question 1: Do these properties qualify for exemption?

Answer 1: According to the information you provided, it appears that neither of these properties qualify for exemption due to the fact that the properties are housing facilities. The only types of residential facilities exempted under Minnesota Statutes are homeless shelters, emergency shelters for victims of domestic violence, and certain transitional housing facilities.

Question 2: Should you let the property owner know they do not qualify for exemption, or should you submit their paperwork to the review board for institutions of purely public charity for review?

Answer 2: Because these are housing facilities and not institutions of purely public charity, you should remove the exempt status for the 2015 assessment and contact the property owners.

Scenario 2:

- The Warroad Senior Living Center is located in your county.
- In their previous building, they were providing nursing home type care.
- They built a new facility in 2008.
- The new facility provides a variety of different types of services:
 - Independent Living – 22 units
 - Assisted Living – 22 units
 - Supportive Living – 10 units (Same as Assisted living, but the payment source is different)
 - Skilled Care (Nursing Home type care) – 49 beds
 - Commons area connecting the various wings of the facility
- You feel that the independent, assisted, and supportive living and the commons should be taxable.

Question 1: Does this property or portions of this property qualify for exemption?

Answer 1: You are correct that the independent, assisted, and supportive living areas are taxable. Those three types of living areas are housing facilities and used for residential purposes. In addition, you provided us with

information explaining that these facilities would not pass the purely public charity requirement tests, and therefore they could not qualify for exemption as a purely public charity. According to the information you provided, it appears that the entire commons area would be taxable as well.

The portion of the property that appears to possibly qualify for exemption is the skilled care portion of this property. You stated that the skilled care portion is a “nursing home type care” facility. We would recommend that you verify whether that portion of the property meets the requirements in Minnesota Statute 272.02, subdivision 90. If those requirements are met, this portion of the property could qualify for exemption.

Question 2: If the skilled care portion qualifies for exemption, should you allocate portions of the commons area for the skilled care?

Answer 2: As you know, property qualifies for exemption based on ownership, use, and necessity. If there is a portion of the commons area that is used exclusively for the skilled care portion of the property then that portion could qualify for exemption.

Question 3: If the skilled care portion qualifies for exemption, what application should they fill out? Are they qualifying as a purely public charity or a nursing home?

Answer 3: From the information you provided to us, it appears that if the skilled care portion would qualify for exemption, it would qualify as a nursing home under Minnesota Statute 272.02, subdivision 90 which means the nursing home application would be the best fit

Scenario 3:

- The Greenbush Facility is operated by Lifecare Medical Center.
- The property was built within the last three years.
- The property rents some of their space to a clinic.
- The property also has 12 assisted living units and 40 beds for skilled nursing care.
- The property also provides some hospital functions such as lab, imaging, and behavioral health services.

Question 1: When an organization that is a hospital owns and operates an assisted living facility in their building, are the assisted living facility and the clinic taxable or exempt?

Answer 1: Similarly to scenario 2, the clinic and assisted living units are taxable. The hospital qualifies for exemption and the skilled nursing care portion may as well, as long as it meets the requirements in Minnesota Statute 272.02 subdivision 90. You stated that the assisted living facility also provides some hospital functions. If those functions are performed by the hospital as part of the hospitals overall work, in an area that the hospital shares, then the area used for hospital services may also be exempt. However, if those services are located entirely within the assisted living facility, the portion of the property used for those purposes may be taxable.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY

State Program Administrator Principal

Property Tax Division

Phone: 651-556-6091

Email: proptax.questions@state.mn.us

March 6, 2017

David Sipila
St. Louis County Assessor's Office
sipilad@StLouisCountyMN.gov

Dear Mr. Sipila,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- There is an assisted living facility located in your county
- The assisted living facility has been licensed by the Department of Health as a "Licensed Home Care Provider".
- The facility is not licensed as a nursing home/boarding care home.
- The facility has previously applied for exemption and the county denied the application due to the property acting in manner of an assisted living facility.
- The facility has once again applied for exemption and has provided a copy of their policy statement that indicates that residents are not discharged due to their inability to pay.

Question: Can an assisted living facility qualify for exemption as a nursing or boarding care home without being licensed as such?

Answer: Assisted living facilities are taxable and do not meet the requirements to qualify for exemption. According to the information provided, it appears this property is functioning as an assisted living facility, not as a nursing home. Acting as a nursing home is not equivalent to being a nursing home. A nursing home must be licensed under 272.02 subdivision 90 and meet all of those requirements. The fact that the assisted living facility does not discharge due to inability to pay does not automatically qualify them as a nursing home. The facility could consider applying for exemption as a purely public charity, if they feel they meet those requirements.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jessi Glancey

State Program Administrator Coordinator

Property Tax Division

Information & Education

Phone: 651-556-6091



Billboards

August 8, 2005

Glen Erickson
Morrison County Assessor
Administration Building
213 1st Avenue SE
Little Falls, Minnesota 56345

Dear Mr. Erickson:

Thank you for your email regarding billboards. You asked how the billboard should be valued, classified, and to whom they should be taxed.

A billboard, including the framework and superstructure, is exempt from taxation as personal property (*Skoglund vs. St. Louis County*). If the billboard site is located in privately owned land, it is taxed to the owner. If the site is located on property that is exempt from taxation, it should be taxed as personal property to the lessee of the site.

The classification and valuation of the site are more difficult to determine. You will have to use your judgment to determine the appropriate valuation and classification of the site. You should determine if the use is incidental to the overall use of the property. The value should reflect the highest and best use, the income stream generated by the billboard, and its location.

For example, a small billboard in a rural location may not generate much income and may only be an incidental use of the property. In such instances, it would be appropriate to classify and value the site the same as the surrounding land. However, a billboard along I-94 will generate a significant income that should be recognized. In addition, it may be appropriate to classify the site the billboard occupies as commercial.

If you determine that the value of the billboard should be recognized, the value should reflect the income stream generated by the billboard since that is what a buyer and seller would consider when determining a sale price.

If you have any further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

MELISA REDISKE, Appraiser
Information and Education Section
Property Tax Division
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2009016

January 14, 2009

Keith R. Kern, SAMA
Assistant County Assessor
Carver County Assessor's Office
600 East 4th Street
Box 10
Chaska, Minnesota 55318

Dear Mr. Kern,

Thank you for your recent question concerning taxation of property owned by a church. You have outlined the following scenario: A church owns a parcel that is leased to a farmer. The parcel contains two billboards. The entire parcel is assessed and taxed as an agricultural/commercial split. The church believes that the land on which the billboards are located should be exempt, as income received from the lease of billboards is used for church purposes (i.e. "capital improvements"). You have asked if the church's argument is valid.

As you are aware, the billboards themselves are not taxable pursuant to Minnesota Statutes, section 272.03, subdivision 1 which exempts equipment used for business or production. Billboards were found to be "equipment" and eligible for exemption in *Skoglund v. St. Louis County*, 1976. However, the question remains as to whether the land upon which the billboards stand are taxable.

When determining the tax status of church property, the department relies on a three-prong test: ownership, use, and necessity of ownership. Certainly, the church owns the land. The church claims that the billboards are necessary to its business, as they use the income derived from the church for church purposes. This fact may be difficult to verify (that the church requires the income from the billboards in order to sustain its activities). However, the church has not shown that the "use" factor is met.

You were correct in denying exemption to the lands on which the billboards are located. If the church disagrees with this decision, they may appeal to Minnesota Tax Court. If you have further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

February 19, 2021

Daryl Moeller
Mille Lacs County Assessor's Office
Daryl.Moeller@millelacs.mn.gov

Dear Mr. Moeller,

Thank you for submitting your questions to the Property Tax Division regarding billboards. You have provided the following scenario and question:

Scenario One:

- The County recently purchased 315 acres for a park
- The property contains three billboards with a 5-year lease that transferred to the county at the time of purchase
- The County received a lease payment in 2020

Question: Are the billboards taxable to the County? Does it matter if the billboards are used to promote County programs or the Park?

Answer: Billboard structures, including the framework and superstructure, are exempt from property taxes as equipment. However, the land upon which they are constructed would be taxable. In the situation where a billboard is located on land that would otherwise be exempt, the land is taxable as personal property to the lessee of the site.

The fact that the owner of the billboard has leased the land, and is making payments, suggests these are not exclusively used by the county to promote programs, or the park. Therefore, any promotion that might take place would not impact the taxable status of the land to the lessee.

Scenario Two:

- The County Fairgrounds allowed a billboard company to construct an electronic billboard on the fairgrounds that scrolls different advertisements
- The County Fair receives free advertisements but does not receive any other lease payments

Question: Is this billboard taxable to the Fair Board, the billboard company, or is it exempt?

Answer: That the County Fair receives free advertisements in lieu of lease payment would not impact the taxable status of the land leased by the billboard company. Assuming the land utilized as fairgrounds is exempt property, like the first scenario the billboard would be exempt as equipment and the land would be taxable to the lessee.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6922



Cemeteries

MINNESOTA Department of Revenue
Property Tax Division

Mail Station 3340
St. Paul, MN 55146-3340

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Phone: (651) 296-6336
e-mail: john.hagen@state.mn.us

February 4, 2002

Charles Pelzer
Todd County Assessor
Courthouse
215 1st Avenue South
Long Prairie, MN 56347

Dear Mr. Pelzer:

Mr. Garry Larson has brought to our attention that Larson's Whispering Pines Cemetery may be tax exempt under M.S. 307. We have reviewed all the pertinent information and have concluded that the cemetery is, in fact, tax exempt under this statute. This is a reversal from our previous determination that the property was taxable in our letter to you dated June 21, 2001.

*M. S. 307.09 Subdivision 1. **Extent of exemption.** All lands, not exceeding 100 acres in extent, and in the case of cemeteries owned and managed by religious corporations, or corporations solely owned and controlled by and in the interest of any religious denomination, 300 acres in extent, so laid out and dedicated as a private cemetery, shall be exempt from public taxes and assessments, and shall not be liable to levy and sale on execution, or to be applied in payment of the debts of any owner thereof, so long as the same remains appropriated to the use of a cemetery; and no road or street shall be laid through the same without the consent of the owners.*

In short, any private cemeteries of up to 100 acres are exempt provided that they are not being put to some other use.

We apologize for the inconvenience this letter will cause you. We had no knowledge of the exemption contained in M.S. 307 until Mr. Larson brought it to our attention. A Department of Revenue attorney will be proposing a legislative change to rectify the exemption granted in M.S. 307 to M.S. 272.02, the statute that deals with property tax exemptions.

Again, please accept our apology for this misinformation contained in our June 21, 2001, letter.

If you have any further questions on this matter, please feel free to contact me.

Sincerely,

STEPHANIE L. NYHUS, Senior Appraiser
Information Education Section

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TDD: (651) 297-2196



August 13, 2012

Lorna Sandvik
Marshall City Assessor
lorna.sandvik@marshallmn.com

Dear Ms. Sandvik:

Thank you for your question submitted to the Property Tax Division in regard to cemetery land. You have provided the following situation:

The Marshall Cemetery Association, Inc. owns and operates a 49 acre cemetery in Marshall. They have owned the majority of the land and operated the cemetery since the late 1800's. Approximately 28 acres of the cemetery property is leased to a local farmer for agricultural use. You have notified the association that you have placed the excess land used for agricultural purposes on the tax rolls. The association is concerned that the property tax will exceed the amount of rent they receive for the land and are searching for a way to retain their exempt status or reduce their tax burden on the excess land.

You have asked the following questions:

1. Is the excess land under lease for agricultural use taxable?
2. Is the excess land taxable if the association allowed the farmer to farm it rent free?
3. Is the excess land taxable if the association returned it to grassland and it was no longer farmed?
4. Is the excess land eligible for Green Acres?

Question 1: *Is the excess land under lease for agricultural use taxable?*

Private cemeteries owned by corporations are exempt up to 100 acres as long as the land is used for the purposes which would grant it exemption. In other words, private cemeteries must be used for burial or plots, and not other commercial enterprises, to be granted exemption. For the specific property in question, the 21 acres of land that are being used solely for cemetery purposes are exempt. Therefore the land leased for agricultural use is taxable per Minnesota Statutes, section 272.01, subdivision 2:

“When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.”

Question 2: *Is the excess land taxable if the association allowed the farmer to farm it rent free?*

As stated earlier, private cemeteries owned by corporations are exempt up to 100 acres as long as the land is used for the purposes for which would grant it exemption. Since the excess land would not be used for cemetery purposes, even if it were rented at no cost to the farmer, the land would not be exempt but may meet the following qualifications as described in Minnesota Statutes, section 273.13, subdivision 23, to be classified as 2a agricultural land:

1. *At least 10 contiguous acres must be used to produce agricultural products in the preceding year (or be qualifying land enrolled in an eligible conservation program);*
2. *The agricultural products are defined by statute; and*
3. *The agricultural product must be produced for sale.*

Therefore, the land would be taxable if the farmer was allowed to farm the land rent-free.

Question 3: *Is the excess land taxable if the association returned it to grassland and it was no longer farmed?*

If the excess land in question is returned to grassland, the exempt status would remain as long as the land is being used for the purpose for which the property is exempt (e.g., future burial plots).

Question 4: *Is the excess land eligible for Green Acres?*

The land in question as you have stated, is owned by Marshall Cemetery Association, Inc. In order to qualify for enrollment in Green Acres, the property must be owned by individuals or an eligible family farm entity. To qualify for Green Acres, one of the following must apply:

- The property is the homestead of the owner, or the owner's surviving spouse, child, or sibling or is farmed in conjunction with the homestead property.
- The property has been in possession of the applicant, the applicant's spouse, parent, or sibling (or any combination) for a period of at least seven years prior to application.
- The property is being farmed in conjunction with property within four townships or cities (or any combination) from property that has been in possession of the owner, the owner's spouse, parent, or sibling (or any combination) for a period of at least seven years prior to application.
- The property is in possession of a nursery, greenhouse, or an entity owned by a proprietor, partnership, or corporation which also owns the nursery or greenhouse operations on the parcel or parcels.

Since this property is owned by a corporation and only being leased to an individual for agricultural purposes, this property does not qualify for Green Acres.

If you have any further questions, please do not hesitate to contact our division by email at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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May 9, 2014

Doug Walvatne
Otter Tail County Assessor
dwalvatn@ottertail.mn.us

Dear Mr. Walvatne:

Thank you for submitting your question to the Property Tax Division regarding potential exemption for a property used as a cemetery. You have provided the following information and question.

Scenario: An individual applied for exemption as a private cemetery on a 5-acre parcel. The parcel was platted and the name of the plat is "Mt. Tabor Cemetery". However, the real estate is still in the name of the individual that platted it. You believe that a family member may already be buried at the cemetery.

Question: Can the individually-owned cemetery be exempt?

Answer: Yes, private cemeteries are exempt under Minnesota Statutes, section 307.09 (as noted in section 272.02, subdivision 58). This section states in part:

"All lands, not exceeding 100 acres in extent, and in the case of cemeteries owned and managed by religious corporations, or corporations solely owned and controlled by and in the interest of any religious denomination, 300 acres in extent, so laid out and dedicated as a private cemetery, shall be exempt from public taxes and assessments, and shall not be liable to levy and sale on execution, or to be applied in payment of the debts of any owner thereof, so long as the same remains appropriated to the use of a cemetery; and no road or street shall be laid through the same without the consent of the owners [emphasis added to relevant portions]."

The cemetery does not need to meet a specific ownership type to qualify for exemption on the five acres. Up to 100 acres of an individually-owned cemetery may be exempt, provided it is actually used for the purposes of a cemetery (burial plots). Intended future use is not enough to grant exemption and any non-cemetery use would also make the land ineligible for exemption.

If you have any further questions, please contact our division at proptax_questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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Updated 3/15/2024 - See Disclaimer on Front Cover

February 14, 2018

Stacy Bannor
Beltrami County Assessor's Office
Stacy.bannor@co.beltrami.mn.us

Dear Ms. Bannor,

Thank you for submitting your question to the Property Tax Division regarding exemption of cemetery property. You have provided the following scenario and question:

Scenario:

- A request to split property to create a private cemetery was submitted to the county on December 12, 2017.

Question: Does the newly created cemetery automatically qualify for exemption? If the property qualifies for exemption when would the exemption go into effect?

Answer: No, the property would not automatically qualify for exemption. A cemetery land platted, dedicated, and held for future use for burial purposes, but used presently for alternative purposes (rural vacant/ag etc.) is not exempt from taxation as a public/private burying ground. The parcel must be used for the purposes of a cemetery (burial plots) in the assessment year to qualify for exemption. An intention on the part of the cemetery association/owner to use its land in the future for burial of the dead affords no basis for exemption of the land from taxation as a public/private burying ground. For more information you can review the tax court case: *State v. Ritschel*, 1945, 220 Minn. 578, 20 N.W.2d 673.

It is required that all property owners seeking exemption must file an initial application with the county assessor. The application should include enough information to help the assessor to grant or deny the exemption. Initial applications for exemption are due to the assessor in the district where the property is located on or before **February 1** of the assessment year in which the exemption is first sought. Assuming an application was submitted prior to February 1, 2018, and all qualifications for meeting exemption were met, the property owner could receive exemption on the property for assessment year 2018, taxes payable 2019.

For additional information, please refer to the Property Tax Manual [Module 5 – Exempt Property](#).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

September 30, 2021

Dear Mike,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- A property is currently receiving a partial exemption as a Native American burial site.
- The State Archeologist sent a letter in 2012 explaining that the site was a confirmed burial mound

Question: Should this property continue to receive an exemption as a burial site?

Answer: Yes. [Minnesota Statutes 272.02, subdivision 58](#) states that private cemeteries detailed in M.S. 307.09 are exempt. Burial mounds confirmed by the State Archeologist and managed by the Minnesota Indian Affairs Council would fall under this definition.

As the State Archeologist notes, part of the process of authenticating the burial ground is to establish the boundary of the burial ground. This boundary would likely be the portion of land that should be exempt. The property owner must have made initial application for exemption but does not need to file for re-application.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922



Charter Schools

MINNESOTA • REVENUE

September 29, 2010

Dana Beasley
Supervisor of Real Estate Assessment
City of Minneapolis
309 Second Avenue South - Room 100
Minneapolis, MN 55401-2234

Dear Mr. Beasley:

Thank you for your e-mail to the Property Tax Division. It has been assigned to me for response. You have outlined the following situation: a charter school is leasing space from a private, for-profit landlord. Previously, the landlord leased the space to the Minneapolis Public Schools (MPS) and received a property tax exemption. After reviewing the current lease between the landlord and the charter school, you have placed the space on the tax rolls. The landlord is challenging your decision and feels entitled to the same exemption the property received when the space was leased to MPS. You have asked for our opinion on this situation.

As you are aware, generally in order to qualify for exemption from property tax, there must be a concurrence of ownership by an exempt entity, use of the property for an exempt purpose, and a reasonable necessity for the exempt entity to own the property to further the stated purpose of the organization. In this case, the property is owned by a for-profit entity and leased to a charter school for educational purposes, which does not meet this test. However, Minnesota Statutes section 272.02, subdivision 42, paragraph (a) states that:

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

The Department of Revenue has interpreted “nominal” on various occasions to mean something less than the cost to break even, or something that is small in comparison to what might properly be expected. For example, in terms of leases to charter schools, we have never seen a lease that met our definition of being rented for a “nominal fee” based on this definition. In every case we have examined, the lease was at, or exceeding, market rate. We maintain this definition of a nominal fee for properties leased to school districts.

As always, the lease to the school district must be for a period of at least twelve consecutive months, and the school must provide direct education in any grade K-12 and/or special education for disabled children. The property may also be used to provide adult basic education as described in Minnesota Statutes, section 124D.52, preschool and early childhood family education or community education programs, and provide administrative services directly related to the educational program at that site. The lease must provide the school district exclusive use of the property during the lease period.

Additional information regarding property leased to charter schools was provided in a memo to all assessors in May 2010. We have attached another copy for your review. Unless the property in question meets the provisions outlined on the previous page, the property should remain taxable. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,



Stephanie Nyhus, SAMA
Principal Appraiser
Information and Education Section

Enclosure

March 21, 2022

Alison,

Thank you for contacting the Property Tax Division regarding exemption. You provided us with the follow scenario and question.

Scenario:

- A charter school in your county is asking about property tax exemption qualification for property they lease.
- Previously, the property the charter school rented qualified for exemption because it was church-owned property, and the church was a non-profit entity.
- Now, the charter school is renting an entire structure from a for-profit entity

Question: Does private, for-profit entity owned property qualify for exemption when leased by a charter school?

Answer: No, property used by a charter school does not qualify for exemption under Minnesota Statute 272.02, subdivision 42 (a) when it is leased from a for-profit entity. If the owner of the property is not the charter school operating at the property, the owner must satisfy requirements for exemption under Minnesota Statutes, section 272.02, subdivision paragraph (b) to qualify for property tax exemption.

Under [MN Statute 272.02 subd. 42\(b\)](#), which the charter school previously qualified for exemption under, states that property leased to a charter school formed and operated under chapter 124E must be owned by a non-profit or other specified entity (such as a church) to qualify for exemption.

The language referenced in Minnesota Statute 272.02, subd. 42(a) pertains to when a school district leases property.

More information regarding property exemption for property where a charter school is located please refer to our [Property Tax Administrator's Manual, Module 5](#).

This opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. Ultimately it is the assessor's responsibility to make the final determination on whether a property qualifies for property tax exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6922



Church Property/Religious Institutions

March 17, 2003

Doreen Pehrson
Nicollet County Assessor
501 South Minnesota Avenue
Government Center
St. Peter, MN 56082

Dear Doreen:

John Hagen referred your letter dated January 22, 2002, to me for reply. Due to budget cuts and being short staffed, we apologize for the delay in responding. Your letter states, "In 2001, two churches purchased bare land in North Mankato. They both plan on building churches on these sites sometime in the future (probably not in 2002). One property was an old farm site (8.5 acres) with old buildings in the process of being demolished; nothing is tilled. The other property (12 acres) was formerly farm land and will continue to be rented as farm land in order to keep the property free from weeds, etc."

Your question is:

"What is the correct classification of these properties for the 2002 assessment?" We are currently classifying them as residential vacant land and agricultural non-homestead, respectively."

Our answer is:

As you are aware, there are three requirements for exemption: ownership, use, and necessity of ownership. Clearly, both meet the ownership factor. In addition, they likely meet the necessity of ownership factor – to be used for future expansion. However, neither meets the "use" requirement specifically for church purposes. One of the properties is not used at all and one is being rented to a farmer. You have currently, classified one parcel as residential vacant land and one as agricultural non-homestead. These classifications appear reasonable based on your letter. Once the churches make active preparations to expand on their properties, it would be appropriate to grant them exemption at that time. Active preparations would include hiring an architect, fundraising, pulling permits, etc.

Very truly yours,

RHONDA M. THIELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 296-3540
e-mail: Rhonda.Thielen@state.mn.us

January 5, 2005

Larry S. Johnson
City Assessor
City of Alexandria
704 Broadway
Alexandria, MN 56308

Dear Mr. Johnson:

Your letter to John Hagen has been forwarded to me for reply. In your letter, you state that Lake Geneva Christian Center is a bible camp that is located in the city of Alexandria. The camp purchased an adjacent RV park in September 2004. The camp has stated that they will allow up to seven of the previous tenants to retain their sites during 2005 while they seek alternate locations. You have asked if the value of those seven sites should be considered taxable for the 2005 assessment and if the property should be reviewed as of July 1, 2005, to see how many of the sites are utilized by the seasonal occupants at that time.

In our opinion, that is exactly what you should do. The seven sites that MAY be occupied seasonally should be presumed taxable until they are actually used by the exempt entity. If they are used by the exempt entity prior to July 1, 2005, they may be exempt for the 2005 assessment. If they are used by the previous occupants on or after July 1, 2005, they should remain taxable for the 2005 assessment.

If you have further questions, please contact our division.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109
Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

MINNESOTA ▪ REVENUE

August 3, 2005

Lee Brekke
Wadena County Assessor
Courthouse
415 Jefferson Street South
Wadena, Minnesota 56482

Dear Mr. Brekke:

On June 8, 2005, Joan Seelen, a member of my staff, wrote you a letter on the taxable status of a residence owned by Bethany Free Lutheran Church. At the time of that letter, our understanding was that the residence was used as a place of residence by the widow of a former missionary. No other uses were identified at that time consequently, we concluded that the residence was taxable.

Yesterday, I received a letter dated August 1, 2005, from Mr. Jim Bounds, a Bethany Board Member. In that letter, Mr. Bounds identifies a number of other uses for this residence referred to in his letter, as “Mission House” Mr. Bounds states in his letter that the “Mission House” is used as follows:

- by the entire congregation for Christmas fellowship.
- for women’s group meetings.
- to conduct new member classes.
- for a changing and gathering place for weddings

In addition, Mr. Bounds states that the house will be used for adult bible study on Sunday mornings when Sunday School resumes in September

Finally, Mr. Bounds concludes that:

“We feel that our Mission house is well utilized to support the mission of our church and we continue to look for ways it will expand the mission of our church and overall service to our community.”

The long standing test for determining entitlement of church owned property for exemption is whether the “property is devoted to and reasonably necessary for the accomplishment of church purposes. In *Victory Lutheran Church v. County of Hennepin*, the Minnesota Supreme Court reversed a tax court decision in an opinion issued August 23, 1985. The Supreme court ruled that the use of a residence adjacent to the church occupied by a married couple who provided custodial services to the church was reasonably necessary to the accomplishment of church purposes and therefore exempt.

The Minnesota Supreme Court once again overturned the Minnesota Tax Court in *St. John's Lutheran Church v. County of Hennepin*, this opinion was also issued on August 23, 1985. In that decision the Supreme Court ruled that a “duplex, which was adjacent to church property and used by the church to house married couples who worked for the church, was reasonably necessary for accomplishment of church purposes, and thus, was exempt from taxation.”

Based upon the new information provided by Bethany Free Lutheran Church board member Jim Bounds regarding the additional uses of the “Mission House” we have concluded that its use is reasonably necessary for accomplishment of church purposes. Consequently, we would recommend property tax exemption for this property.

If you have any questions or concerns, please feel free to contact me.

Very truly yours,

JOHN F. HAGEN, Manager
Information and Education Section
Property Tax Division
Phone: (651) 556-6106
E-Mail: john.hagen@state.mn.us

c. Representative Dean Simpson
Senator Cal Larson

June 8, 2005

Lee Brekke
Wadena County Assessor
Courthouse
415 Jefferson Street South
Wadena, Minnesota 56482

Thank you for your inquiry regarding the taxable status of a parsonage that is occupied by someone other than a minister or priest.

As you know, Minnesota Statutes state that all churches, church property, and houses of worship are exempt from taxation. In the past, we have said that in order for a parsonage to also be exempt from property taxes, it must be occupied by a priest or pastor.

In our opinion, a rectory or parsonage owned by a church and used as a residence by someone other than a priest or pastor is almost always taxable. The only expansion we would make is in very limited instances where an individual's presence was essential to the existence of the church. For example, there is the court case in Minneapolis that exempted a house of a caretaker that had to be present to fire coal furnaces every four hours. Essentially, to be exempt, the parsonage must be occupied by a minister or priest or by someone whose round the clock presence is essential to the existence of the church.

We hope this clarifies our position on this issue. If we can be of further help to you, please contact our division.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

December 13, 2006

Gerald Kritzeck
Sherburne County Assessor
13880 Highway 10
Elk River, Minnesota 55330-4607

Dear Mr. Kritzeck:

Thank you for your question regarding exemption from property taxes. You outlined the following situation. Grace Lutheran Church owns a parcel of vacant land. They have leased it to Shepherd of Grace, LLC. Shepherd of Grace, LLC, in turn, is building a senior housing and assisted living facility on the property. You have asked if this property should be taxable or exempt from property tax.

In our opinion, the property is taxable. As you are aware, there are three key components for exemption from property tax. They are:

1. Ownership – the property must be owned by an exempt entity;
2. Use – the property must be used for an exempt purpose; and
3. Necessity of Ownership – ownership of the property by the exempt entity must be necessary to further the stated purpose of the exempt organization.

Simply stated, the property that is owned by the church must be used for church purposes in order to be exempt from property tax. It must also be necessary for the church to own that property to further the stated purposes of the church.

Therefore, since the property is leased to another organization, and not used for church purposes, it is taxable. In addition, it should be noted that any building constructed on that site is also taxable as real property to the owner of the site.

If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division
Fax: (651) 556-3128

June 2, 2006

Michael Frankenberg
Goodhue County Assessor's Office
509 West 5th Street Room 208
Red Wing, Minnesota 55066

Dear Mr. Frankenberg:

Thank you for your question on exemption from property tax for property that is owned by a church. You outlined the following situation.

- The church owned a home that was used as a parsonage up until 2004.
- In 2004 the property was rented out, and the property was added to the tax rolls.
- You recently learned that in lieu of paying the church rent for the home, the tenants will be providing services for the church such as yard work and cleaning in trade for the use of the home.
- The basement of the home will be used to home school children of the church and community.

You asked if the property should be exempt from property tax under this situation.

In the past, we have always maintained that a house must be used as a parsonage in order to be considered exempt from property tax. The long standing test for determining entitlement of church owned property for exemption is whether the "property is devoted to and reasonably necessary for the accomplishment of church purposes. In the past, it has been our opinion that homes used by Sunday school teachers, music directors, custodians, etc. were not "reasonably necessary" for the operation of the church and were therefore, not entitled to exemption from property tax.

In this case, it seems that the tenants of the property are providing services for the church in exchange for free or reduced rent. This appears to be a choice rather than a necessity. Therefore, for the time being, we are recommending that you leave the property as taxable.

However, we are in the process of reviewing our past opinions on this issue. When our review is complete, we will issue additional information if necessary.

If you have further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

June 9, 2006

Brian Connors
Scott County Assessor's Office
Courthouse
Room 112
428 South Holmes
Shakopee, Minnesota 55379

Dear Brian:

Your e-mail has been assigned to me for reply. You have asked if the existence of a contract for deed gives a church enough ownership to qualify the property for exemption.

Assuming that the property is being used for church purposes, it is our opinion that the fact that the church purchased a property on a contract for deed should not preclude the property from qualifying for exemption.

If you have any further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division
Phone: 651.556.6109
E-mail: stephanie.nyhus@state.mn.us

July 17, 2007

Marcy Barritt, Murray County Assessor
Murray County Courthouse
P.O. Box 57
2500-28th Street
Slayton MN 56172-0057

Dear Ms. Barritt,

Your July 6 email inquiry has been referred to me for a response.

You wrote that Calvary Baptist Church purchased a parcel of undeveloped property in Murray County in 2000. In June 2002 the property was transferred to Slayton Baptist Church and that church has owned the property since that time. The property was exempt for taxes payable in 2001 through 2006. Murray County removed the exempt status of the property for the 2006 assessment, taxes payable in 2007 as there was no sign of a new church and no building permits had been requested.

You have spoken to a member of the church who told you that the Slayton Baptist Church does intend to build a church building on the property and they already have a building fund committee. But the Church has no definite date for beginning construction; they have a small congregation and raising sufficient funds is very difficult; and paying taxes is an additional burden on this small congregation. They have not applied for building permits. The Church occasionally uses the bare lot for Bible school classes.

You asked our opinion on whether the unimproved lot qualifies for exemption as church property. Our opinion is that the property does not qualify for exemption.

The Minnesota Constitution provides that churches and church property are exempt from taxation in Minnesota. But Minnesota courts have held that in order to qualify for exemption, the property must be both owned by a church and be used for church purposes. In 1932, the Minnesota Supreme Court heard a case with facts closely aligned with the facts in your situation. A church had purchased property on which to construct a church but the construction had not yet begun. The assessor removed the exempt status and the church appealed that decision. In the case of State v. Second Church of Christ, Scientist, 240 N.W.2d 532, the Supreme Court said that the test is the use to which the property is devoted or about to be devoted. The Second Church of Christ, Scientist had purchased the property in 1924 and 1925, employed an architect in 1926, approved the building plans in 1928 and began construction in 1930. The Court held the property was exempt for 1927 and 1928, the years at issue in the case. The Court said that there must be a present need for a building site, the property must be purchased, there must be a good faith intention to build within a reasonable time, funds must be continuously raised and an architect employed.

The Court seems to tell us that intentions alone are not sufficient. Intent to someday build a church without the actions to make it happen just isn't enough to warrant exemption. And in your case, establishing a building committee is not sufficient by itself. In the future, if Slayton Baptist Church does begin construction of a church building, you may consider exempting the property even before the church is complete.

If you have any further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

DOROTHY A. MCCLUNG
Property Tax Division

August 20, 2008

Ben Thomas
Assistant St. Louis County Assessor
Courthouse
100 North 5th Avenue West
Duluth, Minnesota 55802-1293

Dear Mr. Thomas,

Thank you for your recent question concerning exemption of church property, which has been forwarded to me for response. You have outlined the following: A church has applied for tax exemption on a 40-acre parcel. Approximately two acres of this parcel are used as a parking lot. There is a “meditation trail” on the parcel which winds through the property and leads to the church cemetery on a neighboring parcel. There is also an “open air ministry” area which is used for weddings and outdoor prayer/church services. You have asked the Department of Revenue’s opinion on exemption of this parcel.

Churches and church property are exempted under Minnesota Statutes, section 272.02, subdivision 6. Minnesota courts have held that in order to qualify for exemption, the property must be both owned by a church and be used for church purposes. In 1932, the Minnesota Supreme Court heard a case in which a church had purchased property on which to construct a church but the construction had not yet begun (in other words, the church-owned property was vacant). The assessor removed the exempt status and the church appealed that decision. In the case of *State vs. Second Church of Christ, Scientist* (240 N.W.2d 532), the Supreme Court said that the test is the use to which the property is devoted or about to be devoted.

In the scenario you have outlined, it appears that at least part of the parcel is used for church purposes and may therefore be eligible for exemption. As always, in Minnesota law, taxation is the rule and exemption is the exception. If you are unsure as to whether the property is being used for church purposes, the onus is on the taxpayer to provide documentation of its use. We would not recommend granting exemption to any part of the property that is not used for church purposes.

If you have further questions or concerns, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

January 4, 2010

Cynthia M. Geis
Scott County Auditor/Treasurer
Govt Center Room 101
200 4th Ave W
Shakopee MN 55379-1220

Dear Ms. Geis,

Thank you for your recent question to the Property Tax Division regarding exemption eligibility for property owned by churches. You have provided details of both properties. The exemption eligibility for each property is outlined below.

Property 1: A church and a cemetery are located on a 6.5-acre parcel. Approximately 4.5-acres are wooded and not used for church or cemetery purposes. In other words, only portions of the property are used for church or cemetery. You have asked if you are required to “split class” this property as partly taxable and partly exempt, or if the entire property would be qualify for exemption.

As you are aware, in order to qualify for exemption, a property must meet a three-pronged test: It must be owned by an exempt institution, used by that exempt institution for exempt purposes, and must be necessary for the purposes of that institution. If the parcel meets these requirements, the entire parcel would qualify for exemption.

If there is a separate, non-exempt use which is identified on a portion of the property, the exemption would be prorated. It has been long-standing practice to grant pro rata exemption to parcels of property which qualify for exemption on only a portion of the property. In one oft-quoted case where there was an identified commercial use of an otherwise exempt property, the court stated:

“[W]hen a building is owned by a charitable or other tax exempt institution and one substantial part thereof is directly, actually and exclusively occupied by such institution for purposes for which it was organized and another substantial portion thereof is primarily used for revenue by rental to general public, such buildings with grounds thereof, is pro rata exempt from taxation and pro rata taxable according to its separate uses and it should be assessed and taxed on that portion of its proper assessable value allocated to taxable use after deducting from its overall assessable value the portion thereof property allocated to proportionate tax-exempt use.”

(Christian Business Men’s Committee of Minneapolis v. State, 1949, 228 Minn. 549, 38 N.W. 2d 803.)

In other words, the portion of the property which is clearly used for non-exempt purposes is not exempt.

(Continued...)

Cynthia M. Geis
January 4, 2010
Page 2

As an aside, exemption is not a “classification”. It is not necessary to determine “exclusive/intensive” use or “border to border” use as one might regard for agricultural classification purposes, for example. The classification of the parcel that you have described would not be split unless there were more than one identifiable use.

Property 2: A church is located on a 5.6-acre parcel, and approximately 4 acres of the parcel are wooded. There is a church use, but not “border to border”. You have asked if the entire property would be exempt.

The property used for church purposes is exempt. If any portion of the property has an identifiable use which does not qualify for exemption, that portion of the property would not be granted exemption. Again, it is not necessary that the tax parcel be used “border to border” (such as we would require for some classification purposes), if the parcel meets the three-prong test (ownership, use, and necessity of ownership), the parcel may qualify for exemption in its entirety.

If you have any further questions or require greater clarification, please do not hesitate to contact us at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

April 27, 2010

Glen Purdie
Steele County Assessor
gpurdie@co.steele.mn.us

Dear Mr. Purdie:

Thank you for your question concerning exempt property. You have presented us with the following scenario:

The Pillsbury Baptist Bible College closed on December 31, 2008 before completing the academic year. The campus went up for sale on January 1 of 2009, but has not yet sold. During the year 2009, they liquidated the personal property.

You have asked what the taxable status of the property should be for assessment years 2009 and 2010.

As you know, there are three key elements that must be present for a property to be exempt from property tax. The three elements are: (1) ownership by an exempt entity; (2) use of the property for an exempt purpose and; (3) a necessity of ownership by the exempt entity to accomplish the stated purpose of the organization. When the school closed, the property was no longer being used for an exempt purpose. Therefore, it is our opinion that because the property was put up for sale and no longer used as a school on January 1, 2009 the property should have become taxable for assessment year 2009 and should remain taxable for assessment year 2010.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ■ REVENUE

May 19, 2011

Sue Schulz
McLeod County Assessor
sue.schulz@co.mcleod.mn.us

Dear Ms. Schulz,

Thank you for your recent question about exemption to your Regional Representative, which was forwarded to the Property Tax Division for research and response. You have outlined the following scenario: A church organization in the City of Hutchinson also owns a house. The church uses this house for daycare (open to the public at a charge), and also for meetings of a church group four times per month. Currently, you have the house assessed as taxable. The church has questioned this decision, and you have sent information to us and asked for our opinion.

In many Minnesota Tax Court and Supreme Court cases, it has been held that taxation is the rule, and exemption is the exception. The burden of proof is on the entity seeking exemption to prove that requirements are met. Additionally, there must be a concurrence of ownership by an exempt entity, use of the property for an exempt purpose, and ownership must be reasonably necessary to achieve the organization's goals. This is stated in our Property Tax Administrator's Manual, Module 5, *Exempt Property*:

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

Specifically as it relates to church property, our manual also states:

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

In the situation you have outlined, it is not clear that the property is used directly for church purposes, nor has it been definitively proved that ownership of the property is reasonably necessary to accomplish the goals and mission of the church. Therefore, we would concur with your opinion to treat the home as taxable based on the information provided.

If new information is received, or if any of the facts of the situation change, our opinion is subject to change as well. If the property owner disagrees with the determination of the County Assessor's Office, the property owner may appeal to Minnesota Tax Court. If you have additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Very sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

July 27, 2011

Lyn Regenauer
Chisago County Assessor's Office
LJregen@co.chisago.mn.us

Dear Ms. Regenauer,

Thank you for your recent question regarding the exemption eligibility of a mobile home located on land owned by a church. The mobile home is owned by the pastor of the church, and occupied by the pastor as a homestead. You have asked for clarification on the exemption eligibility for the site of the mobile home.

Your opinion on the taxability is correct. The mobile home is not owned by a qualifying exempt institution (i.e., the church). It is owned by the pastor. Because it is not owned by an entity eligible for exemption, it is taxable as personal property to the owner (the pastor). However, the land underneath the mobile home (site) remains exempt as land owned by a church and used for church purposes similar to a parsonage.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

August 11, 2011

Tim Falkum
Kandiyohi County Assessor
Tim_F@co.kandiyohi.mn.us

Dear Mr. Falkum,

Thank you for your recent question to the Property Tax Division regarding exemption eligibility for a church property. You were contacted by a representative of the Willmar Assembly of God Church. The Church is considering forming a non-profit, 501(c)(3) corporation. This corporation is to be “wholly owned” by the church. The corporation will then form a limited liability company (LLC). Upon formation of the corporation and LLC, the church property will be deeded from the Willmar Assembly of God Church to the corporation, which will in turn deed it to the LLC. The LLC will lease the property back to the church with restrictions that the property may only be used for church purposes. The representative of the church has asked if this would affect their tax status.

As you are aware, for a property to be exempt, it must be owned by a qualifying exempt entity, used for exempt purposes, and ownership of the property must be reasonably necessary to further the exempt purposes. A church-owned property used for church purposes would typically be exempt from *ad valorem* property taxes. However, in the hypothetical scenario you have outlined, the property would no longer be owned by a church, and therefore these criteria are not met. There are, however, some cases where it is appropriate to grant property tax exemption when one tax-exempt entity leases a property to another tax-exempt entity, and the property is used for qualifying exempt purposes.

Because the scenario you have outlined above is hypothetical, we therefore do not have factual information to provide conclusive information. However, we can refer you to various Court cases that have addressed similar situations.

In some cases, property not directly owned by the qualifying entity that operates at the property (in your scenario, the church) has been determined to be taxable:

- The Court affirmed that ownership by a church and use by a church were necessary for property tax exemption as a church (*Ideal Life Church of Lake Elmo v. Washington County*, 1981, 304 N.W.2d 308).
- In the case where a non-profit corporation was organized by a religious society, but was not subject to control by the church body, the property was taxable (*Petition of United Church Homes, Inc.*, 1972, 292 Minn. 323, 195 N.W.2d 411).

However, it has been acknowledged that there may be exemption eligibility in these cases, provided that the owner of the property (in your case, the LLC) did not have a purpose or existence apart from the exempt organization (e.g., the Church):

- The Court found that if ownership of a property was in the name of a separate legal entity, it may still qualify for exemption if the property is actually owned or controlled by a tax-exempt organization "organized solely for and devoted exclusively to serving the needs of the member hospitals." (*Community Hospital Linen Services, Inc. v. Commissioner of Taxation*, 1976, 309 Minn. 447, 245 N.W.2d 190.)

Notably, in *Health East v. County of Ramsey*, 2009 (770 N.W.2d 15), the Supreme Court discussed the ownership and use of a hospital property that was not directly owned by the operating hospital organization. This case has been heard multiple times in Minnesota Tax Court. The Court, in the 2009 opinion, provided:

“...we will disregard the separate corporate status of the fee owner of real property only if the owner "could have no purpose or existence apart from the operations of" the entities with which it seeks to be aggregated. HealthEast I, 749 N.W.2d at 22 (quoting Milwaukee Motor Transp., 292 Minn. at 77, 193 N.W.2d at 611). A fee owner of property "that performs services for entities other than those with which it is to be aggregated is ... `a distinct and separate corporate entity with an independent corporate vitality,' whose separate corporate existence cannot be disregarded." Id. (quoting Milwaukee Motor Transportation, 292 Minn. at 77, 193 N.W.2d at 611).”

In other words, if the Willmar Assembly of God Church deeds its property to any other ownership, its exemption eligibility must be verified based on the makeup and operations of the property-owning corporation or LLC. The owner organization must prove that it has no purpose or existence apart from the Church. It must not serve any functions other than solely to own the church property (which must be used for church purposes) and lease it back to the actual church organization.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

August 4, 2011

Brad Averbeck
Regional Representative
Minnesota Department of Revenue
brad.averbeck@state.mn.us

Dear Brad,

Thank you for your recent question regarding exemption eligibility for a property in Pennington County. A church owns a parsonage that was occupied by the pastor on January 2, 2011. The pastor is in the process of retiring, and has built a new home which he occupies as his permanent residence (as of April 2011). The church is searching for a new pastor, who will live in the parsonage when he or she is hired. Currently, the daughter of the retiring pastor occupies the parsonage. She lives there rent free, and she maintains the home. You have asked if the parsonage would continue to qualify for exemption.

As is typical with these types of questions, the answer is “it depends.” If the actual use of the parsonage has converted from its use on January 2, 2011 from that of a residence for a pastor to a use as a residence for a non-pastor, then the exemption eligibility may be lost. However, if the church is actively seeking a new pastor with the intention that this property’s use will continue to be a parsonage, and in the meantime it is occupied by an individual for maintenance purposes, then it may still be eligible for exemption as a parsonage. A reasonable amount of time may be given for the church to find a new pastor to occupy the property as a parsonage. Most churches have a governing board, and asking the board members (or chair of the board) to clarify what the arrangement is with the daughter may help clarify which of the two situations is most applicable.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

March 29, 2012

Marci Moreland
Carlton County Assessor
Marci.Moreland@co.carlton.mn.us

Dear Ms. Moreland,

Thank you for your recent question to the Property Tax Division regarding exemption eligibility for an organization that owns church property. In Carlton County, the Good Hope Church deeded ownership of their church property to National Covenant Land Company of Minnesota, an affiliative corporation of National Covenant Properties, LLC (“NCP”). The affiliate was formed in 2011 and its sole asset is the Good Hope Church property. You have asked whether this church property would continue to qualify for exemption.

A church-owned property used for church purposes would typically be exempt from *ad valorem* property taxes. However, in the scenario you have outlined, the property is no longer owned by a church, and therefore these criteria are not met. There are, however, some cases where it is appropriate to grant property tax exemption when one tax-exempt entity leases a property to another tax-exempt entity, and the property is used for qualifying exempt purposes.

We refer to various Court cases that have addressed similar situations.

In some cases, property not directly owned by the qualifying entity that operates at the property (in your scenario, the church) has been determined to be taxable:

- The Court affirmed that ownership by a church and use by a church were necessary for property tax exemption as a church (*Ideal Life Church of Lake Elmo v. Washington County*, 1981, 304 N.W.2d 308).
- In the case where a non-profit corporation was organized by a religious society, but was not subject to control by the church body, the property was taxable (*Petition of United Church Homes, Inc.*, 1972, 292 Minn. 323, 195 N.W.2d 411).

However, it has been acknowledged that there may be exemption eligibility in these cases, provided that the owner of the property (in your case, the LLC) did not have a purpose or existence apart from the exempt organization (e.g., the Church):

- The Court found that if ownership of a property was in the name of a separate legal entity, it may still qualify for exemption if the property is actually owned or controlled by a tax-exempt organization "organized solely for and devoted exclusively to serving the needs of the member hospitals." (*Community Hospital Linen Services, Inc. v. Commissioner of Taxation*, 1976, 309 Minn. 447, 245 N.W.2d 190.)

In other words, because the church deeds its property to other ownership, its exemption eligibility must be verified based on the makeup and operations of the property-owning corporation or LLC. The owner organization must prove that it has no purpose or existence apart from the Church. It must not serve any functions other than solely to own the church property

Continued on page 2...

(which must be used for church purposes). Based on the information that you had provided, it is not clear whether NCP meets the established test to receive exemption. In fact, the purpose of the LLC as stated in documents provided with the application is much broader:

“The company is formed exclusively for charitable, religious, educational and scientific purpose, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code... [T]he company shall support the mission of National Covenant Properties, an Illinois not for profit corporation, and other charitable, religious, educational or scientific purpose organizations that are exempt under Section 501(c)(3)...”

Because it appears that the LLC appears to have a purpose and existence apart from that of operating this specific church property, it does not appear eligible for property tax exemption. If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA • REVENUE

June 27, 2012

Michelle Moen
Isanti County Assessor's Office
michelle.moen@co.isanti.mn.us

Dear Ms. Moen:

Thank you for your recent email to the Property Tax Division. You asked the following question: "If a person purchases a church and then rents it out to a church, can this still receive the exempt class? Do we strictly look at the rent and if it is below market to determine the exemption?"

As stated in the Property Tax Administrator's Manual, *Module 5 – Exempt Property*, "Ownership, use, and necessity of ownership are the three key elements in determining exemption. Absence of any of the three elements would likely disqualify a property from exemption unless specifically allowed by law." Because an individual person is not an exempt entity, the property would not be eligible for exemption, even if leased to an exempt entity. The property must first be owned by an exempt entity to be eligible for exemption.

If you have any further questions, please contact us via proptax.questions@state.mn.us. You may also wish to refer to the Property Tax Administrator's Manual, which is available on the Department of Revenue website via the following link:
http://www.revenue.state.mn.us/local_gov/prop_tax_admin/Pages/ptamannual.aspx.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

November 15, 2012

Nick Lee
City of Moorhead Assessor
nick.lee@ci.moorhead.mn.us

Dear Mr. Lee:

Thank you for your recent question to the Property Tax Division regarding the exemption eligibility for a property in Moorhead. An individual is looking to purchase a building in Moorhead to be used “for his ministry.” Per your email, “They hold bible studies and other religious activities but they do not have a congregation per se.” The property will not be owned by a 501(c)(3), but it will be owned by a Trust (the Christian Ministry and Missions Trust). You have asked if this property would qualify for exemption as an institution of purely public charity, or as a church property (even without a formal congregation).

It appears that your question is based off of a hypothetical future scenario, and that the property has not yet been purchased or put to use as you have described it is intended. However, if the property is not owned by a 501(c)(3), it will not be eligible for exemption as an institution of purely public charity under Minnesota Statutes, section 272.02, subdivision (7).

If the property is purchased by the Trust, and the owners make application for exemption as a church property used for church purposes, you will need to verify whether the property meets the requirements for exemption as church property.

First, you will need to determine whether the property is affiliated with an existing church property; i.e., is the building used to further the mission and purpose of a church in the area? Is it used for church purposes? Is ownership of this property in particular reasonably necessary for the affiliated church? In exempting property of churches and charitable institutions from taxation, there must be a concurrence of ownership of property by a “church” and use of property for purpose for which church was organized. [*Ideal Life Church of Lake Elmo v. Washington County*, 1981 (301 N.W.2d 308).]

If the property is not affiliated with a church, you must determine whether the property is eligible for exemption as church property on its own. Of primary importance will be determining whether the property qualifies as a church. We refer you to various court cases that have discussed this question:

- A non-profit corporation which was organized by a religious society was not subject in any way to control by a church body, therefore was not exempt from ad valorem taxes as church property. *Petition of United Church Homes, Inc.*, 1972, 292 Minn. 323, 195 N.W.2d 411.
- A purported religious organization which was organized and operated primarily for motive of tax avoidance by private individuals in control of corporation, had no formally trained or ordained ministry, had no sacraments, rituals, education classes or literature of its own, had no liturgy other than simple meetings resembling mere social gatherings or discussion groups and did not require a belief in any supreme being or other being, and whose doctrine and beliefs were intentionally vague and nonbinding upon its members and whose members freely continued to practice other religions, was not a “church” as such term was used in state’s tax exemption laws. *Ideal Life Church of Lake Elmo v. Washington County*, 1981, 304 N.W.2d 308.
- The threshold question in determining whether real property is a “church” entitled to tax exemption is whether the entity claiming exemption is a “church” within meaning of statute. In re Collection of Delinquent Real Property Taxes, *State of MN v. American Fundamentalist Church*, 1995, 530 N.W.2d 200 rehearing denied.
- The test for determining whether an organization is a “church” entitled to tax exemption is a subjective one, focusing on sincerity of belief and taking into account evidence on objective issues. In re Collection of

Delinquent Real Property Taxes, *State of MN v. American Fundamentalist Church*, 1995, 530 N.W.2d 200 rehearing denied.

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

When application for exemption is made, the County Assessor must review all facts to determine exemption eligibility. We also recommend referring to the Property Tax Administrator’s Manual, *Module 5 – Exempt Property*, which is available on our website via the following link:

http://www.revenue.state.mn.us/local_gov/prop_tax_admin/Pages/ptamanual.aspx.

You may also refer future questions to the Information and Education Section via proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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Updated 3/15/2024 - See Disclaimer on Front Cover

MINNESOTA • REVENUE

December 27, 2012

Jack Renick
County Assessor
Lake County Assessor's Office
jack.renick@co.lake.mn.us

Dear Mr. Renick:

Thank you for your question submitted to the Property Tax Division regarding a property seeking exemption in your county. You have provided information on Eagle Ministries. The information received included an application for exemption as an Institution of Purely Public Charity. The organization is seeking 100% exemption of the land and buildings used for church and retreat for pastors and ministers. According to the information provided:

1. The property consists of six separate parcels comprising 101 acres with 43 homes on the property. Five of these homes have been assessed as having a market value.
2. This property also includes a sewage treatment plant.
3. The property was denied exemption previously because it was not being used for the stated purpose; it was empty except one of the homes, which was occupied by the owners of Eagle Ministries.
4. Upon inspection by a Deputy Assessor in June 2012, the homes are not up to standards for occupancy.
5. According to the organization's owner, they do not charge a fee for leases, but will accept donations.

In order to determine eligibility for exemption as an institution of purely public charity, we request that the following be submitted along with the application for Institution of Purely Public Charity for Property Tax Exemption:

- All supporting documents requested by the assessor or provided by the applicant;
- The Federal Form 990 and/or other income and expense statements for the previous three years;
- The IRS 501(c)(3) determination letter or substitute; and
- The Articles of Incorporation.

We did not receive any of the information above. Based on the organization's description of their property, we believe that the organization is not actually seeking exemption based on being an institution of purely public charity, but is seeking exemption based on the property being used for church purposes.

In many Minnesota Tax Court and Supreme Court cases, it has been held that taxation is the rule, and exemption is the exception. The burden of proof is on the entity seeking exemption to prove that requirements are met. Additionally, there must be a concurrence of ownership by an exempt entity, use of the property for an exempt purpose, and ownership must be reasonably necessary to achieve the organization's goals. This is stated in our Property Tax Administrator's Manual, Module 5, *Exempt Property*:

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

Specifically as it relates to church property, our manual also states:

"The Minnesota Supreme Court concurs that the test for determining entitlement of church-owned property for a tax exemption is whether the property is devoted to, and reasonably necessary for accomplishment of church purposes. (St. John's Lutheran Church v. County of Hennepin, 1985, 373 N.W.2d 281)."

In the situation you have outlined, it is not clear that the property is used directly for church purposes, nor has it been definitively proved that ownership of the property is reasonably necessary to accomplish the goals and mission of the church. You have stated that the homes on the property are not being used for church purposes, and only one home is occupied by the owner. Therefore, we would concur with your opinion to treat the property as taxable based on the information provided.

If new information is received, or if any of the facts of the situation change, our opinion is subject to change as well. If the property owner disagrees with the determination of the County Assessor's Office, the property owner may appeal to Minnesota Tax Court. If you have additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

February 8, 2013

Jack Renick
County Assessor
Lake County Assessor's Office
jack.renick@co.lake.mn.us

Dear Mr. Renick:

Thank you for your question submitted to the Property Tax Division regarding Eagle Ministries, a church property seeking exemption in your county. Previously, we have reviewed this property for exemption, and found that the church was applying for exemption as a purely public charity. In our opinion, we believe the organization is not seeking exemption as a purely public charity, but for exemption based on the property being used for church purposes.

After reviewing all information submitted on this property initially, we were of the opinion that it was not clear that the property was used directly for church purposes, nor had it been definitively proved that ownership of the property is reasonably necessary to accomplish the goals and mission of the church. You have stated that the homes on the property are not being used for church purposes, and only one home is occupied by the owner. Therefore, we concurred with your opinion to treat the property as taxable based on the information provided.

You have now provided the Federal Form 990 EZ recently submitted by Eagle Ministries. You have asked for us to review the form and provide our opinion in regards to eligibility of the property for exemption.

Again, we are working under the premise that Eagle Ministries is not actually seeking exemption as a purely public charity, but as a property being used for church purposes. In the previous letter sent, we stated that the 990 EZ form was required for application for exemption as a purely public charity, not for exemption based on the property being used for church purposes. That being said, even after reviewing the 990 Form, our opinion has not changed because it is not clear that the property is used directly for church purposes, nor has it been definitively proven that ownership of the property is reasonably necessary to accomplish the goals and mission of the church.

We have been informed that an application for exemption as a purely public charity has been received by the Purely Public Charities Review Board. This application will be addressed and reviewed during a scheduled meeting on March 1, 2013. As a member of the board, the department has determined that a full review of this application by the board would be a more beneficial approach to this matter.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

January 30, 2013

Peggy Trebil
County Assessor
Goodhue County Assessor's Office
peggy.trebil@co.goodhue.mn.us

Dear Ms. Trebil:

Thank you for your question submitted to the Property Tax Division regarding a church property in your county. You have provided the following:

Attached is an Application for Property Tax Exemption for a residence in Cannon Falls from the Minnesota Annual Conference of the United Methodist Church. You are concerned with the residential use of the property listed on the application. It is your opinion that a pastor's residence be located near the church involved. You have stated that the United Methodist Church is based at 122 West Franklin Avenue in Minneapolis.

You are requesting that the Department of Revenue review the included documents (Application for Property Tax Exemption, Articles of incorporation, and email correspondence) and advise on the eligibility for exemption.

In the case of properties owned by religious corporations used for religious purposes, exemption is granted unless the property is not being used for a church purpose; or is being leased or used for profit. For example, the department has advised that vacant land purchased by a church but not used for any church purpose should not be granted an exemption.

It has been held that taxation is the rule, and exemption is the exception. The burden of proof is on the entity seeking exemption to prove that requirements are met. Additionally, there must be a concurrence of ownership by an exempt entity, use of the property for an exempt purpose, and ownership must be reasonably necessary to achieve the organization's goals. As stated in the Property Tax Administrator's Manual, *Module 5 – Exempt Property*, "Ownership, use, and necessity of ownership are the three key elements in determining exemption. Absence of any of the three elements would likely disqualify a property from exemption unless specifically allowed by law."

The Minnesota Supreme Court concurs that the test for determining entitlement of church owned property for a tax exemption is whether the property is devoted to, and reasonably necessary for accomplishment of church purposes.

In reviewing the information provided, the Application for Property Tax Exemption lists that the property in question is occupied by the District Superintendent of the River Valley District of the Minnesota Annual Conference of the United Methodist Church. The application also states that the ownership of this property is necessary because "it is policy of the Minnesota Annual Conference of the United Methodist Church to provide housing for the ordained clergy appointed to superintendency."

Included with the application received, is a copy of an email from a church representative that states:

"Please be advised that the clergy person residing in this residence is assigned to oversee an entire district not an individual church. This property was purchased because it is centrally located in the district. There are five such districts covering the entire state of Minnesota and all five properties have always met the requirements for tax exemption in the past."

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In your question, you stated that you are concerned with the residential use of the property listed on the application, because it is your understanding that a pastor's residence be located near the church involved. You state that the church is located in Minneapolis while the property in question is located in Cannon Falls, Minnesota.

In order to determine if the property is being used for exempt purposes, we requested additional information explaining why the church has the policy regarding providing housing for its superintendents. The church provided the following:

"The United Methodist Church has always had an itinerant system in which when pastors join the United Methodist Church, they agree to move anywhere and at any time when appointed by the conference to which they belong. The church is governed by The Discipline of The United Methodist Church which states that it is the obligation of the local church and the conference to provide for the needs of those who have joined the itinerant ministry of the church. Support includes housing and The Discipline further provides that housing provided for elders of the church (and all District Superintendents are elders) must follow the housing policy of the conference to which they belong. The Minnesota Conference of The United Methodist Church has a housing policy that states that a parsonage must be provided for elders appointed to a church or superintendency. In some cases a housing allowance may be provided. It has been the decision of the resident bishop for this area that Minnesota will provide parsonages."

From the information provided on the application for exemption and from the correspondence reviewed, it is shown that the property has been purchased in a central location as the superintendent is responsible for overseeing the district surrounding the property. From the additional information provided by the church, living in the church provided housing is a requirement of the superintendent position; this use of the property appears to be reasonably necessary to achieve the church's goals.

In the situation you have outlined, the property seems to be used for church purposes; and is reasonably necessary to accomplish the goals and mission of the church. Therefore, it is our opinion that the property should be treated as exempt church property.

If new information is received, or if any of the facts of the situation change, our opinion is subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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May 13, 2013

Brian Koester
Benton County Assessor's Office
bkoester@co.benton.mn.us

Dear Mr. Koester:

Thank you for submitting your question to the Property Tax Division regarding an exemption situation in your county. You have provided the following:

The Salvation Army owns a house in the city of Sauk Rapids. The Salvation Army claims that the couple that lives in the house are ministers for the Salvation Army and that the Salvation Army operates as a church. An application was filed, but was returned to them requesting more information to verify their status.

You are asking if the Salvation Army is considered a church and the home considered their parsonage, or are they considered an institution of purely public charity?

Historically, Salvation Army locations have been exempted from property tax as institutions of purely public charity. These organizations have met the statutory guidelines expressed in Minnesota Statutes 272.02, subdivision 7, in order to qualify for this exemption.

In determining whether real property is "church" property entitled to tax exemption, the question is whether the entity claiming exemption is a "church" within meaning of statute (see: In re Collection of Delinquent Real Property Taxes, *State of MN v. American Fundamentalist Church*, 1995, 530 N.W.2d 200 rehearing denied). Typically, a religious institution is identified by its formally trained or ordained ministry, sacraments, rituals, education classes or literature of its own, liturgy, requiring a belief in any supreme being or other being, and identifiable doctrines and beliefs (see *Ideal Life Church of Lake Elmo v. Washington County*, 1981, 304 N.W.2d 308).

If the Salvation Army is seeking exemption as a church property, the three-prong test of determining whether ownership, use, and necessity of ownership have been met. Otherwise, the Salvation Army may apply as an institution of purely public charity. The eligibility for exemption must be determined by the County Assessor in the county where the property is located.

Please note that this review is based on the facts that have been presented to us. If these facts were to change, our opinion would be subject to change as well. If you would like a more accurate review of this specific property, you are welcome to send in the additional information necessary to determine if the property qualifies for exemption as an institution of purely public charity.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

September 9, 2013

Dave Sipila
St. Louis County Assessor
SipilaD@stlouiscountymn.gov

Dear Mr. Sipila:

Thank you for submitting your question to the Property Tax Division regarding exemption eligibility for property owned and used by a church. You have provided the following information and scenario, and our response is included.

Description of Property:

A property is owned by Lakeside Presbyterian Church and is located on Young Lake. The property is twelve contiguous parcels comprising over 400 acres of land. Much of the land is wooded; however, the church has built some residential use buildings (e.g., cabin, woodshed, generator shed). The acreage around that cabin and general site is approximately ten acres.

This property is mostly used for church retreats and other recreational activities such as hiking and hunting. The Church allows other groups such as the Boy Scouts, University of Minnesota Duluth Campus Crusade, and other churches to use the property. The wooded acres are under a forest management plan created by the Minnesota Department of Natural Resources, and are used for timber harvesting and hunting according to documentation you have received. The church states that ownership of the property is necessary "to maintain wilderness property for the enjoyment of people for many generations to come."

You have determined that the cabin and site area qualify for exemption based on ownership and use of the property. Currently, the approximately 390 additional acres are being treated as taxable.

Question:

You have asked, in order to be exempt, what amount of land can be considered to be used for church purposes?

Discussion and Answer:

As you noted in your correspondence, we have stated in the past that, in order to be exempt, bare land owned by a church must be actually used for that church's purposes and be reasonably necessary to the church in order to be exempt. We are not aware of an instance where we have given the opinion that bare land owned by a church should be exempt without a usage that mirrors the mission of the church. In the description you have outlined, it would be our opinion that you were likely correct to exempt the cabin area that is used for retreats and other church purposes, and likely correct to tax the remaining land area that is used for hunting and timber harvesting.

Please note that this opinion is based solely on the information that you have provided. If we have misinterpreted any of the information, or if any of the facts change, our opinion is subject to change as well. The County Assessor is ultimately responsible for determining exemption eligibility, and your determination can be appealed to Minnesota Tax or Supreme Court. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division
651-556-6340

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MINNESOTA • REVENUE

December 6, 2013

Kathy Hillmer
Redwood County Assessor's Office
Kathy_h@co.redwood.mn.us

Dear Ms. Hillmer:

Thank you for submitting your question to the Property Tax Division regarding property tax exemption. You have provided the following:

A non-conventional church group in your county owns property that has been exempt for many years. Earlier this year, you were under the impression that the buildings owned by this group were for sale. Since these properties were for sale, the exemption was removed. When the taxpayers received their Truth in Taxation notice, they were upset that the exemption was removed because only one of the buildings they owned was sold. You stated that you would grant an abatement, but would need the organization to file an Application for Property Tax Exemption, since you do not have a current application on file and were not the original assessor to grant the exemption.

The church group is refusing to file an application because in the form instructions it states that churches (along with other types of exempt property) are not required to re-file an exemption application.

Question:

Is the church group required to file the application to grant the abatement and reinstate the exemption?

Answer:

In order to qualify for property tax exemption as a church, the organization must originally submit an Application for Property Tax Exemption to the county assessor per Minnesota statutes 272.025, subdivision 1:

“(a) Except in the case of property owned by the state of Minnesota or any political subdivision thereof, and property exempt from taxation under section 272.02, subdivisions 9, 10, 13, 15, 18, 20, and 22 to 25, and at the times provided in subdivision 3, a taxpayer claiming an exemption from taxation on property described in section 272.02, subdivisions 1 to 33, must file a statement of exemption with the assessor of the assessment district in which the property is located.”

Although this property has received exemption in the past, per Minnesota statutes 272.025, subdivision 2, the assessor may ask for any information they deem necessary in order to determine the property's continued eligibility for property tax exemption:

“Upon the written request of the assessor, the taxpayer filing a statement of exemption shall make available to the assessor all books and records relating to the ownership or use of property which are reasonably necessary to verify that the property qualifies for exemption.”

Property Tax Division
600 North Robert Street
Mail Station 3340
St. Paul, MN 55146

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While churches are not legally obligated to resubmit an exemption application every 3 years as some other exempt organizations are required to do, that does not change the fact that the assessor can at any time ask for additional information as they feel necessary to support the exemption of a property. As always, taxation is the rule and exemption is the exception. If the information asked for by the county assessor is not supplied, the assessor has the legal authority to deny the exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

June 12, 2014

Sandra J. Vold
Big Stone County Assessor
20 2nd St. SE Suite 102
Ortonville MN 56278
sandy.vold@co.big-stone.mn.us

Dear Ms. Vold:

Thank you for submitting your question to the Property Tax Division regarding exemption eligibility for property owned by a church. You have provided the following scenario and question.

Scenario: First United Methodist Church of Ortonville shares their minister with two other congregations. The minister does not live in the Ortonville church parsonage. The minister lives in housing provided by one of the other two congregations. The Ortonville congregation is allowing Ortonville Area Health Services to use the parsonage as a “guest house” free of charge for interns and specialists who come to the hospital to provide services. You do not believe this use is a qualifying exempt use.

Question: Because the parsonage is not used for church purposes, is it eligible for exemption?

Answer: No, the property is not eligible for continued exemption. Typically, to be eligible for exemption as church property, the property must be used for church purposes. In some rare instances, a church property may be leased to another exempt entity, provided the property continues to be used for an exempt use that does not detract from the mission of the owner entity. In the situation you have outlined, the use of the property is not a qualifying exempt use for either the church or the health services organization that is using the home. You are correct to tax the parsonage.

Please note that this opinion is based solely on the facts as provided. If any of the facts are misinterpreted or were to change, our opinion would be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

August 12, 2014

Sandy Vold
Big Stone County Assessor
sandy.vold@co.big-stone.mn.us

Dear Ms. Vold:

Thank you for submitting your question to the Property Tax Division regarding property tax exemption.

Scenario: The Assembly of God Church purchased a property to convert to a church in June 2006. The church had outgrown their existing building. They have now made the transition from the former church building to the newer one. The former church building has been converted to an indoor archery range and is used by Centershot Ministries – an arm of the Assembly of God Church. The City of Ortonville would not let the church do this outdoors, thus the conversion of the former church building into an archery range. Centershot Ministries is a faith-based program for youth and their parents. Children and parents meet on Wednesday evenings and learn archery and then tie it together with a Bible lesson. They encourage the parents to participate with them, especially at the Bible study and snack portion of the evening, thus trying to bring children and their families into a church setting. The Pastor stated they have had kids from not only their own denomination but others from the community taking part in the program. The program is similar to an evening church youth group or “Sunday School” time.

Question: Is this program and use of the former church building considered exempt as part of the church?

Answer: To achieve exemption from property tax, there must be a concurrence of ownership by an exempt entity, use of the property for an exempt purpose, and a necessity that the entity owns the property to further the stated purposes of the organization. The Minnesota Supreme Court concurs that the test for determining entitlement of church owned property for a tax exemption is whether the property is devoted to, and reasonably necessary for accomplishment of church purposes.

The ownership of the Centershot Ministries building is not in question – it is owned by the church. Therefore, we must determine if the use of the property for an archery and Bible study program is an exempt purpose and whether or not owning the property is necessary in order for the church to further its stated purpose as a church.

Although archery itself is not an exempt purpose normally associated with a church, combining an activity such as archery with Bible Study/ministry in order to get the congregation’s youth and adults involved in the church *may* be considered a church purpose and may be construed as reasonably necessary to further the purpose of the church. In a similar scenario involving a gym complex owned by a church (*Country Bible Church Vs. Grant County*; File No. C5-02-65) the Minnesota Tax Court upheld the property tax exemption on the basis that the gym was being used for church purposes. Therefore, in our opinion, this property may be eligible for exemption as church property if they are able to substantiate that its operations further the mission of the church and are reasonably necessary for the church.

Property Tax Division
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Our opinion is not a binding opinion. This opinion has been based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. Ultimately, the County Assessor must make a determination as to the taxable or exempt status of the properties.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator

Information and Education Section

Property Tax Division

Property Tax Division
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February 12, 2015

Liz Lund, AMA
Roseau County Assessor
606 5th Avenue SW, Room 190
Roseau MN 56751
liz.lund@co.roseau.mn.us

Dear Ms. Lund:

Thank you for submitting your question to the Property Tax Division regarding exemption eligibility for a property in your county.

Scenario: A property in your county has been exempted as church property since 2010. It is owned by the Rogue Valley Light of Life Ministries, a 501(c)(3) non-profit organization.

Based on your observations, there has been no noticeable regular church activity (e.g., Sunday services or other services listed in the newspaper), but there was a Christmas play held at the property in 2014. People from “churches within and around the Roseau area” were invited to this play. Recently, you noticed that they have been advertising in the paper that they will have a meeting on Thursday nights.

On their exempt applications, their stated purpose is to evangelize the Word of God, and that this property is needed for a centrally-located place to hold meetings.

Additionally, they state in a letter that “The Well will never have a congregation or a pastor, but will have times of prayer, special meetings and worship with an evangelistic emphasis.” They also stated to you directly in a letter that they “will always be an extension of the local churches, a house of worship with services from time to time.” They “are not competing with the churches” and “the traditional church is not [their] ministry.”

Issue 1: Is this a church?

Response 1: It is not clear that this ownership organization meets the definition of a church for purposes of property tax exemption based on the information provided.

There have been similar cases addressed in Minnesota Supreme Court:

- A non-profit corporation was organized by a religious society, but not subject to control by a church property, and was found taxable under *Petition of United Church Homes, Inc.*, 1972, 292 Minn. 323, 195 N.W.2d 411.
- A religious organization was considered to have been organized and operated primarily for purposes of tax exemption where it had no formally trained or ordained ministry, no sacraments or rituals, no education classes, and no liturgy other than meetings resembling social gatherings or discussion groups. (*Ideal Life Church of Lake Elmo v. Washington County*, 1981, 304 N.W.2d 308.)

While neither of these cases exactly mirrors the situation you have outlined, we can understand why you would question that this is an eligible church for property tax exemption purposes.

Issue 2: Is this an institution of purely public charity?

Response 2: It is not clear that this use meets the definitions of institutions of purely public charity for purposes of property tax exemption based on the information provided.

As you correctly stated, beyond the requirement that the owner be a qualifying 501(c)(3) non-profit, the property owner and property use must also meet six other requirements under Minnesota Statutes. There are two requirements in particular that could not be verified based on the information submitted:

- Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.
- Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government.

If more information could be provided that relates to their public support and charity provided, it is possible that this may qualify, but there was nothing in the information provided that clearly showed exemption.

Issue 3: On the back of their submitted exempt application, they underlined the portion that states churches do not need to reapply.

Response 3: You may, at any time, ask for verification from an entity that they continue to qualify for exemption.

For all three issues you brought forward, we concur with your decision to have the property set to a taxable status for the time being. As you know, taxation is the rule and exemption is the exception. Whenever there is a question as to a property's exemption eligibility, it is appropriate to make it taxable until exemption is verified. It is also important for the assessor to give equal treatment to properties; if this property does not meet the same thresholds as other churches in your area, it is appropriate to tax it until further information is available.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6340
Email: proptax.questions@state.mn.us



February 25, 2015

Laura Brice
Laura.Brice@efca.org

Dear Ms. Brice:

Thank you for submitting your question to the Property Tax Division regarding exempt property and special assessments. You have provided the following scenario and question.

Scenario:

- A county is planning on redoing a road near one of your churches.
- The church is a federally 501(c)(3) exempt non-profit organization.

Question: Could the county assess any assessments on the work to the church? Would the church's exemption automatically apply to special property assessments?

Answer: Yes, your church may be subject to special assessments. Unless specifically stated in statute, if a property is exempt from property tax, it is still subject to special assessments. Special assessments are a fee for a service; they are not a traditional "tax." Therefore, they are levied in a different manner and exempt property must pay them unless specifically exempted from them by law.

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

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA • REVENUE

April 22, 2015

Dave Sipila
St. Louis County Assessor
sipilad@StLouisCountyMN.gov

Dear Mr. Sipila:

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question.

Scenario:

- A church owns a parsonage that is occupied by a priest.
- The priest who occupies the property is not the priest of that church but has other duties with the church's diocese.

Question:

Does this occupancy qualify for exemption?

Answer:

Yes, the church-owned parsonage may be eligible for exemption. In the situation you have outlined, the property is continuing to be used for an exempt church purpose and does not detract from the overall mission of the church.

Please note that this opinion is based solely on the facts as provided. If any of the facts are misinterpreted or were to change, our opinion would be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us



August 26, 2015

Elizabeth Vatsaas
Scott County Assessor's Office
EVatsaas@co.scott.mn.us

Dear Ms. Vatsaas:

Thank you for submitting your question to the Property Tax Division regarding exempt property. You are looking for guidance as to what constitutes taxable or exempt regarding daycares/preschools within churches. You have provided the following scenarios and question.

Scenario 1:

- A church is operating a daycare/preschool in the basement of the church.
- There are no scholarships offered and they are charging market rates.
- The daycare/preschool is open to the public.
- They offer care and education for children from birth to kindergarten.

Scenario 2:

- A church owns a nunnery across the street from the church.
- It is exclusively used for the daycare and no longer used as a nunnery.
- They charge market rates and there is no assistance available for parents to pay for daycare.

Scenario 3:

- A church is operating a preschool within the church.
- The church is charging market rates and there is no assistance or scholarships available.
- They only offer instruction for children aged 3-5 for 2-3 hours per shift (2 shifts per day).

Scenario 4:

- A church has added an addition to their building to house a daycare/preschool.
- It is open all day, charges market rates, and there are no scholarship/assistance programs available.
- It is open to the public.

Question: Is there a particular test that would render the daycare/preschool portion of these churches taxable or exempt?

Answer: No, there is not a clear-cut, specific test that determines whether a property is taxable or exempt. In many Minnesota Tax Court and Supreme Court cases, it has been held that taxation is the rule, and exemption is the exception. The burden of proof is on the entity seeking exemption to prove that requirements are met. Additionally, there must be a concurrence of ownership by an exempt entity, use of the property for an exempt purpose, and ownership must be reasonably necessary to achieve the organization's goals. You can find this information as well as information regarding specific church property in our [Property Tax Administrator's Manual, Module 5, Exempt Property](#).

When reviewing the above scenarios, it is essential that sufficient proof is given by the entity seeking exemption.

Ultimately, it is the assessor's responsibility to make the determination if a property qualifies for exemption or not. If you are unsure of how the daycare/preschool meets the mission or goals of the

organization we would advise to open the lines of communication with the entity. Most entities seeking exemption would happily provide an explanation/proof of their organizations goals/mission. For example, if the church-owned properties provide religious instruction as part of their care, it may be considered a use that is concurrent with the mission of the church, and the daycare/preschool portions of the buildings could be exempt.

If you determine that the use is not concurrent with the mission of the church, the daycare center/preschool may apply for exemption as an institution of purely public charity. The organization will need to demonstrate how it meets the requirements in Minnesota Statutes, section 272.02, subdivision 7 including providing evidence of the donations it receives and charity it provides.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

February 5, 2016

Brenda Chmielewski
McLeod County Assessor's Office
Brenda.chmielewski@co. mcleod.mn.us

Dear Ms. Chmielewski,

Thank you for submitting your question to the Property Tax Division regarding church property and exemption. You have provided the following scenario and question:

Scenario:

- A church has 2 parcels totaling 66.26 acres that are mostly unused.
- Most of the acres are maintained as campground and a meadow area maintained by a farmer.
- 11 acres include a concession and stage area that are only used once a year for a 3-day music festival.
- All proceeds from the festival are used to fund private education for students in the surrounding area.

Question: Should this land be eligible for property tax exemption?

Answer: No. In order for it to be exempt, bare land owned by a church must be actually used for that church's purposes and be reasonably necessary to the church and its mission. In this situation, the land is not being used as part of necessary church functions. Based upon this, it is our opinion that the two parcels should not be exempted from property taxes.

This opinion is based solely on the information provided to us and is subject to change if any of the underlying factors were to change. If you have any further questions, please look to [Module 5 – Exempt Property](#) of the Property Tax Administrator's Manual or contact our division at proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz
Senior State Program Administrator
Property Tax Division
Phone: 651-556-4861
Email: proptax.questions@state.mn.us

MINNESOTA • REVENUE

March 7, 2016

Jennifer Flicek
Le Sueur County
Assistant County Assessor
jflicek@co.le-sueur.mn.us

Dear Ms. Flicek:

Thank you for submitting your question to the Property Tax Division regarding exempt property. You have provided the following scenario and question.

Scenario:

- A property in Le Sueur County was a nursing home owned by the Evangelical Lutheran Good Samaritan Society.
- The nursing home closed in June of 2015.
- In November 2015, the property was deeded to the Evangelical Church of North America.
- The building is currently doing business as “The Village”, which is a community center, retreat center, and a church according to the application on file.
- The “church” does not have a congregation but holds weekly “Alpha” course teachings.
- The building’s advertised use is for birthday parties and graduation parties.
- For services such as a birthday party there is no set fee, but a free-will donation is encouraged.

Question: Does this property qualify for an exemption as a church?

Answer: No, in our opinion this property would not qualify for exemption as a church. As you know, taxation is the rule and exemption is the exception. As with almost any type of exempt property, the qualifying parcel must be owned by an exempt institution, used for exempt purposes, and the ownership must be reasonably necessary to further the mission of the exempt organization.

From the information provided, it appears that the property doesn’t clearly meet the requirements to be granted a property tax exemption. The property is owned by an exempt entity; however, the use of the property does not appear to be used for a church purpose or function. The ownership of the property is not clearly necessary to further the mission of the church. As noted above, the property is used as a community center or gathering place for the community and not as a church.

It may be possible for the property to qualify for exemption as an Institution of Purely Public Charity; however, the information provided does not clearly show that an exemption should be granted. The Department of Revenue recommends allowing the applicant to supply additional information supporting their claim for exemption. If the applicant is unable or unwilling to provide additional documents, then the application should be denied. For more information on the requirements for exemption as an Institution of Purely Public Charity, we recommend referring to the Property Tax Administrator’s Manual, Module 5-Exempt Property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753

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May 12, 2016

Lyn J. Regenauer
Chisago County Assessor's Office
Lyn.Regenauer@chisagocounty.us

Dear Lyn Regenauer,

Thank you for contacting the Property Tax Division regarding exemption. You provided us with the following information.

Situation 1:

- There is a parsonage that is contiguous to a church parcel and owned by the church
- The basement of the parsonage is used for occasional meetings and youth group
- The upper level is being used by a homeless family
- As "rent payment" one of the occupants is mowing the grass/yard work
- Currently the property is classified as res non homestead
- The church is claiming that the property is being used as a place of teaching and taking care of those in need, which is a church function/purpose
- There is a court case (St John's Lutheran Church v. County of Hennepin, 1985, 373 N.W.2d 281) that granted exemption to a similar situation. The courts granted the exemption since the property was "devoted to and reasonably necessary for the accomplishment of church purposes".

Question 1: Does this property qualify for exemption?

Answer: If the primary use of the property is to hold youth group sessions and church meetings and the property is "devoted to and reasonably necessary for the accomplishment of church purposes", then the property would qualify for exemption.

Situation 2:

- The church also owns a parcel across the street that is 5 acres in size and entirely in farm production
- That parcel is currently taxable
- The church is saying that parcel is supposed to be for expansion of a cemetery, although there are no plans/records of this future use and it is not currently being used that way.
- The church claims that they don't know who is farming it and that it is being done without permission/rent payment

Question 2: Does this parcel qualify for exemption?

Answer: According to the information you provided, it appears that the property is taxable. The current use of this property is agricultural. If the property is no longer used agriculturally and the church does provide plans to convert the land to an exempt use, such as a cemetery within a reasonable timeframe, then the property might qualify for exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

August 22, 2016

Patrick Todd
Minneapolis Assessor's Office
Patrick.Todd@minneapolismn.gov

Dear Mr. Todd,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have submitted the following scenario and question:

Scenario:

- A Buddhist church owns two parcels.
- Parcel one has the church and a parsonage where a priest lives full time.
- Parcel two has a residence where a second priest (Senior Priest/Teacher) lives full time and a care taker lives 25% of the time.
- Both the second priest and the care taker do not pay to live in this residence.

Question: Can a house of worship have two exempt parsonages? Or is there a limit of one for exemption purposes?

Answer: No, there is not a limit for the number of parsonages that may qualify for property tax exemption. If the second residence is being used by an exempt institution for exempt purposes and the church has a need to have two houses, then exemption can be applied to it. .

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz
Senior State Program Administrator
Information & Education Section
Property Tax Division
Phone: 651-556-4861
Email: proptax.questions@state.mn.us

October 28, 2016

Elizabeth Vatsaas
Scott County Assessor
evatsaas@co.scott.mn.us

Dear Ms. Vatsaas:

Thank you for submitting your question to the Property Tax Division regarding exemption for an onsite daycare/preschool facility. You have provided the following scenario and question:

Scenario:

- You have classified the daycare/preschool as commercial, based on former correspondence from the Department of Revenue.
- The property has a church and a K-8 school that is classified as exempt.
- The daycare/preschool is located in a church addition added in 2014, provided by a loan made to the daycare by the church.
- The school provided a link to their curriculum via “Core Knowledge” based out of Charlottesville, VA.
- The preschool charges market rates with no assistance to families unable to pay.

Question: Can the daycare/preschool qualify for exemption?

Answer: No, the organization does not clearly qualify for exemption giving the information provided.

When reviewing the information, we have identified that there are three different exemption options that this property could possibly seek exemption under. Those three options are: church property, school property and/or as a purely public charity.

For all entities seeking property tax exemption, taxation is the rule and exemption is the exception. In addition the qualifying parcel must be owned by an exempt institution, used for exempt purposes, and the ownership must be reasonably necessary to further the mission of the exempt organization. This three-prong test must be kept in mind at all times when making these determinations. Given the information provided, there was insufficient evidence to conclude that the preschool/daycare was necessary to further the mission of the church, and therefore does not qualify for general church property exemption.

The second type of exemption is an educational exemption. There was insufficient information provided to determine that the preschool/daycare qualified for this exemption.

Finally, it was not clear from the information provided that the primary purpose of the daycare was to provide charity to the public, or services at free or reduced cost. Ideally, if the organization wanted to pursue exemption as a purely public charity, it would provide the following to the Purely Public Charity Review Board:

- Federal income tax form 990 for the last three years, which would outline detailed income and expense information and
- Information related to how their business provides charitable services, or reasonable justification for exclusion from this requirement.

Please note, this was not submitted to the Purely Public Charity Review Board for review, therefore if the county and/or the property owner would like this reviewed as a purely public charity this will need to be formally submitted. Information on how to apply for a review is outlined in the [Property Tax Administrator's Manual, Module 5 – Exempt Property](#).

Ultimately, it is the assessor's decision whether or not to exempt a property. If the property owner disagrees, the property owner may appeal to Minnesota Tax Court.

For more information on exemption please refer to [Minnesota Statute, section 272.02.](#)

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Kristine Moody

State Program Administrator

Property Tax Division

Phone: 651-556-6091

Email: proptax.questions@state.mn.us



June 16, 2017

David Sipila
St. Louis County Assessor
sipilad@stlouiscountymn.gov

Dear Mr. Sipila,

Thank you for submitting your question to the Property Tax Division regarding qualification of a church for property tax exemption. You have provided the following scenario and question:

Scenario:

- Meher Baba’s School for Harmony & Peace filed for property tax exemption
- The organization has not been granted 501(c)(3) tax exempt status
- Articles of Association and an application were included
- The school identifies itself as both a church and institution of learning
- Pictures provided indicate undeveloped land

Question: What constitutes a church, and what is a clear definition of what is, or is not a church for property tax exemption purposes?

Answer: To qualify for exemption from property tax, there must be a concurrence of ownership by an exempt entity, use of the property for an exempt purpose, and a necessity that the entity owns the property to further the stated purposes of the organization. The Minnesota Supreme Court concurs that the test for determining entitlement of church owned property for a tax exemption is whether the property is devoted to, and reasonably necessary for accomplishment of church purposes.

Defining what “church” property is, is addressed in the Minnesota Property Tax Administrator’s Manual Module number 5, which states the test for determining whether an organization is a “church” entitled to tax exemption is a subjective one, focusing on sincerity of belief and taking into account evidence on objective issues. This test is based on the Court case, State of MN v. American Fundamentalist Church, 1995, 530 N. W.2d 200 which was denied. The principal motivation in State of MN v. American Fundamentalist Church for organizing the religious corporation was tax minimization and, therefore, the organization was not “church” property and, therefore not entitled to real property tax exemption.

In addition, other factors the court has identified as evidence to assist in deciding if the organization meets the definition of “church” include whether or not there are formally trained or ordained ministry, sacraments, rituals, education classes or literature of its own. Liturgy other than simple meetings resembling mere social gatherings or discussion groups are would not qualify the establishment to be considered a “church”. Doctrine and beliefs that were intentionally vague and nonbinding upon its members and whose members freely continued to practice other religions, is not a “church” as such term as used in state’s tax exemption laws. Please refer to *Ideal Life Church of Lake Elmo v. Washington County*, 1981, 304 N.W.2d 308.

Bare land owned by a church must be used for church purposes and be reasonably necessary to the church to be exempt. We are not aware of an instance where the opinion that bare land owned by a church should be exempt without a usage that mirrors the mission of the church. The property classification should be adaptive to the use of the property i.e. if they are utilizing the land, its primary use must mirror the mission of the church. If the land is being developed, then the exemption would not go into effect until the use of the property qualifies as church purposes, or unless sufficient evidence is provided to substantiate exemption.

Based on our understanding of the material submitted, it does not appear that the use of this property meets requirements for church purposes at this time. The applicant has not demonstrated that the property can reasonably be used for its stated purpose in the Articles of Association, and based on the information provided the property would not qualify for property tax exemption. However, this opinion is contingent upon the organization to provide additional information regarding the active use of the land (i.e. worship times and dates, number of members in congregation etc) or the development of the land for its intended use (i.e. blueprints, budget, projected completion date etc).

Please note that the burden of proof is on those seeking exemption, and that ultimately it is the discretion of the County Assessor to make the determination based on information provided by the applicant.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Kristine Moody

State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6098

July 20th, 2017

David Parsons
Marshall County Assessor's Office
David.Parsons@ci.marshall.mn.us

Dear Mr. Parsons,

Thank you for submitting your question to the Property Tax Division regarding statutory requirements of exemption. You have provided the following scenario and question:

Scenario:

Property A:

- Purchased on 8/4/2015 by a religious institution with the intent to construct a house of worship.
- The religious institution is currently in the "fundraising" stages.
- The religious institution has submitted no plans to develop a building etc.
- The institution is working with a local realtor to purchase a building to suit their needs.
- The property is currently tax exempt.
- The property is currently being used as a vacant lot.
- The property is currently listed as 501(c)(3).
- The property is requesting exemption as a religion institution.

Property B:

- The property was purchased on 1/21/2009 by an entity that was intending to use the property as a group home for girls.
- On 5/1/2014 the property was transferred into the name of a different entity, however this entity was associated with the original ownership entity.
- An application for Purely Public Charity was submitted by the Western Community Action and The Refuge.
- The property is currently tax exempt.
- The property is currently listed as 501(c)(3).
- The property is requesting exemption as an institution of "Purely Public Charity."

Question: Is there a statutory time frame that an organization can hold on to vacant property before development?

Answer: No, Minnesota Statute does not require nor define a specific time allotment for development of exempt property.

If information regarding the development of the property (blue prints, projected budget, estimates, development, etc...) are not provided to the County within an appropriate timeframe that the assessor determines, then exemption should be removed.

For either of the properties to be eligible for exemption three key elements are used in determining exemption: ownership, use, and necessity of ownership. Minnesota state law outlines that taxation is the rule and exemption the exception, thus an absence of any of the three elements would disqualify a property from exemption unless specifically allowed by law.

The burden of proof is on the individual or institution seeking exemption and they must prove to the assessor that they are entitled to exemption. The assessor's responsibility is to extend exemption only to properties that meet the exempt qualifications under law. It is the Department of Revenues opinion that if an assessor is in doubt, the property should be placed on the tax rolls and the taxpayer is allowed to appeal in Minnesota Tax Court.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Kristine Moody

State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6091

November 2, 2017

Keith Albertsen
Douglas County Assessor's Office
keitha@co.douglas.mn.us

Dear Mr. Albertsen,

Thank you for submitting your question to the Property Tax Division regarding exempt property. You have provided the following scenario and question:

Scenario:

- A church in your county applied for property tax exemption on two lots that were recently donated to the congregation.
- The property exemption was denied because there is no "necessity of ownership" since the church plans to sell the lots in the future.
- The church is questioning the denial due to Minnesota Statute 272.02, subdivision 6 that states "all church property is exempt."

Question: Are the donated lots the church plans to sell exempt from property tax under Minnesota Statute 272.02, subdivision 6?

Answer: Although MS 272.02, subdivision 6 makes no distinction between the types and uses of church properties in regards to property tax exemption, the courts have ruled that church property must be used in a manner that furthers the purpose of the church. [*Ideal Life Church of Lake Elmo v. Washington County*, 1981 (301 N.W.2d 308).] When determining whether church property should be exempt from taxation, there must be a concurrence of ownership of property by a church and use of property for the purpose for which a church is organized.

In accordance with the above mentioned court case, when reviewing an application for tax exemption for a property owned by a church, you will need to determine the answers to the following questions:

- Is the property affiliated with an existing church property?
- Is the property used to further the mission and purpose of the church?
- Is ownership of these properties reasonably necessary for the affiliated church?

If you determine the properties are not affiliated in a manner that promotes the mission of the church, then you must determine if the properties are eligible for exemption as church property on their own. In the scenario you have described it does not appear that the church is making any such claim.

We also strongly recommend reviewing the Property Tax Administrator’s Manual, [Module 5 – Exempt Property](#), which includes applicable court cases and a section on Church-Owned Property and Property of Religious Corporations. This manual provides that the Department of Revenue has consistently advised that to be exempted, the property must be **used by the church for church purposes**. For example, the department has advised that vacant land purchased by a church but not used for any church purpose should not be granted an exemption. The manual also states exempt property being listed for sale, as stated in your scenario, should also be considered taxable provided it is no longer used exclusively for its exempt purpose, and no longer meets the “necessity of ownership” requirement as you provided to the church as the reason for the denial for exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6091

May 11, 2018

Lorna Sandvik
Nicollet County Assessor's Office
Lorna.Sandvik@co.nicollet.mn.us

Dear Ms. Sandvik,

Thank you for submitting your question to the Property Tax Division regarding leasing exempt property to a privately operated day care. You have provided the following scenario and question:

Scenario:

- A church leases 2,000 square feet of the 25,000 square feet church building to a privately operated daycare.
- The tenant would have exclusive use of the area they would be leasing.

Question: In reference to *Christian Business Men's Committee of Minneapolis v. State*, 228 Minn. 549, 38 N.W. 2d 803 (1949), what is considered "substantial"? Would any leased space be considered "substantial," such that it would be subject to taxation?

Answer: There is no statutory law as to what constitutes a substantial use to render a portion of an exempt property to become taxable. In *Christian Business Men's Committee of Minneapolis v. State*, 228 Minn. 549, 38 N.W.2d 803 (1949), the court stated that "in determining whether a portion of a building devoted primarily to a tax exempt use is substantial, what is substantial is a question of fact to be determined in light of a reasonable, natural, and practical interpretation of that term."

When reviewing whether a substantial portion of property is devoted for a taxable use, the Department of Revenue has advised that space leased for an automated teller machine, for example, is not substantial. Based on the information provided, including the size of the space being used exclusively as a daycare, it appears the space leased to the privately operated daycare is substantial enough to remove the exemption on the leased area of the property. Indeed, it is common for daycares in church buildings that are not operated by the church to be subject to property tax.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

April 9, 2019

Robin Nelson
Washington County Assessor's Office
R.Nelson@co.washington.mn.us

Dear Ms. Nelson,

Thank you for submitting your question to the Property Tax Division regarding exempt property. You have provided the following scenario and question:

Scenario:

- During a recent exempt review, the county came across a church that is leasing 200 parking spaces to Metro Transit for a Park-and-Ride for a considerable amount of money.
- The lease commenced in 2007 and the church received \$140,000 up front, and an additional \$20,000 each year over a 30-year term.
- In 2009 another 250 parking spots were to be created, however the county does not have the lease information associated with those spots.
- The church does use the parking lot for church purposes, typically on the weekends.

Question: Should this portion of the parking lot be taxable or exempt considering the lessee is an exempt entity?

Answer: The parking lot does qualify for exemption because an exempt entity owns it and it is leased to another exempt entity used for an exempt purpose. As long as Metro Transit is using the parking lot for exempt purposes, such as a park and ride, then that portion of the parking lot would be exempt from taxation.

[Minnesota Statute 273.19, subdivision 1](#) explains that tax exempt property held under a lease for a term of at least one year and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, shall be considered the property of the lessee. Therefore, since an exempt entity (the church) is leasing to another exempt entity (Metro Transit) and the term of the lease is for over one year, then that portion of the parking lot shall be considered "owned" by Metro Transit. Statute does not provide any limitations around the amount of money that is collected according to the lease.

The county may ask Metro Transit to submit an initial exemption application for the portion of the parking lot they use. An application on file would assist the county with keeping updated records if the use of the parking lot were to change. An application for a lessee is not required per statute, however it is recommended, and per [Minnesota Statute 272.025](#), subdivision 2, the assessor may request an application from an exempt entity at any time to verify all requirements are met.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

March 12, 2020

Tina Diedrich-Von Eschen
Kanabec County Assessor's Office
Tina.VonEschen@co.kanabec.mn.us

Dear Ms. Diedrich-Von Eschen,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- An application for exemption was submitted for a property used for church purposes.
- The property is owned by a religious organization operating as an LLC.
- According to the Secretary of State's site, the church was incorporated under MS 317A (non-profit) but not under MS 315 (religious societies).
- The following documentation was requested and submitted:
 - An Application for Tax Exemption
 - A letter from the Community Church
 - A Nonprofit Sales and Use Tax Exempt Status approval letter from the Department of Revenue
 - Community Church Constitution
 - Community Church Core Beliefs
 - Community Church By-Laws
- The church organization does not own the building where they hold church services.
- It is unclear how the organization functions.
- The church utilizes space in a school every Sunday for services.
- The only property owned by the organization is an office space in the downtown of Mora.

Question: Can property owned by an LLC be exempt per Minnesota Statute 272.02, subd. 6?

Answer: The actual ownership structure does not impact the determination of exempt property. Under Minnesota Statute, there are three key elements that all organizations must provide when making property exemption determinations; it must be owned by an exempt institution, use by the institution for exempt purposes and be reasonably necessary for the functioning of the institution.

In the case of properties owned by religious corporations (LLC/LLP), if they are being used for religious purposes, exemption may be granted. If, however property owned by a religious corporation (LLC/LLP) is being leased or used for profit, it would not qualify for exemption and should be classified according to its use.

Question: What additional questions should be asked, or is the information provided sufficient?

Answer: An assessor may request (in writing) that the taxpayer make available all records relating to ownership and/or use of the property that the assessor believes are needed to verify that the property meets requirements for exemption.

Question: Does this property qualify for exemption as a church?

Answer: According to the information provided, it appears that the school property was being used for church purposes but is not owned by the church. It would not be appropriate to grant exemption to the church for property owned by another exempt entity. Assuming the church meets the three qualifying factors, exemption *may* be granted to the office space, but only if the property is reasonably necessary to further the exempt purpose of the organization. An example of not being reasonably necessary to further the exempt purpose of the church would be if the office space was also being used as a daycare, or any other non-qualifying, for profit, activity. If the property was not required for the functioning of the church, it would not qualify for exemption under Minnesota State Statute 272.02, subd. 6 as church property. Please note that a site review of the office space may provide a better understanding of the use and help in deciding if the property is reasonably necessary for the operations of the church.

Ultimately, it is the assessor's decision whether or not to exempt a property. If the property owner disagrees, the property owner may appeal to Minnesota Tax Court.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

May 13, 2020

Ginger Buitenwerf
Hubbard County Assessor
ginger.buitenwerf@co.hubbard.mn.us

Dear Ms. Buitenwerf,

Thank you for submitting your question to the Property Tax Division regarding property tax exemption. You have provided the following scenario and question:

Scenario:

- A church organization owns property that includes a church and parsonage
- In September 2019, the church was rented to a private Christian school via a use agreement for \$200 month
- The church discontinued church activities at the building on December 1, 2019
- According to the pastor, the sole use of the property from December 2019 to March 2020 was the private school; the school has not been in use due to COVID-19 since March
- The former pastor lives in the parsonage next to the church but has not performed any pastoral duties since December 2019
- The exemption was removed in 2020
- The organization has filed for exemption in April (after the due date)

Question: Does this property qualify for exemption?

Answer: From the information provided, it does **not** appear that the property in question qualifies for an exemption. To qualify for property tax exemption, there must be a concurrence of ownership by an exempt entity, use of the property for an exempt purpose, and a necessity that the entity owns the property to further the stated purposes of the organization. The Minnesota Supreme Court concurs that the test for determining entitlement of church owned property for a tax exemption is whether the property is devoted to, and reasonably necessary for accomplishment of church purposes.

In this situation the ownership requirement is met, but the use requirement is not. The church is not currently holding services or doing church activities at the building. It appears that the sole use of the property is the facility usage agreement with a private school for a fee, and it does not appear from the information provided that the use as a private school is to further the mission of the church. The parsonage similarly does not meet the use or necessity of use requirements because there are no services/church activities being held.

Please note that there may be a possibility that the property could seek exemption under [Minnesota Statutes 272.02 subdivision 42, paragraph \(b\)](#). This subdivision allows property tax exemption for a church that is leased to a charter school, if other conditions are met. The organization and church would need to provide more information to the assessor and prove how the requirements are met. This would only be relevant for

exemption in 2021 since the application date has passed and if the school is a charter school and continues to use the church once normal school schedules have resumed.

This opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. Ultimately it is the assessor's responsibility to make the final determination on whether a property qualifies for property tax exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922



Clinics

February 25, 2003

Sue Kondratowicz
Kanabec County Assessor
Courthouse
18 North Vine Street
Mora, Minnesota 55051

Dear Sue:

Your e-mail to John Hagen regarding the possible exemption of a clinic that is currently being added to a tax-exempt hospital has been forwarded to me for a reply.

You have provided the following information: a tax-exempt hospital is in the process of constructing an attached clinic, which will be leased and taxable. You have asked if the partial construction should be taxable or exempt for next year.

In our opinion, because the intended use of the clinic will be taxable, the partial construction should be taxable as well.

If you have further questions, please contact our division.

Sincerely,

STEPHANIE NYHUS, Senior Appraiser
Information and Education Section
Property Tax Division
Phone (651) 296-0335
e-mail: stephanie.nyhus@state.mn.us

MINNESOTA • REVENUE

May 5, 2010

Steve Skoog
Becker County Assessor
915 Lake Avenue
Detroit Lakes, MN 56501

Dear Mr. Skoog:

Your Regional Representative, Brad Averbeck, recently forwarded information regarding St. Mary's Innovis health care clinic. He indicated you were seeking some guidance on the potential for exemption in the following situation. Currently, the hospital and clinic are physically separated, but are under the same ownership. In the near future, the clinic and hospital will be physically connected. There is one central desk that takes appointments and handles all billing for both the hospital and clinic. You have asked if there are any court cases, besides *Mille Lacs Health System vs. County of Mille Lacs*, (File Nos. C2-95-294, CX-95-284, C7-96-298, March 3, 1997) that provide guidance as to the potential for exemption from property tax, and if anything has changed since the Institution of Purely Public Charities Bulletin was released in March 2010.

Eligibility for property tax exemption will depend on how the clinic will file – as part of the public hospital or as an institution of purely public charity. There are different criteria for you to consider depending on how they apply.

If the clinic believes they are exempt and files as part of the public hospital, the Mille Lacs case will be helpful for you. This case cites two other Supreme Court cases in which medical clinics were not deemed to be exempt as part of public hospitals. Basically, to qualify for property tax exemption as a public hospital, auxiliary facilities must, first of all be devoted to what it is that a public hospital does, and secondly be reasonably necessary to accomplish that purpose; test measures degree to which auxiliary facilities and a public hospital are functionally interdependent (*Chisago Health Services v. Commissioner of Revenue*, 1990, 492 NW 2d 386). In *Springfield*, the Court determined that a medical clinic that was owned and operated by the city was not a "public hospital" though the clinic served to generate patients for the nearby public hospital, where clinic was not the only clinic to furnish patients to the hospital, and where the clinic was not essential to continued existence of the hospital (*City of Springfield v. Commissioner of Revenue*, 1986 380 NW 2d 802). These three court cases will be valuable resources for you to review.

However, if the clinic believes they are exempt and makes application as an institution of purely public charity, the owners must show that they are a 501(c)(3) organization, receive material donations, gifts, or government grants and provides material charity. They must meet the factors that were codified into law during the 2009 legislative session. For additional information, please review our bulletin on institutions of purely public charities.

If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,



Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section

C: Brad Averbeck, Regional Representative

MINNESOTA ▪ REVENUE

December 9, 2011

Reed Heidelbergger
City Assessor
City of Alexandria
reedh@rea-alp.com

Dear Mr. Heidelbergger,

Thank you for your recent question to the Property Tax Division regarding exemption eligibility in a hypothetical scenario. The Douglas County Hospital (DCH) is going to purchase a local, privately-owned clinic on a non-contiguous parcel. The clinic will be wholly owned by DCH after the purchase. The clinic employees will be DCH employees, except for the doctors who work at the clinic location. The doctors will bill the hospital for their services. You have asked for our opinion as to the exempt status of the clinic.

While we are unable to make absolute opinions based on hypothetical scenarios, we can offer guidance related to the exemption eligibility of clinic properties and public hospital properties in general. As stated in the Property Tax Administrator's Manual, *Module 5 – Exempt Property*, clinics are generally ineligible for exemption (although in some extenuating circumstances, it may be prudent to examine the operations of the clinic to see if it may qualify for exemption under other scenarios, such as an institution of purely public charity). The Department of Revenue has issued opinions where an exempt hospital began constructing a clinic which would be taxable. The department advised that the property under construction be taxable, as its intended use was taxable and it was not being used for the purposes of the exempted hospital.

As you know, there must be a concurrence of ownership of the property by a qualifying exempt entity, use of that property for qualifying exempt purposes, and a necessity of ownership by that exempt entity to achieve its purposes. While the clinic may be owned by an exempt entity, both the use and the necessity would be in question in the case you have suggested.

Additionally the following court cases related to hospitals and clinics are summarized as follows in the Property Tax Administrator's Manual:

- The Minnesota Supreme Court has established a test for determining whether a hospital owned building is entitled to exempt status. This test requires that “to justify exemption it must be established that the property involved is devoted to and reasonably necessary for the accomplishment of the purposes of the institution seeking exemption.” *State v. Fairview Hospital Assn.*, 262 Minn. 184, 187, 114 N.W. 2d 568, 571 (1962).
- To qualify for property tax exemption as public hospitals, auxiliary facilities must, first of all, be devoted to what it is that public hospital does, and secondly be reasonably necessary to accomplish that purpose; test measures degree to which auxiliary facilities

and public hospital are functionally interdependent. *Chisago Health Services v. Commissioner of Revenue*, 1990, 462 N.W.2d 386.

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

Unless the facts of the situation change depending upon the actual ownership, use, and necessity of ownership of the new property after the purchase, it would appear likely that the clinic property would be taxable. When the Douglas County Hospital purchases the property, they should file an application for exemption with the Douglas County Assessor’s Office if they believe that they are eligible for such exemption.

The Property Tax Administrator’s Manual is available online at http://taxes.state.mn.us/property_tax_administrators/pages/other_supporting_content_propertytaxadministratorsmanual.aspx. If you have any additional questions, please contact us via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA • REVENUE

July 29, 2013

Jack Renick
Lake County Assessor's Office
Jack.renick@co.lake.mn.us

Dear Mr. Renick:

Thank you for contacting the Property Tax Division regarding a clinic property owned by Lake View Memorial Hospital, Inc. You stated that you would like our opinion on the exempt status of the clinic property. You have provided the following information for review:

- Application for Property Tax Exemption
- Legal descriptions for property owned by Lake View Memorial Hospital, Inc.
- A statement by Lake View Memorial Hospital's CEO stating the purpose of the clinic
- Provider-based status attestation statement

After our initial review of the information submitted, we requested additional information from the organization. The new information received includes:

- Patient admission information including days spent at the hospital for patients who were referred to the hospital from the clinic
- Clinic photographs and organizational chart
- A statement by the Lake View Memorial Hospital Inc.'s CEO, stating why the clinic is necessary for the hospital's survival

As stated in the Property Tax Administrator's Manual, *Module 5 – Exempt Property*, clinics are generally ineligible for exemption (although in some extenuating circumstances, it may be prudent to examine the operations of the clinic to see if it may qualify for exemption under other scenarios, such as an institution of purely public charity).

As you know, there must be a concurrence of ownership of the property by a qualifying exempt entity, use of that property for qualifying exempt purposes, and a necessity of ownership by that exempt entity to achieve its purposes. While the clinic may be owned by an exempt entity, both the use and the necessity would be in question in the case you have suggested.

Additionally the following court cases related to hospitals and clinics are summarized as follows in the Property Tax Administrator's Manual:

- To qualify for property tax exemption as public hospitals, auxiliary facilities must, first of all, be devoted to what it is that public hospital does, and secondly be reasonably necessary to accomplish that purpose; test measures degree to which auxiliary facilities and public hospital are functionally interdependent. *Chisago Health Services v. Commissioner of Revenue*, 1990, 462 N.W.2d 386.
- A medical clinic owned and operated by a city was not considered an exempt "public hospital," though the clinic served to generate patients for a nearby hospital, where clinic was not the only clinic to furnish patients hospital, and where the clinic was not essential to continued existence of hospital. *City of Springfield v. Commissioner of Revenue*, 1986, 380 N.W.2d 802.
- The Tax Court found that a medical clinic owned and operated by a city was not "used exclusively for public purpose," so as to be exempt from state property taxation, was supported by sufficient evidence, though the city purchased the clinic to insure that the city was provided with medical doctors, where physicians used the clinic to conduct their private medical practices for fee. *City of Springfield v. Commissioner of Revenue*, 1986, 380 N.W.2d 802.

When determining if a clinic is eligible for property tax exemption, there are many factors taken into consideration. The clinic must function as an extension of the hospital and must provide a service that the hospital needs at a capacity that would be similar to the hospital's operations. For example, these services must be provided 24 hours per day, seven days per week.

Clinics provide services at a different level than hospitals, typically (except in rare circumstances) making them ineligible for property tax exemption. These differences include the presence of a physician 24 hours per day, seven days per week. Also, hospitals serve inpatients, while clinics often only serve outpatients.

For property tax exemption purposes, the use of the Lake View Clinic property is as a clinic rather than a hospital. Therefore, the clinic property is ineligible for exemption as a hospital.

Ultimately, the decision to tax or exempt the property is with the County Assessor, and the assessor's opinion may be appealed to Minnesota Tax Court or Minnesota Supreme Court.

For further information, please refer to The Property Tax Administrator's Manual, available online at http://www.revenue.state.mn.us/local_gov/prop_tax_admin/Pages/ptamanual.aspx. If you have any additional questions, please contact us via email at proptax_questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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St. Paul, MN 55146

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MINNESOTA • REVENUE

March 28, 2014

Doreen Pehrson
Nicollet County Assessor
501 South Minnesota Avenue
St. Peter MN 56082
dpehrson@co.nicollet.mn.us

Dear Ms. Pehrson:

Thank you for submitting your question to the Property Tax Division regarding exemption eligibility for a clinic in St. Peter. You have provided the following information and question.

Scenario: River's Edge Clinic operates on the campus of a hospital property that is owned by the City of St. Peter. Including River's Edge Clinic, the property has two clinics and Nicollet County is currently taxing both clinics. The clinic provided the following information in support of their belief that the clinic should be exempt as part of the public hospital property:

- River's Edge Clinic, as part of the Hospital, is owned and operated by the City of St. Peter.
- The Hospital employs four physicians and two nurse practitioners who focus on family practice and primary care in the Clinic space.
- The Clinic serves as a critical point of access to primary care for residents in the St. Peter community, and as a part of the Hospital, is subject to the federal laws which require it to treat urgent and emergent patients entirely without regarding to ability to pay, and it is subject to the Hospital's charity care policy which generally assures care for all patients regardless of ability to pay.
- It is the only medical facility in Nicollet County that provides same-day, weekend, evening and urgent care medical service.
- The Clinic is also a key point of patient admissions to the Hospital.
- For all regulatory, licensing and Medicare purposes, the Clinic is considered the outpatient department of the hospital. Patients seen in the Clinic are considered Hospital patients.
- There is no lease with the Hospital and the Clinic's operations are under the management and control of the Hospital's administration.
- All of the health care providers providing services in the Clinic space are Hospital employees and report to the Hospital's administrators.
- A portion of the property is currently being used as a training center for Hospital employees, and an additional portion is currently be converted to provide additional training space. The Clinic asserts that this is a purpose devoted to and necessary to operate the Hospital.

Question: Would the River's Edge Clinic qualify for exemption as public hospital property?

Answer: It is not clear that the River's Edge Clinic qualifies for exemption as a public hospital property. Some court cases that we cite regularly when reviewing exemption applications for hospital and clinic properties are outlined below:

- To qualify for property tax exemption as public hospitals, auxiliary facilities must, first of all, be devoted to what it is that public hospital does, and secondly be reasonably necessary to accomplish that purpose; auxiliary facilities and public hospital must be functionally interdependent. *Chisago Health Services v. Commissioner of Revenue*, 462 N.W.2d 386 (Minn. 1990).
- A medical clinic owned and operated by a city was not exempt as "public hospital" property, though the clinic served to generate patients for the nearby hospital, in part because the clinic was not the only clinic to furnish patients to the hospital, and where the clinic was not essential to the continued existence of hospital. Additionally, the clinic was not "used exclusively for public purpose," so as to be exempt from state

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Updated 3/15/2024 - See Disclaimer on Front Cover

property taxation, though the city purchased the clinic to insure that the city was provided with medical doctors. Here, physicians used the clinic to conduct their private medical practices for a fee. *City of Springfield v. Commissioner of Revenue*, 380 N.W.2d 802 (Minn. 1986).

The clinic in the scenario you have outlined does not clearly rise to the level of exempt property as a public hospital. When determining if a clinic is eligible for property tax exemption, there are many factors taken into consideration. Clinics provide services at a different level than hospitals, typically (except in rare circumstances) making them ineligible for property tax exemption. In order to be exempt as public hospital property, the clinic must function as an extension of the hospital and must provide a service that the hospital needs at a capacity that would be similar to the hospital's operations. For example, these services must be provided 24 hours per day, seven days per week. Also, hospitals generally serve inpatients, while clinics often only serve outpatients.

For property tax exemption purposes, the use of the River's Edge Clinic property is as a clinic rather than a hospital.

It may be prudent to examine the operations of the clinic to see if it may qualify for exemption under other scenarios, such as an institution of purely public charity. As you know, for any exemption there must be a concurrence of ownership of the property by a qualifying exempt entity, use of that property for qualifying exempt purposes, and a necessity of ownership by that exempt entity to achieve its purposes.

Please note that our opinion is based solely on the facts as provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. The applicant may formally appeal the property's taxable status to Minnesota Tax Court, or they may also seek to apply as an institution of purely public charity, and the facts of that application would be reviewed for that purpose. If you have any additional questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

Property Tax Division
600 North Robert Street
Mail Station 3340
St. Paul, MN 55146

Tel: 651-556-6340
Fax: 651-556-3128
TTY: Call 711 for Minnesota Relay
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October 5, 2015

Lori Schwendemann
Lac qui Parle County Assessor
600 Sixth Street, Suite 2
Madison, MN 56256
Lori.schwendemann@lqpc.com

Dear Ms. Schwendemann,

Thank you for submitting your question to the Property Tax Division regarding the taxation of clinics. You have posed the following question:

Question: Regarding the taxation of clinics, does it make a difference if the doctors are employees of the clinic?

Answer: No; whether or not the doctors are employees of the clinic does not automatically impact the taxation of the clinic and possible exemption as a public hospital property. It may be one of the factors to review in determining interdependency of the clinic and the associated hospital, however.

When determining if a clinic is eligible for property tax exemption, multiple factors are taken into consideration. The [Property Tax Administrator's Manual, Module 5 – Exempt Property](#) goes into further detail about what these factors are.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz
State Program Administrator Senior
Property Tax Division
Phone: 651-556-4861
Email: proptax.questions@state.mn.us



Communication Towers

Property Tax Division

Mail Station 3340 TTY/TDD: (651) 215-0069
St. Paul, MN 55146-3340 Fax: (651) 297-2166
Phone: (651) 296-0336
e-mail: john.hagen@state.mn.us

Memo

Date: January 14, 2002

To: **Jeff Schamma**

From: **JOHN F. HAGEN, Manager**
Information and Education Section

Subject: Taxation of Communication Towers

You inquired about the taxable status of communication towers. In Minnesota, communication towers are exempt. This determination is largely the result of two court cases, KDAL vs. St. Louis County and Skoglund vs. St. Louis County.

The Supreme Court determined, in KDAL vs. St. Louis County, an antenna was equipment. They stated that:

“Equipment is an exceedingly elastic term, the meaning of which depends on context.”

In Skoglund vs. St. Louis County, the court referenced the KDAL decision and said referring to the KDAL decision:

“The Court was sufficiently convinced that a stationary outdoor structure whose sole purpose was to hold aloft a piece of equipment which transmitted a message to the public was itself “equipment” as the term was intended in Minnesota Statute 272.03 Subd. 1(c) (i). The instant framework or superstructure also serves the sole purpose of holding aloft a piece of equipment which transmits a message to the public....”

In the Skoglund decision, the court referred to both the antenna and the sign as equipment and the purpose of the antenna and sign is to transfer a message to the public. Then the Court then went on to say: *“There is no good reason to distinguish the framework or superstructure of a sign from a television tower.”*

Consequently, based upon these two decisions, communications towers are exempt in Minnesota.

October 5, 2007

Mr. Bruce Munneke
Washington County Assessor
Washington County Govt Center
14900 61st Street North
Stillwater, Minnesota 55082

Dear Mr. Munneke,

Thank you for your inquiry to Larry Austin; it has been forwarded to me for a reply. In your e-mail, you asked for direction in valuing cellular telephone antennas and towers.

As you are aware, real and personal property in Minnesota is generally taxable; exemption is the exception. However, there have been at least two court cases in which communication towers have been determined to be "equipment" and therefore exempt from taxation.

In *KDAL vs. St. Louis County*, the Supreme Court found an antenna was equipment, stating, "*Equipment is an exceedingly elastic term, the meaning of which depends on context.*" The Court then referenced this decision in *Skoglund vs. St. Louis County*, stating in part,

"The Court was sufficiently convinced that a stationary outdoor structure whose sole purpose was to hold aloft a piece of equipment which transmitted a message to the public was itself 'equipment' as the term was intended in Minnesota Statute 272.03 Subd. 1..."

It is our opinion that this same logic would appear to hold true in the case of cellular telephone antennas and towers. Consequently, cellular telephone antennas and towers (or structures) with the sole purpose of supporting the antenna should be exempt. If a cellular telephone antenna is affixed to a structure which serves a purpose other than solely supporting the antenna, that structure would be taxable according to its use. The value for that structure should not include any value attributed to the antenna or any support structures solely for the antenna.

In almost all cases, the land beneath the cellular telephone antenna and tower would be taxable to its owner according to its use. The exception would be in cases where the antenna (and/or tower) is located on a parcel that is exempt (i.e. on a municipal water tower, on city land, in a city park, etc). In those cases, Minnesota Statute 272.01, Subdivision 2 (a) provides for the valuation of such parcels. This statute requires a personal property tax be calculated and billed to the communication company for the privilege of using that portion of the land. The value established would likely be based on the income approach and would reflect a capitalization of the annual rental payments paid to the exempt entity.

This topic was discussed at a recent PACE course. As we said then, the Department is planning to thoroughly investigate the valuation of communication towers and billboards. You can expect a bulletin in the near future. If you have any further questions or concerns before then, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

MICHAEL STALBERGER
State Program Administrator
Information and Education Section

June 2, 2008

Angela Johnson
Carver County Assessor
600 East 4th Street
Box 10
Chaska, Minnesota 55318

Dear Ms. Johnson:

Thank you for your question concerning cellular/communication towers. Unfortunately, with the limited information provided, we can only provide you with a general answer.

Communication towers and antennas are exempt from property tax because they are considered a piece of equipment designed to hold aloft equipment to transmit messages to the public. However, if a communication tower or antenna is affixed to a structure which serves a purpose other than solely supporting the tower/antenna, that structure would be taxable.

In almost all cases, the land beneath the communication tower/antenna would be taxable to its owner. The exception would be in cases where the antenna (and/or tower) is located on a parcel that is exempt (i.e. on a municipal water tower, on city land, in a city park, etc). In those cases, Minnesota Statute 272.01, Subdivision 2 (a) provides for the taxation of such parcels. This statute requires a personal property tax to be calculated and billed to the communication company for the privilege of using that portion of the land. The value established would likely be based on the income approach and would reflect a capitalization of the annual rental payments paid to the exempt entity.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

January 12, 2018

Tom Houselog
Rock County Assessor's Office
tom.houselog@co.rock.mn.us

Dear Mr. Houselog,

Thank you for submitting your question to the Property Tax Division regarding exempt status for Minnesota Department of Transportation (DOT) land held by a perpetual easement. You have provided the following scenario and question:

Scenario:

- A taxpayer in your county recently purchased a 9.12 acre parcel.
- Approximately .40 acres of the site contains a communications tower and two associated buildings.
- The seller entered into a Tower Site Easement with the State of Minnesota for construction of the communication tower and related buildings in 2009.
- The easement is perpetual.

Question:

Is the Department of Revenue memo dated June 28, 2007, "*Perpetual Easements for Communications Tower Sites*" still pertinent, and thus the land would be exempt?

Answer:

Yes, the memo dated June 28, 2007, is the Department's current guidance on the issue of DOT communications tower sites. Land acquired by perpetual easement should be treated similarly to deeded takings for property tax purposes. However, it should be clarified that the land mentioned in the memo is not statutorily exempt. Rather, the land should not be valued for property tax purposes because the restrictions created by the perpetual easement offer minimal contributory value to the underlying parcel.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

April 16, 2018

Tom Houselog
Rock County Assessor's Office
tom.houselog@co.rock.mn.us

Dear Mr. Houselog,

Thank you for submitting your follow-up question to the Property Tax Division regarding exempt status for Minnesota Department of Transportation (MnDOT) land used for a communication tower. You have provided the following scenario and question:

Scenario:

- MnDOT holds a perpetual Tower Site Easement for .40 acres of a 9.12 acre parcel.
- The site contains a communication tower and two associated buildings.
- MNDOT has entered into a lease agreement with Verizon to co-locate equipment on the communication tower.
- Verizon has also constructed a control shed on the property.

Question:

Does the addition of the Verizon equipment make any portion of this site taxable? If taxable, is MnDOT or Verizon liable for the resulting property tax?

Answer:

When a for-profit entity leases any rights to an otherwise exempt property, the value represented by that lease may incur a property tax liability. Minnesota Statute 272.01, Subdivision 2 requires a personal property tax assessment be calculated and billed to the lessee for the use of that portion of the land. In the case of co-location leases for cellular equipment, the value established would likely be based on the income approach and would reflect a capitalization of the annual rental payments paid to the exempt entity. The tax is considered a personal property tax and would be the responsibility of the communication company.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

February 28, 2022

John,

Thank you for contacting the Property Tax Division regarding property tax exemption. You provided us with the follow scenario and question.

Scenario:

- A representative of Wisconsin Department of Transportation (DOT) contacted Winona County to purchase Federal land.
- Property purchased is to be used to build a communications tower for WI State Patrol.

Question: Does Wisconsin DOT owned property used solely for public service qualify for property tax exemption in Minnesota?

Answer: No. Minnesota Statute [272.02](#) does not include property owned and used by other states and would not qualify for property tax exemption in Minnesota. Subdivision 8 references “any property used for public purposes” however those public purposes are specific to Minnesota public. If the Wisconsin DOT purchases the land, it will be taxable.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922



Conversion: Exempt-to-Taxable/ Taxable-to-Exempt

November 26, 2003

Judith Friesen
Brown County Assessor
Courthouse Square
P.O. Box 248
New Ulm, Minnesota 56073

Dear Judy:

Thank you for your e-mail regarding the Small Business Administration. You have asked if a lumber yard that was foreclosed upon in September 2003 should be exempt.

As always, the answer to any good question is – it depends. As you are aware, since the property was not acquired and used for an exempt purpose prior to July 1, 2003, it is not eligible for exemption until the 2004 assessment.

As you know, in order to qualify for exemption, there must be a concurrence of ownership, use and necessity of ownership. Clearly, as a division of the United States government, the Small Business Administration is an exempt entity. However, it is likely that the Small Business Administration will try to resell the lumber yard that it acquired as a result of a foreclosure – very similar to residential properties that are foreclosed on by the U. S. Department of Housing and Urban Development. This would not be an exempt use. For this reason, I would be very cautious in granting the exemption due to the fact that the lumber yard may sell and the new owners may get tax exemption on a business that is used for profit. If the lumber yard remains on the market for an extended period of time, say until 2005, you can always go back and grant exemption for the 2004 assessment and abate the taxes payable in 2005. This way you avoid granting a new, for-profit owner an exemption from property tax.

If you have further questions, please contact our division.

Sincerely,

STEPHANIE L. NYHUS, Senior Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6109
e-mail: stephanie.nyhus@state.mn.us

July 5, 2005

Byron Swart
Nobles County Assessor
Courthouse 315 10th Street
P.O. Box 757
Worthington, Minnesota 56187

Dear Mr. Swart:

Thank you for your question regarding the exemption of a property. You provided the following:

- 1) The city of Worthington acquired a property at a sheriff's sale.
- 2) The paperwork for a sheriff's foreclosure was completed and the sale took place on February 24, 2005.
- 3) The owners of the property have a six-month redemption period from the date of the Order of Confirmation (February 28, 2005).
- 4) The city of Worthington plans on tearing down most of the buildings and will construct a community center.

You asked when does the city of Worthington have sufficient ownership interest to be eligible to receive tax exempt status.

For municipally owned property to be eligible for exemption, it must be acquired before July 1 of the assessment year (M. S. 272.02, Subd. 38). Since the sale was made subject to redemption within six months from the date of the Order of Confirmation (February 28, 2005), it is our opinion that the property will not be used for an exempt purpose prior to July 1, 2005, since the redemption period runs two months past the July 1 statutory date. Therefore, the property would not be removed from the assessment rolls until January 2 the following year.

If you have any further questions, please contact the division.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

October 19, 2005

Joy Lindquist, Assessment Specialist
Lake of the Woods County Assessor's Office
Courthouse, 206 8th Avenue SE
P.O. Box 808
Baudette, Minnesota 56623

Dear Joy:

Thank you for your follow-up question regarding a land exchange. You indicated that the deed for the private land (taxable land going to the state) was dated June 17, 2005, and recorded June 24, 2005. That property was exempt for taxes payable in 2006. You also indicated that the deed for the state land (exempt land going into private ownership) is dated August 3, 2005, and was recorded August 18, 2005. However, the exchange was approved by the Minnesota Land Exchange board on June 15, 2005.

In our letter to Brad Averbeck, Regional Representative, dated September 7, 2005, we said that even though the state of Minnesota land exchange document is dated August 3, 2005, since the date of the deed was June 17, 2005 (before July 1, 2005), the property should be placed on the assessment rolls for the 2005 assessment year for taxes payable in 2006.

You have now asked if you should go by the deed date (August 3, 2005) or by the exchange approval date (June 15, 2005) to change the exempt land to taxable. You stated that if you go by the date on the deed, it will be exempt for the 2005 assessment, but if you go by the exchange approval date, it will go on the tax rolls for the 2005 assessment.

For purposes of this opinion, it is assumed that the involved land exchange is an exchange under Minnesota Statute 94.344.

After conferring with our legal staff, it is our understanding that neither the date of the deed nor the date of the exchange are relevant in cases of private land exchanges with the state of Minnesota. Minnesota Statute 272.02, subdivision 38(c) states that:

“Property which forfeits to the state for nonpayment of real estate taxes on or before December 31 in an assessment year, shall be removed from the assessment rolls for that assessment year. Forfeited property that is repurchased, or sold at a public or private sale, on or before December 31 of an assessment year shall be placed on the assessment rolls for that year's assessment.”

While this statute does not specifically refer to exchanges of property, our legal staff contends that it applies because land exchanges are a type of private sale that is included in this statute. In addition, Minnesota Statute 94.344, subdivision 11 explicitly makes land received by the state subject to Minnesota Statute 272.02, subdivision 38(c) and makes them exempt immediately no matter when the deed is dated. In addition, there is no reason to believe the legislature intended for the land given by the state to a private individual would become taxable under some different provision or at some different time.

(Continued...)

Joy Lindquist
Lake of the Woods
October 19, 2005
Page 2

In conclusion, since the land exchange (exempt land going into private ownership) happened in the 2005 assessment year, the property should be placed on the assessment rolls for the 2005 assessment year for taxes payable in 2006.

If you have any further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

C: Brad Averbeck, Regional Rep.

January 17, 2007

Mary Black
Cook County Assessor's Office
411 2nd Street
Grand Marais, Minnesota 55604

Dear Mary:

Thank you for your question regarding exempt property. In your e-mail, you outlined the following situation. A property was purchased in October 2005 by an exempt entity. However, they did not apply for exemption until September 2006. As such, you did not grant the exemption from property tax for the 2006 assessment. You have granted the exemption for the 2007 assessment for taxes payable in 2008. You have asked if this is correct.

In our opinion, you are correct. Minnesota Statute 272.025 is very clear. A taxpayer must file for exemption by February 1 of the assessment year to qualify for exemption from property tax for that assessment year. Based on the information provided, it appears that the entity should be granted exemption from property tax for the 2007 assessment year for taxes payable in 2008.

Please understand that this opinion is based solely on the information provided. If any of the facts differ, our opinion would be subject to change as well. If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

September 10, 2007

Becky Kotek, Office Supervisor
Rice County Assessor's Office
Government Services Building
320 3rd Street NW, Suite 4
Faribault, MN 55021

Dear Ms. Kotek,

Your June 27 email outlines the following facts and question:

Carleton College owns a parcel of real property in the city of Northfield that was improved with a single-family residence which the College rented to others. The property was taxable and classified as non-homestead residential. The house was occupied by tenants on January 2, 2007. Since the assessment date, the renters have moved and the College has demolished the improvements. The college is now asking you to exempt the property as of January 2, 2007. Since the property was used as non-homestead residential property as of the assessment date in 2007, should the exemption be granted as of January 2, 2007 or 2008?

In our opinion, the property remains taxable for the January 2, 2007, assessment. We rely on Minnesota Statutes, section 272.02, subdivision 38, especially clause (b) that provides that "property subject to tax on January 2 **that is acquired before July 1** of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivisions 2 to 8." (Subdivision 5 exempts property of education institutions.) In this case the College did not "acquire" the property after the assessment date; rather, they owned the property for several years and it was put to a taxable use until the structure was demolished earlier this year.

Your message does not tell us how the College will be using the property so we are assuming that you are satisfied that the property will qualify for exemption as of January 2, 2008.

If you have further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

DOROTHY A. MCCLUNG
Property Tax Division

October 10, 2007

Gary Grossinger
Stearns County Assessor
Admin Center Room 37
705 Courthouse Square
St. Cloud MN 56303

Dear Mr. Grossinger,

I am responding to your recent inquiry regarding delinquent taxes on property that became exempt after the assessment date. The City of Augusta purchased property on June 1, 2001. When you saw the CRV come through your office, you called the city clerk and advised him that the property may be entitled to exemption as of January 2, 2001, but you would need some proof of the public purpose for which the property was acquired. You received nothing until March 2003 when an exempt application was filed in your office indicating that the property was now improved with a municipal park. Based on the application, you exempted the property as of the January 2003 assessment. Nothing was done about the taxes assessed in 2001 and 2002, payable in 2002 and 2003, and it now appears that the City did not pay the taxes. The property is now approaching forfeiture.

You asked us to comment about whether you were correct in not exempting the property until you received an exempt application. We believe that you were legally correct. Minnesota Statutes, section 272.02, subdivision 38, provides that if property is taxable on the assessment date but is acquired before July 1 to be used for an exempt purpose, the assessor may exempt the property for the entire year. However, the exemption is predicated on the use for an exempt purpose. Not all property acquired by a city will be exempt and you specifically advised the City of Augusta of the necessity of providing additional information. The City failed to do so and, therefore, you were legally correct in not changing the taxable status.

In this case, there is both a legal answer and a practical answer. If the pay 2002 and 2003 taxes have not been paid and forfeiture is looming, the Stearns County auditor has a dilemma. The property taxes, lawfully levied, are not paid but the property cannot forfeit. The state cannot forfeit a property owned by a governmental unit if the property is being used for an exempt, public purpose at the time of the forfeiture.

Many years ago, the Minnesota Supreme Court ruled that “proceedings for the assessment of taxes against public property, or for their collection by judgment and sale, are absolutely void.” *Foster v. City of Duluth (1913)*, 120 Minn. 484, 486, 140 N.W. 129.

(Continued...)

Gary Grossinger
Stearns County Assessor
October 10, 2007
Page 2

The Court went on to say:

This decision is the only one that will prevent the disastrous result of property devoted to public use being, through the carelessness of public officials, lost to the public on tax judgments and sales, as is, we think, in entire accord with the settled policy of the state that public property shall not be subject to taxation, or to the laws in regard to proceedings to enforce collection of taxes.

Foster, 120 Minn. 484, at page 489.

While in our opinion, your action was correct, that does not give Stearns County any leverage in collecting the delinquent taxes.

If you have any additional questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

Dorothy A. McClung
Property Tax Division

July 14, 2008

Cindy Blagsvedt
Fillmore County Assessor
Courthouse
PO Box 67
Preston, Minnesota 55965

Dear Ms. Blagsvedt:

Thank you for your question regarding the nursing home in Fillmore County. It has been assigned to me for response. You outlined the following situation. The Evangelical Good Samaritan Society of Minnesota closed the doors of their nursing home in the city of Preston some time last year. The property is currently vacant and is listed for sale. You have asked if this property, which was exempt from property tax, should be added back to the tax rolls due to the change in use. You have also asked if the moratorium that is currently in effect for properties of institutions of purely public charity would affect this change.

In our opinion, this situation is not covered by the moratorium. Minnesota Laws, Chapter 366, Article 6, section 49 states in part that:

“...An assessor may not change the assessment of the taxable status of an existing property of an organization of purely public charity, unless the change is made as a result of a change in ownership, occupancy, or use of the facility, or to correct an error...”

Since the property is currently vacant and listed for sale, the property is no longer being put to the use that allowed them to qualify for exemption from property tax. Due to the change in use, we recommend that you add the property to the tax rolls for the 2008 assessment for taxes payable in 2009. If the taxpayer disagrees with your decision, they may appeal to Minnesota Tax Court.

If you have any other questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

CC: John Pratt, Minnesota Council of Non-Profits

MINNESOTA ▪ REVENUE

April 11, 2011

Crystal Campos
Tax Clerk
Taxpayer Services Department
600 E 4th St
Chaska, MN 55318
ccampos@co.carver.mn.us

Dear Ms. Campos,

Thank you for your recent questions to the Property Tax Division. Shawn Wink has forwarded two of your questions to the Information and Education Section, which are answered below.

- 1. Your county has received an application for special homestead classification (form PE12). The form states that the application is due before October 1. This is not an annual application. The form was completed on 3-9-11 for the special classification but the taxpayer included a letter from Social Security Administration with an effective start date for benefits of July 2010. Should an abatement be processed to change the classification for pay 2011 or is the statutory application deadline the deciding factor?**

The statutory application deadline is the relevant date. Unless there was a hardship in the applicant's ability to file timely application by the statutory deadline, an abatement would not be appropriate. Assuming that the property owner has provided all necessary documentation along with the application, it would likely be approved by the assessor for the 2011 assessment year (for taxes payable in 2012).

- 2. What date is used to determine tax exemption class? Is it the date of application or date of deed? There is an application for exemption from a school district dated 4-5-11. The application listed date of acquisition as 9-1-2009. They would like pay 2011 taxes to be abated. Is it possible to do that based on the acquisition date?**

Minnesota Statutes, section 272.02, subdivision 38, paragraph (b) outlines the conversion of taxable status for a property during the assessment year.

“Property... that is subject to tax on January 2 that is acquired before July 1 of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivisions 2 to 8 [public burying grounds, public school houses, public hospitals, education institutions, church property, institutions of purely public charity, and public property used for public purposes].”

In the situation you have outlined, the property was acquired after the July 1 cutoff date for the 2009 assessment year, however it was owned by a qualifying exempt institution on January 2, 2010 for the 2010 assessment. The property owner should have made application to the County Assessor so that the assessor would have been able to determine the facts of the situation before granting or denying property tax exemption. Without any additional information, in most cases such as the one you have outlined, the property would be eligible (provided it is being used for school district qualifying exempt purposes) for property tax exemption beginning with the 2011

assessment year, for taxes payable in 2012. An abatement of taxes under this provision is at the discretion of the county.

If you have any additional questions, please do not hesitate to contact the Information and Education Section of the Property Tax Division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

December 15, 2011

Valerie Thompson
Chief Appraiser
Minneapolis Assessors Department
309 Second Avenue South, Room 100
Minneapolis, MN 55401-2234
Valerie.Thompson@minneapolismn.gov

Dear Ms. Thompson,

Thank you for your question to the Property Tax Division regarding taxable/exempt status for property owned by Hennepin County. You have asked us for clarification on exemption eligibility and personal property taxes for a property in Hennepin County. The facts of the situation are as follows:

- The 701 Building was purchased by Hennepin County on June 3, 2011 for \$23,000,000.
- Hennepin County occupied a portion of the building, and some of the building was vacant. The space will be exempt from taxation in 2012.
- Some (for-profit) tenants occupied 148,575 square feet in the building.
- Three tenants are leaving the building next year before July 1, 2012 (the exempt cutoff date). The Hennepin County Attorney's Office advised you that these spaces should be exempt in 2013 because the tenants would be leaving prior to the cutoff date.
- The Hennepin County Attorney's Office advised you that you would need to review the building every year and make any taxable tenant space exempt from taxation for the following year if the tenant left prior to July 1st.

As you are likely aware, Minnesota Statutes, section 272.01, subdivision 2, provides:

“When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.”

Paragraph (d) of this subdivision continues:

“The tax on real property of the state or any of its political subdivisions that is leased by a private individual, association, or corporation and becomes taxable under this subdivision or other provision of law must be assessed and collected as a personal property assessment. The taxes do not become a lien against the real property.”

Therefore, if a property is loaned, leased, or otherwise made available to tenants who use the property in connection with a business conducted for profit, an *in personam* tax (personal property tax) is imposed on the lessee/tenant.

Continued...

Continued from Page 1

However, in regards to the July 1 cutoff date for exemption for an assessment year, the July 1 cutoff date typically applies to exempt property becoming taxable after January 2 but before July 1. In the case of property that is taxable on January 2, it may only be exempted if it is *acquired* by an exempt entity and used for qualifying exempt purposes by July 1.

Minnesota Statutes, section 272.02, subdivision 38, paragraph (b) states:

“Property, except property taxed as personal property under section 273.125, that is subject to tax on January 2 that is acquired before July 1 of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivisions 2 to 8 [emphasis added].”

We have advised that, in the case of property owned by an exempt entity but not used for qualifying purposes, the taxability based on the January 2 assessment would be applied to the entire assessment year, as there is not “acquisition” taking place.

Therefore, if the property is taxable to the lessees on January 2, 2012 for the 2012 assessment, the personal property tax is applied based on the entire assessment year. There is no conversion to an exempt status on July 1, as Hennepin County will not be newly acquiring this property.

If you have any additional questions, please do not hesitate to contact the Property Tax Division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA • REVENUE

February 13, 2013

Karen McClellan
Kanabec County Assessor's Office
karen.mcclellan@co.kanabec.mn.us

Dear Ms. McClellan:

Thank you for your question concerning property deeded to an exempt entity. You have presented us with the following scenario:

Pheasants Forever purchased several parcels in assessment year 2011. Pheasants Forever paid the 2012 taxes (for assessment year 2011). On October 3, 2012 they deeded all of the parcels to the State of Minnesota to create a wildlife management area. The property was not forfeited for nonpayment of real estate taxes, nor was it a land exchange.

You have asked, since the transfer of the deed was after July 1, 2012, does the property remain taxable for assessment year 2012, taxes payable 2013. If so, who is responsible for paying the taxes?

The property does remain taxable for assessment year 2012, taxes payable in 2013. Per Minnesota Statute 272.68, when the state or a political subdivision of the state, except the Minnesota Department of Transportation, acquires a fee interest in property before forfeiture, by any means, provision must be made to pay all taxes, including all unpaid special assessments and future installments on the property at the date of acquisition. Taxes lawfully levied shall not be abated. The state or a subdivision acquiring property may make provisions for the apportionment of the taxes and unpaid assessments if less than a complete parcel is acquired.

If the accrued taxes and unpaid assessments are not paid in the manner described above, then the county auditor must notify the Commissioner of Finance of the pertinent facts, and the Commissioner of Finance will divert an amount equal to the accrued taxes and unpaid assessments to the county treasurer.

Please review Minnesota Statute 272.68 for more details concerning the payment of taxes on property acquired by the state.

If you have any additional questions, please do not hesitate to contact the Property Tax Division of the Minnesota Department of Revenue at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA • REVENUE

June 18, 2015

Carice Golberg-Cummings
Hubbard County Assessor's Office
egolberg@co.hubbard.mn.us

Dear Ms. Golberg-Cummings:

Thank you for submitting your question to the Property Tax Division regarding a personal property tax when exempt property is leased. You have provided the following scenario and question.

Scenario:

- In the past, an individual has leased office space within a Park Rapids area school for their private, for-profit mental health clinic and have paid personal property taxes on the leased space.
- The lessee vacated the leased office space at the school, effective June 13, 2014.
- The lessee contends they are not responsible for the 2014 assessment/2015 personal property taxes on the leased space because they cancelled the lease prior to July 1, 2014.

Question:

Is the lessee responsible for personal property taxes on the leased space for the 2014 assessment/2015 taxes?

Answer:

Yes, the lessee would be responsible for the taxes for the 2014 assessment. Minnesota Statutes, section 272.02, subdivision 38, clause (b) provides that “property subject to tax on January 2 **that is acquired before July 1** of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivisions 2 to 8 [emphasis added].”

Because an exempt institution did not “acquire” the property after the assessment date (rather, they owned the property and it was put to a taxable use), the acquisition qualifier is moot and the property should remain taxable for that assessment year. The exemption may be granted for the following assessment year if all other requirements are met.

You may find additional information in the [Property Tax Administrator's Manual](#), Module 5 – Exempt Property, which covers conversion from taxable to exempt uses.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us



September 21, 2015

Lori Schwendemann
Lac qui Parle County Assessor
Lori.schwendemann@lqpc.com

Dear Ms. Schwendemann,

Thank you for submitting your question to the Property Tax Division regarding exempt property. You have provided the following scenario and question.

Scenario:

- A taxpayer in your county sold 4.48 acres of land that has a house and multiple sheds to the U.S. Fish and Wildlife Service (USFW)
- The date of deed transfer was August 5, 2015
- The taxpayer plans to sell and/or remove all buildings from the property

Question: Should this property remain taxable?

Answer: A property that is sold to an exempt entity and has its use proven before July 1 may be exempt for that assessment year. However, in the situation you described, that did not occur. The property was acquired and put to an exempt use after July 1 and therefore the property should remain taxable for the 2015 assessment.

If you have any further questions, please contact our division at proptax.questions@state.mn.us or go to the [Property Tax Administrator's Manual: Module 5 – Exempt Property](#) for further information.

Sincerely,

Jeff Holtz

State Program Administrator Senior
Information & Education Section
Property Tax Division
Phone: 651-56-4861
Email: proptax.questions@state.mn.us

November 16, 2015

Joanne Corrow
Assessment Specialist, Le Sueur County
jcorrow@co.le-sueur.mn.us

Dear Ms. Corrow:

Thank you for submitting your question to the Property Tax Division regarding exemption status and homestead filings. You have submitted the following scenario and questions:

Scenario:

- The City of Cleveland Economic Development Authority (EDA) sold sets of parcels to two different people after July 1st, 2015.
- The parcels were all exempt property due to the EDA ownership.
- Both of the new owners are in the process of building a house on their respective properties.

Question 1: Do these parcels stay exempt for assessment year 2015 (payable 2016)?

Answer 1: Yes; as the change of ownership and the potential loss of the property exemption occurred after July 1, the parcels in question should retain their exemption for assessment year 2015.

Question 2: If the homes are occupied by December 1 and apply for homestead, how should it be handled?

Answer 2: In this situation, the exemption status would remain for assessment year 2015, payable in 2016, and the homestead status would first be applied for the 2016 assessment.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz
Senior State Program Administrator
Property Tax Division
Phone: 651-556-4861
Email: proptax.questions@state.mn.us



Department of Transportation

November 21, 2003

Brian Koester
Benton County Assessor
Courthouse
531 Dewey Street
Foley, Minnesota 56329

Dear Brian:

Your e-mail to John Hagen has been forwarded to me for reply. Please accept my apology for the lateness of this letter. We have experienced some significant staffing changes during the last year. This, in addition to the need to address mandated issues that required completion in a timely manner has resulted in a number of unacceptably long response times. Again, please accept my apology. We are confident that future responses will be much more timely.

In your e-mail and in subsequent telephone conversations, you have indicated that the Minnesota Department of Transportation purchased five parcels of land as part of a right of way taking. Four of the parcels were purchased prior to July 1, 2002, and the date of the sale of the fifth parcel was July 15, 2002. After the properties were purchased, MNDOT leased the properties back to the sellers until approximately October 2002 when the buildings were removed and MNDOT built a new interchange on the properties. You have asked us if the parcels should be taxable or exempt for the 2002 assessment.

In our opinion, the four parcels purchased before July 1, 2002, should be exempt for the 2002 assessment. Minnesota Statute 272.68, subdivision 1 states in part that:

“When the state of a political subdivision of the state, except the state Transportation Department, (emphasis added) acquires a fee interest in property before forfeiture, by any means, provision must be made to pay all taxes, including all unpaid special assessments and future installments thereof, unpaid on the property at the date of acquisition. For the purpose of this section, the date of acquisition shall be the date on which the acquiring authority shall be entitled under the law to take possession of the property...”

Since the acquiring authority is the state Transportation Department, we believe they are exempt from the requirement of providing for payment of any unpaid taxes or special assessments.

However, it is also our opinion that the parcel that was acquired after July 1, 2002, should remain taxable for the 2002 assessment per Minnesota Statute 272.02, subdivision 38, paragraph (b) which states in part that:

“(b) Property subject to tax on January 2 that is acquired before July 1 (emphasis added) of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivisions 2 to 8.”

(Continued...)

Brian Koester
November 21, 2003
Page 2

Since the parcel was not acquired before July 1, 2002, that parcel should remain taxable for the 2002 assessment for taxes payable in 2003.

Once again, I apologize for the delay in answering your questions. If you have further concerns, please contact our division.

Sincerely,

STEPHANIE L. NYHUS, Senior Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6109
e-mail: stephanie.nyhus@state.mn.us

May 1, 2007

Byron Swart
Nobles County Assessor
Courthouse 315 10th Street
P.O. Box 757
Worthington, Minnesota 56187

Dear Byron:

Your e-mail has been assigned to me for reply. You outlined the following situation. The city of Worthington is requiring some developers to construct run-off/holding ponds for drainage purposes. Some of the holding ponds are retained by the developers and some are owned by the city or the Minnesota Department of Transportation (MNDOT). You have asked how they should be assessed.

In our opinion, if the developer retains ownership of the holding ponds, they would be taxable to the developer. If the city or MNDOT owns the ponds, they would be exempt.

If you have further questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE L. NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

2009319

August 27, 2009

Byron Swart
Nobles County
Courthouse 315 - 10th Street
PO Box 757
Worthington, MN 56187

Dear Mr. Swart:

Thank you for your question concerning exempt property. You have provided us with the following scenario and question:

The Minnesota Department of Transportation is acquiring properties in order to expand a highway from two lanes to four lanes. The properties were acquired before July 1, 2009, but the prior owners are being allowed to occupy the property until construction begins next year. You have asked if the acquired properties should remain taxable or become exempt because they were acquired prior to July 1.

Minnesota Statutes 272.02, subdivision 38(b) allows property acquired before July 1 to be exempt for that entire assessment year if it is to be used for exempt purposes. Mn/DOT acquired the properties prior to July 1 with the planned use of converting the properties to an exempt use, with the caveat that the former owners could continue to occupy the properties until next year or until construction begins. In our opinion, a reasonable time should be allowed to transition the property from the existing taxable use to an exempt use. However, in this instance it would likely be an overly broad construction of the law to allow for a year to pass before the use of the property is converted to an exempt use.

In our opinion, based upon the information submitted and this particular set of circumstances, the properties should be taxable as personal property to the persons occupying the properties for this assessment year. When construction begins or the properties are no longer occupied, it would be appropriate to change the properties to exempt.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division



Economic Development

March 4, 2005

Robert Moe
Otter Tail County Assessor
Courthouse 121 West Junius Street
Fergus Falls, Minnesota 56537

Dear Mr. Moe:

Thank you for your question regarding an exempt property. You asked for clarification on the eight-year exemption limit in Minnesota Statutes, Section 272.02, subdivision 39, which states:

“The holding of property by a political subdivision of the state for later resale for economic development purposes shall be considered a public purpose in accordance with subdivision 8 for a period not to exceed eight years, except that for property located in a city of 5,000 population or under that is located outside of the metropolitan area as defined in section 473.121, subdivision 2, the period must not exceed 15 years.

The holding of property by a political subdivision of the state for later resale (1) which is purchased or held for housing purposes, or (2) which meets the conditions described in section 469.174, subdivision 10, shall be considered a public purpose in accordance with subdivision 8.

The governing body of the political subdivision which acquires property which is subject to this subdivision shall after the purchase of the property certify to the city or county assessor whether the property is held for economic development purposes or housing purposes, or whether it meets the conditions of section 469.174, subdivision 10. If the property is acquired for economic development purposes and buildings or other improvements are constructed after acquisition of the property, and if more than one-half of the floor space of the buildings or improvements which is available for lease to or use by a private individual, corporation, or other entity is leased to or otherwise used by a private individual, corporation, or other entity the provisions of this subdivision shall not apply to the property. This subdivision shall not create an exemption from section 272.01, subdivision 2; 272.68; 273.19; or 469.040, subdivision 3; or other provision of law providing for the taxation of or for payments in lieu of taxes for publicly held property which is leased, loaned, or otherwise made available and used by a private person.”

You asked if the eight-year exemption limit only applies to the holding of property by a political subdivision of the state for economic development purposes or if the eight-year exemption limit also applies to the holding of property by a political subdivision for later resale for housing purposes.

No, the eight-year exemption limit in paragraph one (and the exception which allows for a 15-year exemption limit) only applies to property held by a political subdivision for economic development purposes. Property held by a political subdivision for housing purposes and property that meets the conditions described in section 469.174, subdivision 10, are not subject to the exemption limitation.

(Continued...)

Robert Moe
March 4, 2005
Page 2

However, this doesn't mean that the property qualifies for exemption indefinitely. While it appears that a political subdivision could acquire property for later resale for housing purposes and hold it "forever" without selling it, there are two practical limitations which prevent that from being a significant problem.

First, the property would have to stand vacant the entire time. The last sentence states that the exemption only applies until the property is "*leased, loaned or otherwise made available and used by a private person.*" We would argue that renting the property to tenants would cause it to be "*used by a private person*" (i.e. this exemption only applies to property *purchased* for housing purposes, not *used* for housing purposes).

Second, we would argue that if a property is held for later resale, but there are no definite plans or timetables for the sale, that the property really *isn't* being held for resale (i.e. an intent to sell a property at an indefinite time is no intent at all).

We realize that the two limitations outlined above may require that assessors make some difficult decisions. We recommend that you begin by reviewing the development plan. If there is, in fact, a plan or timeline for resale, the property continues to be held for later resale for housing purposes and the property isn't actually being *used* for housing purposes, we would recommend that you continue the exemption.

If you would like to send us a copy of the development plan, we would be willing to review it and issue a more straight-forward opinion regarding the exemption of the property.

If you have further questions, please contact our division.

Sincerely,

JACQUELYN J. BETZ, Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6099
Fax: (651) 556-3128
E-mail: jacquelyn.betz@state.mn.us

MINNESOTA • REVENUE

December 20, 2010

Peggy Trebil
Goodhue County Assessor
Box 408
509 5th Street
Red Wing, MN 55066

Dear Ms. Trebil:

Thank you for your e-mail regarding a property owned by the Red Wing Port Authority. You indicated the Port Authority purchased two parcels in 2007. One parcel is 10.67 acres in size and contains a building which was constructed in the 1960's. The building is currently rented to a tenant. The Port Authority is considering selling the building and a portion of the land. They have asked the following questions:

- 1. After the building is sold, can the remaining land be exempt from property tax for up to 8 years under Minnesota Statutes, section 272.02, subdivision 39 as property held "by a political subdivision of the state for later resale for economic development purposes?"**

Answer: Yes. The general purpose of port authorities is to create industrial development districts. It should be noted that the exemption only applies while the Port Authority holds the property for its own purpose (redevelopment, for up to 8 years) and the Port Authority must certify to the county assessor that the property is being held for economic development purposes. Once the property is sold, it begins to be taxed again. You may also want to refer to section 469.059 for additional information on port authorities.

- 2. If the Port Authority is not able to sell the building and the tenant vacates the building, is it possible for the Port Authority to receive exemption on the entire property?**

Answer: Yes, it is possible. Ordinarily, port authorities will purchase vacant land for development or purchase an existing building for remodeling and redevelopment which would qualify as "holding for later resale for economic development purposes." In this case, there is some indication that the Port Authority is simply holding the property as a landlord, which is not clearly an exempt purpose. However, since there are also indications that the Port Authority is holding it for sale, during which period it would be exempt, we would recommend that you exempt the property and allow a reasonable time for the Port Authority to find a buyer based on local market conditions as well as any special laws which may affect the potential use of the property. Of course, if the Port Authority were to lease or rent the property (or a portion) to a taxable entity, that would eliminate any question of exemption.

Please understand this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,



Stephanie L. Nyhus
Principal Appraiser
Information and Education Section

MINNESOTA ▪ REVENUE

September 8, 2011

Lori Schwendemann
Lac qui Parle County Assessor
600 Sixth Street, Suite 2
Madison, MN 56256
lori.schwendemann@lqpc.com

Dear Ms. Schwendemann,

Thank you for your recent question to the Property Tax Division regarding the potential exemption for a property that may be purchased by an Economic Development Authority (EDA). There is a foundry in your county that has not been used for some time, and an EDA may purchase the property. It is not clear to you whether the property would qualify for property tax exemption.

Unfortunately, because this question is based on a hypothetical future scenario, we are not able to address any specifics. To be eligible for exemption as an economic development/public purpose property under Minnesota Statutes, section 272.02, subdivision 39, the governing body which acquires the property (the EDA) must certify to the county assessor whether the property is held for economic development purposes or housing purposes, or whether it meets the conditions of Minnesota statutes, section 469.174, subdivision 10 (i.e., it is for a redevelopment district).

Therefore, if the EDA acquires this property and certifies that it meets requirements for exemption, it may be exempt. If an exemption is granted, the property becomes taxable if and when buildings or other improvements are constructed after acquisition of the property, and/or if more than one-half of the floor space of the buildings or improvements are available for lease to or use by a private individual or entity. The exemption would also be subject to the term limits defined in subdivision 39.

If this acquisition takes place and a certification is made to the assessor and it remains unclear whether the property qualifies for exemption, we would be happy to assist you in making your determinations at that time. In such event, please contact us via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA • REVENUE

October 16, 2014

Peggy Trebil, SAMA
Goodhue County Assessor
509 West Fifth Street
Red Wing MN 55066
Peggy.Trebil@co.goodhue.mn.us

Dear Ms. Trebil:

Thank you for submitting your question to the Property Tax Division regarding economic development exemptions under Minnesota Statutes, section 272.02, subdivision 39.

Scenario: The Red Wing Port Authority owned land for economic development and was receiving the maximum 15-year exemption. Some of the land had been exempt since assessment year 2009. In April of this year, the Port Authority sold eight parcels of this property to the City of Red Wing.

Question: Does the transfer from the Port Authority to the City trigger an additional 15-year exemption for the city?

Answer: The City is eligible for the economic development exemption, provided all requirements for the exemption are met. The sale of the property by the Port Authority ended the exemption for the Port Authority. However, the City is a political subdivision that may hold property for economic development purposes and be eligible for exemption for up to 15 years. The exemption eligibility is considered under current (new) ownership.

Please note that this opinion is based solely on the information provided. If any of the facts were to change, our opinion would be subject to change as well. Additionally, an exemption for economic development does require that all criteria for exemption eligibility continue to be met.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

Property Tax Division
600 North Robert Street
Mail Station 3340
St. Paul, MN 55146

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Updated 3/15/2024 - See Disclaimer on Front Cover



September 28, 2015

Amy Rausch
Property Tax Compliance Officer
Property Tax Division
amy.rausch@state.mn.us

Dear Ms. Rausch,

Thank you for contacting the Property Tax Division regarding exempt property. You provided us with the following information.

Scenario:

- The City of Baudette was gifted two houses
- The intent of the city is for urban renewal, to clean up the property and place the property for sale
- The city clerk was informed by the assessor that those parcels do not qualify for exemption because they are not intended for public use

Question: Would this qualify as economic development under Minnesota Statute 272.02, subdivision 39 and qualify for exemption?

Answer: The property does not need to be a redevelopment district to qualify for exemption under [Minn. Stat. sec. 272.02, subd. 39](#). To be exempt under this statute, the property does **not need** to be a redevelopment district if it is held for either economic development or housing purposes.

Being a redevelopment district is an alternative to being held for either economic development or housing purposes. Additionally, this subdivision specifies that holding the property for later resale for economic development is deemed to be a public purpose under section 272.02, subd. 8.

In other words, it doesn't need to be a redevelopment district to qualify for exemption under section 272.02, subd. 39. This property would qualify for exemption since it is not going to be used for private purposes or for-profit purposes. According to Minnesota Statute 272.02, subdivision 39, this property is considered a public purpose; the exemption period must not exceed 15 years.

If you have any further questions, please contact our division at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

May 2, 2016

Gary Amundson
Property Tax Compliance Officer
gary.amundson@state.mn.us

Dear Mr. Amundson:

Thank you for submitting your question to the Property Tax Division regarding economic development authority and exemption. You have provided the following scenario and question:

Scenario:

- Three parcels were purchased by the EDA/City of Blaine between 2001 and 2003.
- Recently the parcels were reclassified as taxable since being after 9 years from purchase.

Question:

Should the property continue to be given exemption for 15 years instead of 9 years according to Minnesota Statute 272.02, subdivision 39?

Answer:

Yes, the properties should qualify for the additional years of exemption because the scenario meets the second exception listed in statute of being acquired on or after January 1, 2000, and on or before December 31, 2010, and located in a city.

The property in question does not need to meet both requirements under Minnesota Statute 272.02, subdivision 39; only one exception needs to be met in order to qualify for exemption for additional years. Though the statute contains the word “and” between the two exceptions, it has been interpreted to allow each exception the “*period not to exceed more than nine years*” of exemption law and be treated as two separate requirements not one.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

July 21, 2017

Tina Von Eschen
Kanabec County Assessor's Office
Tina.VonEschen@co.kanabec.mn.us

Dear Ms. Von Eschen,

Thank you for submitting your question to the Property Tax Division regarding exempt property. You have provided the following scenario and question:

Scenario:

- Two vacant parcels located in the Mora Industrial Park have been tax exempt since 1979 and 1999 respectively.
- The parcels were transferred to the City of Mora from Kanabec County for use as an industrial park in 1998.
- It has been discovered that the parcels were incorrectly classified as business incubator properties under 272.02, subdivision 31.
- The parcels were placed back on the tax rolls for the 2017 assessment after the business incubator exemption expired.
- The City of Mora is considering transferring the parcels to the Kanabec County Economic Development Authority (EDA).

Question: Does a change of ownership in the parcels trigger a reset of the 15 year limit for a political subdivision seeking exemption under Minnesota Statute 272.02, subdivision 39?

Answer: Yes, a transfer of ownership would result in the property receiving a new 15 year period of exemption under Minnesota Statute 272.02, subdivision 39 in the scenario you have described. Whether or not the property was incorrectly granted an exemption under Minnesota Statute 272.02, subdivision 31 in the past does not preclude it from future exemption as long as statutory requirements are met.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin
State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6091

October 22, 2003

Steve Skoog
Becker County Assessor
Courthouse 913 Lake Avenue
P.O. Box 787
Detroit Lakes, Minnesota 56502

Dear Mr. Skoog:

Some time ago you called and then sent a follow up e-mail concerning the classification of property owned by Round Lake Township. Please accept my apology for the lateness of this letter. We have experienced some significant staffing changes during the past year. This, coupled with the need to address mandated issues that required completion in a timely manner, has resulted in a number of unacceptably long response times. As often happens, whichever fire flames the highest is the one that gets the immediate attention. In this instance, the voice mail message from County Auditor Keith Brekken caused me to retrieve the letter and personally write a response. I appreciate the patience exhibited by both you and Keith, and again, I apologize. I will do everything in my power to make certain that future responses are more timely.

Your question involves a property containing buildings owned by Elbow/Tulaby Lakes Fire Department. The property in question contains a residence that is rented to an individual for a small amount of rent who in turn, through their presence, provides security for the other fire department structures.

You also faxed a copy of a quit claim deed from the Department of Natural Resources to Round Lake Township. The deed contains a reversionary clause that provides for the property to revert to the Department of Natural Resources if the grantee:

- (a) fails to provide the public use intended on the property;
- (b) allows a public use other than the public use agreed to by the Department of Natural Resources at the time of conveyance without written approval of the commissioner;
or
- (c) abandons the public use of the property.

An accompanying letter designed to be recorded with the quit claim deed specifies the following:

“The intended public use of this property is for a fire hall, specifically the Elbow/Tulaby Lakes Fire Department. None of the buildings may be sold or removed. However, the residence may be rented to an occupant that would provide security and look after the other buildings and equipment. Rental proceeds should go toward the maintenance of the buildings, the site and the Elbow/Tulaby Lakes Fire Department.”

Based on the forgoing information, you asked if the residence is rented, should it be taxed?

(Continued...)

Steve Skoog
October 22, 2003
Page 2

In our opinion, the answer is no. Although in most situations, a tax exempt entity renting a residence would cause the property to be taxed, we believe this is an exception.

The key to answering this question is whether the presence of on site caretaker/security individual is necessary to sustaining the Elbow/Tulaby Lakes Fire Department. The answer would seem to be yes since we understand that the last time the residence was unoccupied, the fire hall was burned down. Our understanding is a new fire hall was constructed, and the fire department maintains that the property be occupied to prevent further damage. We agree. Consequently, it is our opinion that the residence qualifies for exemption because it is occupied by a person performing security services which are needed in this area.

An analogous situation was heard in the court case *Central Minnesota Council, Boy Scouts of America v. County of Crow Wing*, File No. C-87-243. At issue was whether a cabin located on Boy Scout camp property and occupied by a caretaker should be taxable or exempt. The court stated:

“Since the assessor admits that the petitioner is an exempt entity and the camp is an exempt use, the only remaining question is whether the home is reasonably necessary to the operation of the camp. We must give great weight to the opinion of the petitioner that the construction of the home and the redesign of the entrances is reasonably necessary to avoid theft and vandalism and to more properly perform the function of caring for the camp, taking care of emergencies and assisting in administration.”

In sited case, the petitioner demonstrated to the court that there had been frequent cases of thefts and vandalism since there was open access and no caretaker. When the new residence was constructed, a new entrance to the camp was established which requires persons entering the camp to pass by the caretaker’s residence.

The court ruled that the caretaker’s cabin was exempt. Although this court decision is not identical, it is close enough. The Elbow/Tulaby Lakes Fire Department is exempt. To prevent damage or destruction to the exempt structures, it is reasonably necessary that the residence be occupied to provide needed security.

Again, please accept my apologies for the lateness of this letter.

Very truly yours,

JOHN F. HAGEN, Manager
Information and Education Section
Property Tax Division
Phone: (651) 296-0336
E-Mail: john.hagen@state.mn.us

C: Keith Brekken, Becker County Auditor



Forfeited Property

April 26, 2004

Gregory Kramber
Wright County Assessor
Courthouse
10 NW 2nd Street
Buffalo, MN 55313

Dear Mr. Kramber:

Your e-mail to Al Heim regarding a tax-forfeited property that was sold has been forwarded to me for a response.

Your question was: A tax-forfeited property is sold. The closing is December 16, 2003, but the sale is not recorded until January 16, 2004. Would you use the document date of December 16, 2003 or the transfer date of January 16, 2004, to determine what year the property should be placed on the tax rolls?

Minnesota Statute 272.02, subdivision 38 provides that:

“Forfeited property that is repurchased, or sold at a public or private sale, on or before December 31 of an assessment year shall be placed on the assessment rolls for that year’s assessment.”

In other words, as long as the property is purchased some time during the assessment year, it goes on for that assessment year for taxes due and payable the following year. Since the property was purchased December 16, 2003, it is taxable in 2004.

If you have any other questions, please contact our division.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114
Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

C: Al Heim, Regional Representative

November 21, 2003

Mr. Charles Pelzer
Todd County Assessor
Courthouse
221 First Avenue South
Suite 400
Long Prairie, MN 56347

Dear Mr. Pelzer:

Your letter to John Hagen has been forwarded to me for reply. In your letter, you have indicated that Lake Beauty Bible Camp recently platted five lots into a subdivision known as Lake Beauty West Shores First Addition. Two of the five lots have sold and have had homes constructed on them. The other three lots remain in the name of Lake Beauty Bible Camp and are currently being offered for sale. The director of the camp has filed for exemption on the three remaining lots. He also indicated that the exemption from property tax has been agreed to by the Bruce Township Board. You have asked for our opinion on this situation.

It is our opinion that the lots should be taxable. When they platted the property and began selling the lots, the use of the property changed from an exempt use (as a bible camp) to a taxable use (residential subdivision). Since the property was platted and was no longer used for an exempt purpose prior to July 1, 2003, all of the lots should be taxable for the 2003 assessment for taxes payable in 2004.

The fact Mr. Gamble, the director of Lake Beauty Bible Camp, and the Bruce Township Board agreed that the property should remain exempt is meaningless. The only person, besides the Tax Court, who can exempt property is the county assessor.

If you have further questions, please contact me.

Sincerely,

STEPHANIE L. NYHUS, Senior Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6109
e-mail: stephanie.nyhus@state.mn.us



Hospitals

October 29, 2007

Bob Hansen
Hubbard County Assessor
Hubbard County Courthouse
301 Court Avenue
Park Rapids MN 55921

Dear Mr. Hansen,

You recently asked us to comment on the exempt status of a public hospital in Hubbard County. St. Josephs Hospital is currently treated by Hubbard County as exempt from property tax as a public hospital. The hospital is expanding and someone has asked you what the property tax would be if the property was taxable. A clinic, operated in conjunction with the hospital, is already being taxed by Hubbard County.

You asked under what circumstances a hospital would be taxable.

Public hospitals are exempted from property tax by both the Minnesota Constitution (Minnesota Constitution, Article 10, section 1) and Minnesota law (Minnesota Statutes, section 272.02). But neither provides a definition of a “public hospital.” Hospitals in Minnesota are regulated by the Minnesota Department of Health but the laws governing the regulatory process apply to both public and private hospitals and neither term is defined. To respond to your inquiry, we looked for case law or Attorney General Opinions.

In the case of *Village of Hibbing v. Commissioner of Taxation*, 1944, 217 Minn. 528, 14 N.W.2d 923, the Supreme Court held that a “public hospital,” within the statutes granting a tax exemption, was a hospital that was generally open to the public and operated without a profit motive, but it was not necessary that the hospital be owned by the public, that it dispensed charity, or rendered services without charge. The *Village of Hibbing* case has been cited in succeeding cases by the courts in Minnesota and by the Attorneys General in writing their opinions.

Based on the court case, it is our opinion that if a hospital is owned by a governmental unit or not-for-profit organization, if it is actually operated without a profit motive, and if it is generally open to the public, it should be considered a public hospital and exempt from tax. To our knowledge, there are very few private, for-profit hospitals in Minnesota. The vast majority of Minnesota hospitals would be considered “public.” If an assessor is unsure of the public or private nature of a particular hospital, the assessor should contact the hospital and ask the hospital operator to complete an application for exemption. We did not sense from your inquiry that you are questioning the public status of St. Josephs Hospital but, if you are, you should simply ask them to provide you with the necessary documentation.

You are already aware of the fact that most clinics run in conjunction with hospitals are not considered exempt as part of the hospital. The taxability of a clinic is determined on its own merits.

A hospital that is not exempt should be listed as class 4a property.

If you have further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

Dorothy A. McClung
Property Tax Division

MINNESOTA ▪ REVENUE

May 2, 2011

Jeff Johnson
Stearns County Assessor's Office
jeff.johnson@co.stearns.mn.us

Dear Mr. Johnson,

Thank you for your recent email to the Property Tax Division. You have outlined a situation in Stearns County wherein Sauk Centre City owns a property that may be leased to CentraCare Health System (CCHS). The following facts were provided by your office:

- CentraCare Health System is a 501(c)(3) tax-exempt non-profit organization
- The term of the lease will be for 25 years beginning July 1, 2012
- The lessee (CCHS) will pay the lessor (Sauk Centre City) an amount equal to the principal and interest on payments due and owed under the terms of the bonds before the due date of each required payment
- The lessee will pay all costs and expenses related to operating the facilities
- The lessee will be required to make any and all improvements to the facilities
- The lessee will use the facilities as a licensed hospital and for residences for the elderly and supportive care
- The lessee has the option to purchase the facilities at fair market value, including the balance of the unpaid principal and interest due on the bonds at the closing date of the transaction

CentraCare Health System will use the property for a public hospital, a nursing home, a medical clinic, and assisted living apartments. You have asked for our input regarding the exempt eligibility for the property in question, citing Minnesota Statutes, section 447.47. The requirements to qualify for exemption as described in this statute are discussed below.

“(a) The county, city, or hospital district may lease hospital or nursing home facilities to be run by a nonprofit or public corporation as a community hospital or nursing home. The facilities must be open to all residents of the community on equal terms.”

Based on the facts you have provided, this may be true. If, when in operation, the public hospital and nursing home facilities are open to all residents of the community on equal terms, this requirement may be met.

“(b) The city, county, or district may lease related medical facilities to any person, firm, association, or corporation, at rent and on conditions agreed.”

This would appear to be the case based on the facts you have outlined.

“(c) The term of the lease must not exceed 30 years. The lessee may be granted an option to renew the lease for an additional term or to purchase the facilities. The terms of renewal or purchase must be provided for in the lease.”

The term of the lease you have described is for 25 years; therefore it does not exceed 30 years. There is an additional option to purchase the facilities. It appears that this requirement would be met.

“(d) The county, city, or hospital district may by resolution of its governing body agree to pay to the lessee annually, and to include in each annual budget and tax levy for hospital and nursing home purposes, a fixed compensation for services agreed to be performed by the lessee in running the hospital or nursing home as a community facility; for any investment by the lessee of its own funds or funds granted or contributed to it in the construction or equipment of the hospital or nursing home; and for any auxiliary services to be provided or made available by the lessee through other facilities owned or operated by it. Services other than those provided for in the lease agreement may be compensated at rates agreed upon later. The lease agreement must, however, require the lessee to pay a net rental not less than the amount required to pay the principal and interest when due on all revenue bonds issued by the county, city, or hospital district to acquire, improve, and refinance the leased facilities, and to maintain the agreed revenue bond reserve. The lease agreement must not grant the lessee an option to purchase the facilities at a price less than the amount of the bonds issued and interest accrued on them, except bonds and accrued interest paid from the net rentals before the option is exercised.”

Based on the facts you have provided, it appears that this requirement will be met when the lease and operations are in effect in 2012.

“(e) To the extent that the facilities are leased under this section for use by persons in private medical or dental or similar practice or other private business, a tax on that use must be imposed just as though the user were the owner of the space. It must be collected as provided in section 272.01, subdivision 2.”

Based on the facts you have provided, it is possible that the medical clinic and assisted living apartment portions of the property may be taxable. Those uses are ones that are not typically exempt under this provision in Minnesota Statutes.

In short, based on the information you have given, when the property is fully in operation and used for qualifying exempt purposes, it appears likely that the public hospital and nursing home portions may be eligible for property tax exemption. It is less obvious that the medical clinic and assisted living facilities would be eligible for exemption.

When CCHS begins operating at this facility, the organization should apply for property tax exemption at the County Assessor’s Office. At that time, the County Assessor should review all of the facts as they exist at that time in relation to the requirements for exemption described above as well as provided for in Minnesota Statutes, section 272.02. If you have additional questions at that time, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ■ REVENUE

June 2, 2011

Dean Champine
Lyon County Assessor
dean.champine@co.lyon.mn.us

Dear Mr. Champine,

Thank you for your recent question to the Property Tax Division. You have asked for our opinion on the taxable status of a property owned by (and located in) the City of Marshall. The city leases the property at market rates to North Memorial Health Care (NMHC). NMHC is a non-profit corporation that operates a division known as North Medical Transportation Services (NMTS). NMTS supplies ambulance service in the Twin Cities area and to rural communities in greater Minnesota. The lease agreement is for five years. The application for property tax exemption states that the property in Marshall is “hospital based ambulance service station/quarters” used “to house vehicles and equipment, office space.” NMHC determines the fees for the services it provides as it deems “reasonable based on the financial performance of the service in the region.” They have applied for property tax exemption as public hospital property.

Public hospitals are exempted by Article X of the Minnesota Constitution, as well as Minnesota Statutes, section 272.02, subdivision 4. Additionally, property tax exemptions for public hospitals are not limited to buildings actually used as hospitals, but may be provided to auxiliary buildings used for services deemed “reasonably necessary” for achieving the public hospital’s purposes. Other similar auxiliary services, such as ambulatory care facilities, for example, must be devoted to what the hospital does and be reasonably necessary to accomplish those purposes. [See *State v. Fairview Hospital Association*, 1962 (262 Minn. 184, 187, 114 N.W.2d 568); *Chisago Health Services v. Commissioner of Revenue*, 1990 (462 N.W.2d 386); *City of Springfield v. Commissioner of Revenue*, 1986 (380 N.W.2d 802).]

In *Chisago Health Services v. Commissioner of Revenue*, 1990 (462 N.W.2d 386), the Court found that “while the ambulatory care facilities furnished some of the same services offered by the Hospital, this was done ‘for the purpose of maximizing geographic localities to generate revenue.’” In that case, the Court determined that the those auxiliary ambulatory care facilities were not exempt as either public hospitals or purely public charities.

As always, taxation is the rule and exemption is the exception. Each individual situation is reviewed based on its own facts. While it is not clear in this situation that the property definitely qualifies for property tax exemption, some guidelines that you might find useful in making your determination include:

- Is the ambulance facility essential to, and necessary for, the continued existence of the hospital?
- Is it exclusively devoted to public hospital services?
- Is it the only ambulance service that furnishes patients to the hospital?

If it is not clear that the property is reasonably necessary for the hospital to achieve its purposes, then the property would not likely qualify for property tax exemption. Please note that our opinion is purely advisory and is based solely on the information provided. If any of the facts of the situation were to change, our opinion is subject to change as well. If you have any additional questions, please do not hesitate to contact our division via proptax.questions@state.mn.us. If the property owner disagrees with your resultant decision, the decision may be appealed to Minnesota Tax Court.

Very sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA • REVENUE

November 6, 2013

Dave Sipila
St. Louis County Assessor
SipilaD@stlouiscountymn.gov

Dear Mr. Sipila:

Thank you for submitting your question to the Property Tax Division regarding property tax exemption. You have provided the following information related to an application for exemption as hospital property.

Two properties in St. Louis County are used for hospital program facilities that were formerly located in a hospital but have since moved to these off-site locations.

Property 1: Solvay Hospice House was acquired and developed in 2006 by Miller-Dwan Foundation Hospice House, LLC. The property is used as a hospice facility by the St. Mary's Hospital Hospice and Palliative Care program, which operates under an operating agreement. Prior to the acquisition and development of this property, the hospice function was carried out at the main St. Mary's Medical Center campus in the City of Duluth, and that facility is currently exempt under M.S. 272.02 subd. 4 (as public hospital property).

Property 2: Amberwing, located adjacent to the Solvay Hospice House, was developed in 2012 and is owned by Miller-Dwan Foundation Amberwing, LLC. The property is used as a non-residential children's mental health services facility by SMDC Medical Center d/b/a Essentia Health Duluth under an operating agreement. Prior to the building of the Amberwing facility, this function was carried out at the main St. Mary's Medical Center campus in the City of Duluth and was exempt. The property owner has provided a "Provider-Based Status Attestation Statement".

Both the LLCs which hold title to these properties are solely-owned subsidiaries of the Miller-Dwan Foundation, which is a 501(c)(3) organization.

Question:

Do these facilities qualify for exemption as public hospital property?

Discussion:

In order to qualify for exemption, a property must be owned by a qualifying exempt organization, used for exempt purposes, and the ownership must be reasonably necessary for the purposes of the organization. It appears that both properties are owned by a qualifying single-member LLC (exempt under Minnesota Statutes, section 272.02, subdivision 35).

In terms of operation, it was less clear that the operations were consistent with exempt operations because the actual operator, Essentia, was not the same as the owner of the property. This lack of concurrence can – in most cases – disqualify a property from exemption. However, it appears that Essentia operates as hospital property, under the license of the hospital. Additionally, it is a non-profit organization with a mission concurrent to both that of the hospital and that of Miller-Dwan. Because of this, we also believe

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that the operations qualify the property for exemption. The specific uses of the property as hospice property and children's mental health are qualifying exempt uses in our opinion.

Finally, the ownership of the property seems reasonably necessary for the purposes of the Miller-Dwan Foundation.

Answer:

Based on the information provided, it is our opinion that the properties likely qualify for exemption as hospital properties under Minnesota Statutes, section 272.02, subdivision 4 (and given the exemption eligibility granted to single-member LLCs under subdivision 35). Please note that our opinion is purely advisory. Ultimately, the County Assessor is responsible for determining exemption, and your opinion is appealable by the property owner to Minnesota Tax Court and/or Minnesota Supreme Court. Additionally, if we have misinterpreted any of the information provided, or if any of the facts were to change, our opinion would be subject to change as well. If you have additional questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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December 10, 2014

Karl Lindquist
Grant County Assessor's Office
karl.lindquist@co.grant.mn.us

Dear Mr. Lindquist:

Thank you for submitting your question to the Property Tax Division regarding a clinic property in Elbow Lake. You have provided the following scenario and question.

Scenario:

- A hospital and clinic was constructed in a building together in Elbow Lake.
- The hospital has 10 beds and the clinic has 17 exam rooms.
- After viewing the property, the administrator claimed the clinic was a critical access clinic and thought it should be exempt due to its main funding source.
- They filed the income tax form 990 and have a certificate of incorporation from the state.

Question:

Does a critical access clinic qualify for property tax exemption?

Answer:

It is not clear that the clinic qualifies for exemption though administration claims to be a critical access clinic.

As stated in the Property Tax Administrator's Manual, *Module 5 – Exempt Property*, clinics are generally ineligible for exemption (although in some extenuating circumstances).

As you are aware, public hospitals are exempt from property tax. However, clinic facilities are not considered hospital property. Some court cases that we cite regularly when reviewing exemption applications for hospital and clinic properties are outlined below:

- To qualify for property tax exemption as public hospitals, auxiliary facilities must, first of all, be devoted to what it is that public hospital does, and secondly be reasonably necessary to accomplish that purpose; test measures establish the degree to which auxiliary facilities and public hospital are functionally interdependent. *Chisago Health Services v. Commissioner of Revenue*, 462 N.W.2d 386 (Minn. 1990).
- A medical clinic owned and operated by a city was not exempt as "public hospital" property, though the clinic served to generate patients for the nearby hospital, in part because the clinic was not the only clinic to furnish patients to the hospital, and where the clinic was not essential to the continued existence of hospital. *City of Springfield v. Commissioner of Revenue*, 380 N.W.2d 802 (Minn. 1986).

When determining if a clinic is eligible for property tax exemption, there are many factors taken into consideration. The clinic must function as an extension of the hospital and must provide a service that the hospital needs at a capacity that would be similar to the hospital's operations. Clinics provide services at a different level than hospitals, typically (except in rare circumstances) making them ineligible for property tax exemption. For example, these services must be provided 24 hours per day, seven days per week which the clinic in question does not seem to do. Also, hospitals serve inpatients, while clinics often only serve outpatients.

For property tax exemption purposes, the portion of the property used as a clinic is just that, a clinic rather than a hospital.

If the clinic feels their operations qualify them for exemption as an institution of purely public charity, they may provide a letter explain why to you for review. As you know, for any exemption there must be a concurrence of ownership of the property by a qualifying exempt entity, use of that property for qualifying exempt purposes, and a necessity of ownership by that exempt entity to achieve its purposes.

Please note that our opinion is based solely on the facts as provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. The applicant may formally appeal the property's taxable status to Minnesota Tax Court, or they may also seek to apply as an institution of purely public charity, and the facts of that application would be reviewed for that purpose. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen
State Program Administrator, Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

MINNESOTA • REVENUE

February 25, 2015

Stephanie Niemi
Mahnomens County Assessor's Office
Stephanie.Niemi@co.mahnomens.mn.us

Dear Ms. Niemi:

Thank you for submitting your question to the Property Tax Division regarding an exemption for hospital-owned property. You have provided the following scenario and question.

Scenario:

- A house is owned by Mahnomens Health Center, an exempt hospital.
- The house is used for traveling doctors to stay in and also for new doctors until they find their own housing.

Question: Does this property qualify for exemption, or is it considered non-homestead residential?

Answer: No, this property would not qualify for exemption as a hospital. As you know, ownership, use and necessity of ownership are three key elements in determining exemption. Any use that is not specifically necessary for the hospital's purpose would be taxable. In this scenario, the house is not necessary for the purpose of the hospital.

The property would be classified according to use, and in this case it appears the correct classification would be residential non-homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

February 25, 2019

Lisa Janssen
St. Cloud City Assessor's Office
lisa.janssen@ci.stcloud.mn.us

Dear Ms. Janssen,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- "Additional real estate" associated with the Health Plaza Condominium CIC has changed ownership through a Second CIC amendment and is now owned by St. Cloud Hospital.
- The land is currently vacant and surrounds the building and parking lot of the Health Plaza building.
- The Health Plaza building is a mix of exempt and taxable statuses due to clinic versus hospital use.
- Currently the building is approximately 66% taxable based on unit breakdown.
- The hospital has applied for property tax exemption on the "additional real estate" parcel.
- The exemption application lists the principal use of the property as "landscaping area and undeveloped ground."

Question: Does the "additional real estate" parcel qualify for property tax exemption?

Answer: To determine if the property qualifies for exemption, it is necessary to determine whether the use of the unimproved property coincides with the mission of the public hospital and is *reasonably necessary* to carry out that mission. Keep in mind, areas that are not used for hospital purposes (used by the clinic) and are not reasonably necessary for public hospital purposes are taxable. Also, the hospital must provide plans to convert the unimproved land to an exempt use within a reasonable timeframe for it to qualify for exemption. Intended future use is not enough to grant exemption.

If it is determined to these exemption requirements are met, there is nothing about the CIC that would prevent it from qualifying for property tax exemption. If a qualifying public hospital held property as part of a CIC but met all the requirements for exemption the fact that it had common interest elements would not preclude it from being property tax exempt.

The property tax exemption for public hospitals is not limited to buildings actually used as hospitals; it may be applied to any property devoted to and reasonably necessary for accomplishment of public hospital purposes.

Question: If the property is determined to qualify for exemption, is there a partial exemption based on the partial exemption status of the Health Plaza building?

Answer: Exemption must be based on the ownership and use, as well as the above factors, and would not be predicated on the taxable status of the units of the Health Plaza building. From the information provided, we would not advise basing exemption of the unimproved property on the percentage of current exemption for the Health Plaza building.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6091



Housing and Redevelopment Authorities (HRAs)

MINNESOTA • REVENUE

March 20, 2003

Slskoog@co.becker.mn.us

Dear Steve,

Last month you emailed me a question concerning the taxability of a parcel of land purchased by the House Redevelopment Authority (HRA) of Detroit Lakes. In that email you stated the following facts:

- The HRA purchased the bare lot in June of 2000.
- The HRA had a local high school begin construction on a house on the property in 2001. The school district did not lease the land.
- The house is currently vacant (as it is still being built) and is not used for any of the housing projects administered by the HRA.
- Once construction is completed, the house will be listed for sale this year.
- The property is currently on the tax rolls and classified as residential nonhomestead.

You asked if the property is taxable. You examined several statutes (sections 469.016, 469.040, and 469.026) in your search for an answer.

As you know, public property used for a public purpose is exempt from all personal and real property taxes. If you, as the county assessor, believe that the property is used for a public purpose, then it would be exempt from property taxes. However, your comments indicate that you do not believe that the property is currently (or will be in the future) used for a public purpose.

We agree with you that the law is not clear on whether the property should be exempt from property taxes since the property is not currently used for any of the HRA's housing projects.

However, Minnesota Statutes 469.012, subdivision 1, clause 10, states that the government body that created the HRA has the option to exempt the HRA from all real and personal property taxes levied by the body that created the HRA. Since the HRA in question is one created by the City of Detroit Lakes, the city can exempt the HRA from city property taxes, but not property taxes levied by a county, school district, etc.

We infer from that statute that the property owned by the HRA is not automatically exempt. We therefore conclude that the HRA-owned property that you described is subject to taxation since there is no public purpose to the use of the land. We concur with your decision to put the property on the tax rolls and classify it as residential nonhomestead. The only possibility for exemption would be if the City of Detroit Lakes would exempt the property from city property taxes or if the property was used for a public purpose.

Sincerely,
Maureen Arnold

MINNESOTA • REVENUE

March 11, 2003

Kim Clausen
Housing Coordinator
City of Faribault
208 NW First Avenue
Faribault, MN 55021

Dear Kim:

Your question from our website regarding city or HRA-owned market rate apartments and their taxable status was referred to me for a reply. In your original e-mail you asked:

If a city of Housing and Redevelopment Authority (HRA) owns a market rate apartment complex (50+ units), are they ever eligible to pay payment in lieu of taxes (PILT) instead of the standard applicable property tax? If so, what is this formula?

Answer: This situation appears to be covered in Minnesota Statute 469.040. The full statute can be viewed at: www.revisor.leg.state.mn.us/stats/469/040.html. The statute states in part that:

“When the obligations issued by an authority to assist in financing the development of a project have been retired and federal contributions have been discontinued, or the authority is no longer obligated by contracts with the federal government to maintain a project as a low-income housing project, whichever is later, then the exemptions from taxes for that project shall terminate.”

It is unclear in your e-mail as to whether the property in question has ever been considered to be “low-income.” If it was a “low-income” property in the past, it may have qualified for exemption from property tax. In that case, once the bonds were repaid or the contracts with the federal government to maintain the project as a low-income housing project had expired, then the property would no longer be eligible for property tax exemption but would be eligible for payment in lieu of tax in an amount that is agreed upon by the taxing authorities.

However, if the project has never been a low-income apartment project, but rather has always been a market-rate apartment building, it appears that no possibility exists for exemption from property tax or for payments in lieu of tax.

If you have further questions on this matter, please contact our division.

Very truly yours,

STEPHANIE NYHUS, Senior Appraiser
Information and Education Section
Property Tax Division

Mail Station 3340

Fax: (651) 297-2166

March 1, 2005

Patrick Todd
Supervisor, Real Estate Assessment
309 2nd Avenue South – Rm 100
Minneapolis, MN 55401-2234

Dear Mr. Todd:

Thank you for your email regarding a specific PILT program.

You provided the following: The Minneapolis Urban League signed a Payment in Lieu of Taxes (PILT) contract in 2003 with the city of Minneapolis. You are under the impression that unless they qualify for a tax exemption, they are not entitled to receive a PILT payment. You asked if this is correct.

Due to the complexity of taxation and Payments in Lieu of Taxes of the housing and redevelopment authority (HRA) property, we consulted this issue with our legal staff. Our reply is based on their advice.

There are several statutes which discuss exemption and the PILT programs (see M.S. 469.001-469.047). The PILT program you are inquiring about is provided under the M.S. 469.040, subd.3, which applies to housing projects or housing development projects. To qualify under the above statute, the property (the housing project or a housing development project) must be owned by an HRA.

In general, a property owned by a HRA is not exempt from property taxes if it is leased to another entity. Therefore, it is essential to determine if the contract between the HRA and the Minneapolis Urban League is really a lease or is it an allowable management contract. If the agreement is in fact a lease, then the property would probably not be exempt and it would not be eligible to pay the PILT. However, if the agreement is an allowable management contract, the property would be exempt from property taxes and would be required to pay PILT.

If you have any further questions, please contact our division.

Sincerely,

MELISA REDISKE, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6092 Fax (651) 556-3128
E-mail: melisa.rediske@state.mn.us

July 5, 2006

Mr. Stephen C. Behrenbrinker, CAE
St. Cloud City Assessor
400 Second Street South
St. Cloud, Minnesota 56301-3699

Dear Mr. Behrenbrinker:

Our legal staff has reviewed the letter dated May 2, 2006, that you received from Robert Toftey of the Fryberger, Buchanan, Smith & Frederick law firm. Our legal staff has advised us that they continue to concur that property owned by the St. Cloud Area HRA (“HRA”) and held for later resale for economic development cannot be exempt as *public property used for a public purpose* for more than eight years.

In response to the main points raised in that letter, and based on the information provided to us so far, our legal staff indicates the following.

Minnesota Statute 469.040, subdivision 1 does not apply to the involved property because it is not a low-income housing project. Although it is somewhat convoluted, and written in negative terms, this subdivision only applies to property for which: (1) there were at some point both outstanding obligations issued by the authority to finance the project, and federal financial contributions to the project that were conditioned on it being a low-income housing project; or, (2) the authority is obligated by contracts with the federal government to maintain the project as a low-income housing project.

Similarly, the property is not exempt from *ad valorem* property taxes under Minnesota Statute 469.012, subdivision 1k, because the project is not a low-rent public housing project that received financial assistance under the U.S. Housing Act of 1937, as amended or superseded. (The property can be exempt under this subdivision from the property taxes levied by the governmental entities that created the HRA, if there is an agreement between the HRA and those governmental entities to that effect.)

Most likely, the only property tax exemption that applies to this property is the one in Minnesota Statute 272.02, subdivision 8; as limited by Minnesota Statute 272.02, subdivision 39. As taxing officials, we cannot entertain the argument raised in the letter that the legislature cannot limit the “*public property*” exemption for the reason that to do so would somehow conflict with, or be irreconcilable with, giving the exemption in the first place – intriguing as that argument may be in the abstract. For us, the question has already been answered. The Minnesota Constitution, in Article 10, Section 1, clearly states that the legislature has the power to “*limit*” the property subject to the exemption for “*public property*.”

If you have further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

July 7, 2009

Reed Heidelberger
City of Alexandria – Assessor
704 Broadway Street
Alexandria MN 56308-1812

Dear Mr. Heidelberger:

Thank you for your question concerning property tax exemption. You have asked: Are properties that are owned and being developed by a city Housing and Redevelopment Authority (HRA) taxable or exempt?

There are a number of subdivisions under Minnesota Statutes 272.02 that provide property tax exemption to HRAs. In our opinion, the specific instance you reference would most likely be exempt under Minnesota Statutes 272.02, subdivision 39, which states:

“The holding of property by a political subdivision of the state for later resale for economic development purposes shall be considered a public purpose... for a period not to exceed eight years, except that for property located in a city of 5,000 population or under that is located outside of the metropolitan area as defined in section 473.121, subdivision 2, the period must not exceed 15 years...

The governing body of the political subdivision which acquires property which is subject to this subdivision shall after the purchase of the property certify to the city or county assessor whether the property is held for economic development purposes or housing purposes, or whether it meets the conditions of section 469.174, subdivision 10...

This subdivision shall not create an exemption from section 272.01, subdivision 2; 272.68; 273.19; or 469.040, subdivision 3; or other provision of law providing for the taxation of or for payments in lieu of taxes for publicly held property which is leased, loaned, or otherwise made available and used by a private person.”

Minnesota Statutes 272.02, subdivision 77, also states that:

“Property of projects of housing and redevelopment authorities are exempt to the extent permitted by sections 469.042, subdivision 1, and 469.043, subdivisions 2 and 5.”

If you do not believe that any of these exemptions apply, the property may still be eligible to receive an exemption from real and personal property taxes levied by the government body that created the HRA. Minnesota Statutes 469.012, subdivision 1k, states that the government body that created the HRA has the option to exempt the HRA from all real and personal property taxes levied by the body that created the HRA. If the HRA in question is one created by the City of Alexandria, the city can exempt the HRA from city property taxes, but not property taxes levied by a county, school district, etc.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division



May 24, 2013

Wayne Knutson
Swift County Assessor's Office
Wayne.knutson@co.swift.mn.us

Dear Mr. Knutson:

Thank you for submitting your question to the Property Tax Division regarding property in your county. You have provided the following:

You have received three applications for exemption of three parcels of land purchased by DNR. It is adjacent to other State of Minnesota owned land which is coded PILT.

You are asking who or what determines the difference between PILT and exempt land?

PILT is a local government aid payment made by the state to the counties for tax-exempt natural resources lands. Payments are distributed among the counties, townships and, in some instances, school districts. All payments are made from the general fund.

Under current law, payments are made for the following natural resources lands:

- All lands held by the state in fee title and administered by the commissioner of natural resources
- Land utilization project (LUP) land owned by the United States, leased by the state and managed by the DNR for wildlife
- Land acquired from private owners by the Department of Transportation for the purpose of replacing wetland losses caused by transportation projects
- Camp Ripley Game Refuge administered by the Department of Military Affairs
- Tax-forfeited lands, other than platted lots within a city, administered by counties.

In terms of property taxation, lawmakers have decided that various types of property, or properties owned by specific organizations, shall be exempted from property taxes if they meet certain criteria as well as which properties qualify for PILT. Most exempt property is defined in Minnesota Statutes, section 272.02. The main difference between these types of properties is that PILT properties do not pay property tax, and receive payment from the state. Exempt properties do not pay property tax, but do not receive any payment from the state. PILT and exemption are not necessarily mutually exclusive. The Department of Natural Resources (DNR) typically sends a list to the counties detailing which properties are enrolled in PILT. When this list is received, the assessor should code the land accordingly. For further information on determining whether a property qualifies for PILT, please reference Minnesota Statutes, Chapters 477A and 97A.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

May 28, 2013

Gale Bondhus,
Cottonwood County Assessor
gale.bondhus@co.cottonwood.mn.us

Dear Ms. Bondhus:

Thank you for your question to the Property Tax Division concerning the tax percentage rates of Economic Development Authorities. You have provided the following scenario:

Cottonwood County has two HRA PILT housing districts that have a 10% PILT rate (since 1966). Their funding was cut this year. The HRA is trying to get it changed to 5% like it is in Minnesota Statute 469.060. Watonwan County also has an HRA PILT housing district at the 10% rate.

You have asked if there is a statutory deadline for a city Economic Development Authority to change the tax percentage rates on this type of housing.

In our opinion, changes to the tax percentage rates for this type of housing should happen on the normal assessment date of January 2nd. We assume that at some point in the past an agreement was made to increase the rate to more than the required 5% tax percentage rate. PILT statutes require that the rate be at least 5%, so the rate cannot be changed to anything lower than that.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information and Education Section
Property Tax Division

Cc: Sherri Kitchenmaster

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MINNESOTA • REVENUE

May 28, 2013

Maya Mattke
St. Louis County Auditor's Office
mattkem@stlouiscountymn.gov

Dear Ms. Mattke:

Thank you for submitting your question to the Property Tax Division regarding Housing Redevelopment Authorities (HRA) and Payments in Lieu of Taxes (PILT). You have identified two HRAs that have not made the necessary PILT payments to the county.

The statute of limitations for collecting unpaid PILT payments is six years. Therefore, for both instances that you have identified, the county can go back up to six years to collect the PILT payments and make the necessary distributions/apportionments. Late payments are subject to the penalties applicable in the case of late-paid real property tax amounts and if the PILT payments remain unpaid, the property will forfeit to the state as in the case of unpaid delinquent real estate taxes. HRA's cannot decide to stop paying PILT payments without being subject to the delinquency/forfeiture process.

The City of Chisholm, which collected the PILT payments from the Chisholm HRA but did not make the required distributions, should be required to make the appropriate distributions for the last six years. The Mt. Iron HRA, which did not make any PILT payments, should be required to pay all the delinquent taxes (plus interest) or the real property owned by the HRA will be subject to forfeiture.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

September 11, 2013

Julie Staycoff
U.S. Department of Housing and Urban Development
julie.a.staycoff@hud.gov

Dear Ms. Staycoff:

Thank you for submitting your question on the Department of Revenue website regarding the definition of Housing and Redevelopment Authorities (HRAs). You asked: Is a Minnesota HRA considered a political subdivision of a respective city or county, specifically for the purposes of being state tax exempt as of January 1, 2014?

Generally, an HRA is considered a political subdivision of a city. However, we believe that you may be asking about exemption from sales tax under recently-enacted legislation. The recent legislation that grants a sales tax exemption for political units specifically mentions counties, cities, and townships, but does *not* specifically mention HRAs or other political subdivisions. While we are unfamiliar with sales tax issues in the Property Tax Division, we believe that there may be efforts to clarify whether political subdivisions were intended to be included in the list.

If you have additional questions regarding the sales tax exemptions for government units, we recommend contacting the Sales and Use Tax Division at salesuse.tax@state.mn.us or 651-296-6181.

If you have any further questions related to property taxes, please contact our division at proptax.questions@state.mn.us. Thank you.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

December 11, 2013

Keith Albertsen
Douglas County Assessor
keitha@co.douglas.mn.us

Dear Mr. Albertsen:

Thank you for submitting your question to the Property Tax Division regarding Housing Redevelopment Authorities (HRA) and Payments in Lieu of Taxes (PILT).

Scenario: The local HRA is considering building a 2-story building with offices on the main floor and HRA apartments on the second. Approximately 1/3 of the main floor offices would be for HRA offices, a township office and meeting room, and the local Economic Development office.

Question: Can the HRA request that the entire property be classified as taxable (and thus utilize Tax Increment Financing) or should the portions that would normally be exempt be classified exempt (even if they do not fill out an application)?

Answer: After discussing this situation with our legal division, it has become clear that there is no mechanism provided in statute for a landowner to “waive” a property tax exemption that is automatically granted under Minnesota Statutes 272.02. There are a number of property tax exemptions that can only be claimed if a taxpayer files a statement (application) of exemption with the assessor. However, a housing and redevelopment authority (HRA) does not need to file a statement of exemption for its property to be classified as exempt under Minnesota Statutes 272.02, subdivision 76, or for property of a project of the HRA to be exempt under subdivision 77.

In this hypothetical situation, if an assessor went along with an otherwise exempt HRA’s request to “waive” the exemption for the HRA’s property, and then a local taxing district assessed tax on that property, the HRA would still not have any legal obligation to pay the tax. The HRA could assert that the property is exempt, based on the statute, and the taxing district would not be able to take any steps toward collecting the assessed tax.

The Department of Revenue would advise you exempt the applicable portions as indicated by Minnesota Statute.

If you have any additional questions, please do not hesitate to contact our division via proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

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May 30, 2014

Reed Heidelberger
City of Alexandria Assessor's Office
reedh@rea-alp.com

Dear Mr. Heidelberger,

Thank you for contacting the Property Tax Division regarding an exemption question. You provided us with the following information.

Scenario:

- The City of Alexandria Housing and Redevelopment Authority (HRA) is going to purchase land and build an office building on it.
- Approximately one-half of the building will be leased at market rent to private entities and will be taxable.
- Of the remaining portion of the building, part will be used by the HRA for their offices.
- The remainder will be leased at market rent to the local Economic Development Authority (EDA), a local township, and the Alexandria Area Hotel and Hospitality Association (AAHHA).
- The Alexandria Area Economic Development Commission is a 501(c)(6) organization that performs functions similar to those of an economic development authority (EDA) for the City of Alexandria.
- The township space would be used as their office for the public to come in to obtain information, obtain permits, speak to the Clerk, etc.

Question: Is the portion leased to the HRA, development commission, township, and AAHA taxable or exempt?

Answer: This information was reviewed by the Property Tax Division as well as our attorneys to find out which entities would qualify for exemption and which would be taxable. We will start with the HRA offices. The HRA's building is exempt property pursuant to Minnesota Statute, section 272.02, subd. 76. This property will remain exempt unless it is leased to a private individual or entity in connection with a business conducted for profit (under M.S. 272.01, subd. 2), or leased to a private individual or entity for a period of a year or more (under M.S. 273.19). Under the situation you have outlined, it is leased to a public entity.

As for the development commission's offices, according to the information you provided, it does not appear that the commission is a formal EDA since it was not organized under chapter 469 (M.S. 469.091, subdivision 2). Having an organized EDA under Chapter 469 would deem the EDA a public body which would mean the property is public property. As a non-governmental body, the commission-leased space is not public property. Since the development commissioner's space does not fall within the exemption for public property used for a public purpose under M.S. 272.01, subd. 8, the commission-leased space is likely taxable.

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Moving onto the township's leased portion of this building, you described the office will be used as their office and open to the public for resources, questions, permits, etc. This portion of the building is being used as a public purpose and a township is a public body therefore the township space would be exempt under Minnesota Statute 272.02, subdivision 8.

Finally, the AAHHA appears to be a private business trade group, and not a public entity. We cannot find any exemption that would apply to property owned or leased by such a trade association. Accordingly, if the property is leased to the association for at least a year or a for-profit purpose the property would be taxable.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any additional questions or concerns please feel free to contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY, State Program Administrator Senior

Information and Education Section

Property Tax Division

MINNESOTA • REVENUE

June 23, 2014

Maureen Zupancich
Housing & Redevelopment Authority of Duluth
MZupancich@duluthhousing.com

Dear Ms. Zupancich:

Thank you for submitting your question to the Property Tax Division regarding the taxation of cell tower sites. You have provided the following scenario and question.

Scenario

- The Housing and Redevelopment Authority of Duluth, MN owns and operates hi-rise, low-rent public housing dwellings.
- Located on some of the hi-rise structures are cell array towers.
- These cell towers generate additional revenue to the Housing Authority and they have remitted to the County Auditor a percentage of the rent deemed “Net Shelter Rent”.
- The owners of the cell towers are also assessed personal property taxes on these towers by St. Louis County.

Question

Should the County collect taxes twice on these towers - once as PILT (payment in lieu of tax) on the net shelter rent and again from the owners of the cell towers in the form of personal property tax? Which, if any, of these collections should be discontinued? Can the Housing and Redevelopment Authority pursue a refund of PILT paid if it is deemed that personal property tax was payable on these cell towers?

Answer

In our opinion, the Housing and Redevelopment Authority should not be paying a shelter rent on the additional revenue generated from the cell towers, and the owner of the cell tower should not be assessed personal property taxes on these towers.

Billboard structures, cell antenna/tower structures, and other communication tower structures are exempt from property taxes as equipment. Therefore, a personal property tax should not be assessed to the owner of the cell tower. However, the sites that billboards, cell antennae/towers, and other communication antennae/towers are located on are taxable. A sub-record may be created for the site, but the site is still taxable as real estate. If the owner of the site is an exempt entity (e.g. HRA), then the land is taxable *in personam* to the lessee of the site. A “site”, as described in your scenario, may include a rooftop, wall, etc.

To address the shelter rent payment, we look to Minnesota Statutes, section 469.040, subdivision 3, which states:

“Unless a greater amount has been agreed upon between the authority and the governing body...five percent of the aggregate shelter rentals shall be charged to the authority as a service charge [payment in lieu of tax-PILT] for the services and facilities to be furnished with respect to that project”. [Emphasis added.]

Subdivision 3 further explains a shelter rental as “the total rentals of a housing project exclusive of any charge for utilities and special services such as heat, water, electricity, gas, sewage disposal or garbage removal.”

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It is our opinion the revenue generated on the rent received on the cell tower is not what the statute implies for shelter rents for HRAs; therefore, the Housing and Redevelopment Authority should not include this revenue in a shelter rent payment to the county auditor. They may file for an abatement with the county on the five percent of revenue generated from the cell array tower in which a PILT payment was made.

You may also wish discuss your specific situation with your county assessor. Please note that this opinion is based solely on the facts as provided. If any of the facts were misinterpreted or change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen, State Program Administrator
Information and Education Section
Property Tax Division

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October 4, 2017

Penny Schmit
Wabasha County Assessor
pschmit@co.wabasha.mn.us

Dear Ms. Schmit,

Thank you for submitting your question to the Property Tax Division regarding solar gardens on exempt properties. You have provided the following scenario and question:

Scenario:

- An exempt property in Wabasha County is owned by a Housing Redevelopment Authority (HRA).
- The HRA has installed a solar garden on the exempt property.
- The output of the solar garden is under one megawatt.

Question: Does the installation of the solar garden on the HRA property disqualify it from future exemption?

Answer: No. The presence of the solar garden in and of itself would not be cause to remove the exemption from the property. According to Minnesota Statute. 272.0295 a solar energy system generating one megawatt or less is exempt from the solar production tax. In situations where the output does not rise to the level of triggering the solar production tax, the underlying classification would remain unchanged since the primary use of the parcel has not changed. The solar garden's output in this scenario is less than one megawatt, indicating the main purpose of the parcel has not changed per statute. However, taxation is the rule and exemption is the exception. If other factors have also changed, the burden is on the property owner to show the parcel still qualifies for exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Property Tax Division
Information & Education
Phone: 651-556-6091

April 30, 2020

Mike Bjork
Washington County Assessor's Office
Michael.Bjork@co.washington.mn.us

Dear Mr. Bjork,

Thank you for submitting your question to the Property Tax Division regarding the possible exemption of two buildings in your county. You have provided the following scenario and question:

Scenario:

- The Washington County Community Development Authority (CDA) developed two low-income senior housing properties.
- The low-income senior housing property had a transfer of ownership from the Community Development Authority (CDA) to individual limited liability companies.
- Glen at Valley Creek, LLC is owned by Wincopin Circle, LLLP (Enterprise Community Investment), a 501(c)(3) charitable organization (99.9%) and WCCDA Glen, LLC, whose sole member is the Washington County CDA (.01%).
 - WCCDA Glen, LLC is the managing member
- Piccadilly Square of Mahtomedi, LLC is owned by Wincopin Circle, LLLP (Enterprise Community Investment), a 501(c)(3) charitable organization (99.9%) and WCHRA Piccadilly Square, LLC, whose sole member is the Washington County HRA (.01%).
 - WCHRA Piccadilly Square, LLC is the managing member
- Enterprise Community Investment manages assets and ensures delivery of tax credit benefits for investors.
- Washington County CDA claims they are the sole managing member.
- WCCDA Glen, LLC and WCHRA Piccadilly Square, LLC have entered into management agreements with Shelter Corporation, to operate, and maintain the property.

Question: Should these two low-income senior housing properties qualify for property tax exemption?

Answer: Yes, based on the information provided, the properties could qualify for tax exemption under Minnesota Statute 272.02, subdivision, 77 as a project of the Washington County Community Development Agency (CDA) which qualifies as a Housing Redevelopment Authority (HRA). Although the ownership of the property is almost entirely held by the investor partner, the CDA is ultimately responsible for the management of the property, as outlined in the Operating Agreement and responses to the questionnaire. Although the CDA has contracted with an independent property manager, the CDA has not abrogated its management authority or responsibilities. Rather, it has merely hired another entity to handle many of the day-to-day tasks that likely can be more efficiently handled by a company that specializes in such work. There is nothing within the documents provided that suggests that the CDA relinquishes their authority to direct the work of the property management company, and therefore could qualify for exemption.

Please note that our opinion is based solely on the information provided. If any of the fact are misinterpreted, or if any of the fact change, our opinion is subject to change as well. Ultimately it is the assessor's responsibility to make the final determination on whether a property qualifies for property tax exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

October 24, 2022

Candy,

Thank you for contacting the Property Tax Division regarding property tax exemption. You provided us with the follow scenario and question.

Scenario:

- The Housing and Redevelopment Authority (HRA) purchased a lot in 2017 and was approved for exemption.
- A permit was issued in 2021 for a new single-family home.
- The local community college was the builder/developer of the home.
- The HRA retained ownership of the lot throughout construction.
- In August of 2022, the HRA sold the property to an individual for fair market value.

Question: When is it appropriate to change the exempt status to taxable and put the property on the tax rolls?

Answer: Since the change in use was not identified until after July 1, it would be appropriate to add the property to the tax rolls for the 2023 assessment, payable in 2024.

When real property no longer meets the property tax exemption requirements outlined in the statute for property held by a redevelopment agency, it would become taxable. Based on the information provided, it is not clear if that occurred at the time the specific redevelopment plan was put in place or at the time of sale, as the intent and the financing of the HRA acquiring the property was not provided. Property that qualifies for exemption under Minnesota Statute 469.040 that is listed for sale would lose its exemption at that time because it no longer meets the “use”, or “necessity of ownership” requirements required for exemption. In the future, if this is identified prior to July 1, the property should be added to the tax rolls for that assessment year.

Please note the county assessor is the sole authority in making exemption determinations and this opinion is based solely on the information provided. If any of the facts of the situation or our understanding of the situation were to change, our opinion would be subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922



November 18, 2022

Dear David,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- Three contiguous parcels with multifamily dwellings have been receiving partial exemption as public housing.
- In 2022, the exemption was removed following a change in ownership structure and review of the properties.
- The new owners have not submitted a new exempt application.
- The current ownership is an LLC, which is owned by a nonprofit corporation.
- The properties are not managed directly by the Minnesota Public Housing Authority (MPHA).
- The properties are enrolled in the Metropolitan Housing Opportunity Program (MHOP).
- The agreement with MHOP provides operating subsidies in exchange for placement of tenants from MPHA.
- These units are restricted under a long-term use contract.
- The MPHA asserted that the properties were exempt under Minnesota Statutes 469.040.

Question: Does this property qualify for exemption?

Answer: It does not appear that the property qualifies for exemption under [Minnesota Statutes 469.040](#). For property taxes, taxation is the rule and exemption is the exception. [Minnesota Statute 272.02 subdivision 76](#) states that property **owned** by a housing and redevelopment authority described in chapter 469 is exempt. The properties in question are owned by an LLC and nonprofit rather than a housing and redevelopment authority, so the property is not able to receive exemption this way. The property would also not qualify for exemption under 469.040 subdivision 4, as the subdivision mandates that:

- Some units must have been constructed with funds provided under Section 5 of the United States Housing Act of 1937, and
- Must be receiving an operating subsidy under section 9, or rental assistance under section 8.

MPHA indicated that there were section 9 subsidies received, but did not confirm that the property was constructed using Section 5 funds.

Depending on the restrictions imposed by the contract for the units designated for occupancy by MHOP participants, it is possible that the property or portions of the property could qualify for exemption under [M.S. 272.026](#). This statute provides exemption for certain property that is managed and controlled by a housing redevelopment authority or public housing agency, but not owned by either. To do so, the property owner

would need to submit an application to the assessor and demonstrate that the relationship with MHOP and MPHA constitutes property that is “under the direct management and control of... a housing redevelopment authority or public housing agency”.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922



Ice Arenas

September 19, 2005

Lana Johnson
Property Records and Licensing
1st Floor, Government Center
151 4th Street SE
Rochester, Minnesota 55904-3716

Dear Lana:

Your e-mail has been assigned to me for reply. You have stated that a non-profit hockey association has proposed building an ice rink on land owned by the county. The hockey association will own the building and lease the land from the county. You have asked if there would be payment-in-lieu of taxes for the land, building, or both. You have also asked if the taxes would be distributed the same as real property.

It is our opinion that the property would likely qualify for exemption from property tax. Minnesota Statute 272.02, subdivision 25, paragraph (a) states that:

“Real and personal property is exempt if it is owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used for an ice arena or ice rink, and used primarily for youth and high school programs.”

Ordinarily, when public property, such as land that is owned by a county, is leased, loaned or otherwise made available to others, it would be taxable as a personal property assessment to the entity that is leasing the land. However, in this case, we believe that Minnesota Statute 272.02, subdivision 25 provides an exemption for both the personal property assessment of the land and the real property assessment of the building. Please be aware that the non-profit hockey association must apply for exemption and meet the qualifications set forth in the statute.

If you have further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

October 11, 2006

Paul Knutson
County Assessor for Rice County
Government Services Building
320 3rd St NW Ste 4
Faribault, MN 55021-6100

Dear Mr. Knutson,

Your e-mail has been assigned to me for reply. You outlined the following hypothetical situation. A 501 (c)(3), non-profit, Ice Now owns an arena and leases the land from the city of Northfield. The arena is used for 60% youth and high school activities.

In our opinion, if the lease term was for at least one year, Ice Now could be taxed as if it owned the land. However, because Ice Now is a non-profit and would operate the arena for 60% youth and high school activities, the total value of the property would be tax exempt under Minnesota Statute section 272.02 subdivision 25. The statute requires that the arena be used primarily for youth and high school activities in order to have the exempt status.

If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Very truly yours,

LEANNA V. SARTIN, State Program Administrator
Information and Education Section
Property Tax Division
Phone: (651) 556-6084
leanna.sartin@state.mn.us

August 31, 2006

Carl Bruzek
Pennington County Assessor's Office
Courthouse
101 N. Main
P.O. Box 616
Thief River Falls, Minnesota 56701

Dear Carl:

Your question has been assigned to me for reply. You outlined the following situation. The city of Thief River Falls owns a hockey arena that is exempt from property tax. Two individuals have leased a small portion of the building that is used for sales of sports equipment. You have asked if this portion of the property should continue to qualify for exemption from property tax.

Minnesota Statute 272.01, subdivision 2, paragraph (a) states that:

“When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.”

Since a portion of the building is used by the individuals for retail sale of sports equipment, it is our opinion that you must recognize that use and the portion of the property should be taxed as personal property to the lessees of the space.

If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division



Institutions of Purely Public Charity

MINNESOTA • REVENUE

January 10, 2011

Stephen Behrenbrinker
City Assessor
City of St. Cloud
400 2nd Street South
St. Cloud, MN 56301

Dear Mr. Behrenbrinker:

Thank you for your recent e-mail regarding properties owned by Habitat for Humanity which has been assigned to me for response. You have asked for confirmation of the circumstances under which such properties may qualify for exemption or homestead.

As you know, generally to achieve exemption from property tax, there must first be a concurrence of ownership by an exempt entity, use of the property for an exempt purpose by that entity, and it must be reasonably necessary for the entity to own that property to further the stated purpose of the organization.

As you are also aware, there is no specific exemption for properties owned by Habitat for Humanity. Therefore, they must attempt to qualify under one of the other provisions, the most likely being as an institution of purely public charity. To achieve exemption as an institution of purely public charity, the organization must meet the requirements outlined in section 272.02, subdivision 7:

“(a) Institutions of purely public charity that are exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code are exempt if they meet the requirements of this subdivision. In determining whether real property is exempt under this subdivision, the following factors must be considered:

- (1) whether the stated purpose of the undertaking is to be helpful to others without immediate expectation of material reward;*
- (2) whether the institution of public charity is supported by material donations, gifts, or government grants for services to the public in whole or in part;*
- (3) whether a material number of the recipients of the charity receive benefits or services at reduced or no cost, or whether the organization provides services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government;*
- (4) whether the income received, including material gifts and donations, produces a profit to the charitable institution that is not distributed to private interests;*
- (5) whether the beneficiaries of the charity are restricted or unrestricted, and, if restricted, whether the class of persons to whom the charity is made available is one having a reasonable relationship to the charitable objectives; and*

(6) whether dividends, in form or substance, or assets upon dissolution, are not available to private interests.

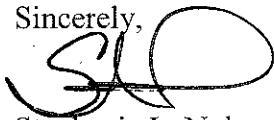
A charitable organization must satisfy the factors in clauses (1) to (6) for its property to be exempt under this subdivision, unless there is a reasonable justification for failing to meet the factors in clause (2), (3), or (5), and the organization provides to the assessor the factual basis for that justification. If there is reasonable justification for failing to meet the factors in clause (2), (3), or (5), an organization is a purely public charity under this subdivision without meeting those factors. After an exemption is properly granted under this subdivision, it will remain in effect unless there is a material change in facts..."

That being said, below is a summary of our opinion of the tax status and classification of the different types of properties Habitat for Humanity typically owns.

Vacant Lots	May qualify for exemption upon application. These properties should be given a reasonable amount of time to be used for the stated purpose of the organization.
Property Under Construction	May qualify for exemption upon application until title is transferred. If transferred to private owner after July 1, property will become taxable for the following assessment pursuant to Minnesota Statutes, section 272.02, subdivision 38.
Property Under Renovation	May be classified as class 1a property pursuant to Minnesota Statutes, section 273.124, subdivision 18 if all other requirements are met.

We hope this provides you with the guidance you were seeking. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,



Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section

MINNESOTA ▪ REVENUE

May 19, 2011

Mark Vagts
Waseca County Assessor
307 North State Street
Waseca MN 56093
mark.vagts@co.waseca.mn.us

Dear Mr. Vagts,

Thank you for your recent letter to the Property Tax Division regarding a property's application for exemption as an institution of purely public charity. You have provided documentation and an exemption application for Waseca Area Neighborhood Service Center, Inc. and have asked for our opinion.

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

Minnesota Statutes, section 272.02, subdivision 7 outlines the specific requirements for exemption as an institution of purely public charity. The organization must be a 501(c)(3) tax-exempt organization, and must meet six statutory requirements for exemption. The Waseca Area Neighborhood Service Center, Inc. provided their 501(c)(3) determination letter with their application.

Organizations that are exempt under section 501(c)(3) of the Internal Revenue Code meet statutory property tax exemptions requirements 1, 4, and 6 for institutions of purely public charity:

- Requirement 1: The stated purpose of the undertaking of the organization is to be helpful to others without immediate expectation of material reward.
- Requirement 4: That the income received, including material gifts and donations, must not produce a profit to the institution which is distributed to private interests.
- Requirement 6: That dividends, in form or in substance, or assets upon dissolution are not available to private interests.

The organization also provided documentation that their mission statement and bylaws support these requirements. Therefore, we must determine whether the organization meets requirements 2, 3, and 5, or whether the organization has reasonable justification for failure to meet any of these requirements.

Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.

The organization supplied the last three years' Federal Form 990s along with other documentation. The organization is supported by material donations, gifts, and government grants. Therefore, this requirement is met.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government.

The organization provides vouchers for their thrift store for those in need, emergency food shelf services, holiday food baskets for low-income families, gifts for low-income children through a Santa Anonymous program, special needs grants, school supplies for low-income families, and a nutrition program for seniors. The tax return documents show that expenditures to meet the organization's charitable goals. This third requirement is met.

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

The beneficiaries of the charity are persons meeting income and needs requirements. Therefore, the beneficiaries have a reasonable relationship to the charitable objectives of the organization and this fifth requirement is met.

Based on the information you have provided, it is our advisory opinion that the organization qualifies for property tax exemption as an institution of purely public charity. The portion used as a thrift store, however, may require further review. If the thrift store use is incidental to the overall charitable operations at this property, and the proceeds of the thrift store are used to directly benefit and further the organization's charitable goals, then it may also qualify for exemption. If the thrift store operates in a manner more like a separate and identifiable use not directly related to the charitable activities of the property as a whole, the thrift store portion may be taxable.

Please note that our opinion is purely advisory in nature and is based solely on the facts provided. If any of the facts were to change, our opinion is subject to change as well. Ultimately, the decision to grant or deny property tax exemption is the County Assessor's, and this decision is appealable to Minnesota Tax Court.

We also recommend referring to the Property Tax Administrator's Manual, *Module 5 – Exempt Property*, which contains a very useful section on institutions of purely public charity. This manual is available online via the following link:

http://taxes.state.mn.us/property_tax_administrators/pages/other_supporting_content_propertytaxadministratorsmanual.aspx

If you have any additional questions, please contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

Property Tax Division
Mail Station 3340
600 North Robert Street
Saint Paul, Minnesota 55146-3340

Tel: (651) 556-6104
Fax: (651) 556-3128

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MINNESOTA ▪ REVENUE

June 13, 2011

Len Peterson
Koochiching County Assessor's Office
715 Fourth Street
International Falls MN 56649

Dear Mr. Peterson,

Thank you for your recent letter regarding the application for property tax exemption as an institution of purely public charity from the Citizens for Backus ("Backus") organization's community center property in International Falls.

Minnesota Statutes, section 272.02, subdivision 7 outlines the requirements for property tax exemption as an institution of purely public charity. There are six basic requirements for property tax exemption in this subdivision. Also, taxation is the rule and exemption is the exception. With virtually any type of exempt property, the qualifying parcel must be owned by an exempt institution, used for exempt purposes, and ownership of the property must be reasonably necessary to further the mission of the exempt organization. This three-prong test is used when making these determinations.

Beyond the six statutory requirements for property tax exemption outlined in M.S. 272.02, subdivision 7, the organization seeking exemption must also be exempt from federal income taxes under section 501(c)(3). We have advised assessors that if an organization is able to verify that the organization is exempt from federal income taxes as a 501(c)(3) organization, it can be reasonably assumed that the property meets requirements 1, 4, and 6. Citizens for Backus provided proof that they are exempt from federal income taxes as a 501(c)(3) organization, and as such could be expected to meet these requirements. Therefore, we refer to the second, third, and fifth requirements of M.S. 272.02, subdivision 7 to discuss the additional qualifications for exemption.

Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part; or there may be a reasonable justification for failing to meet this requirement.

Based on the information provided by the organization with the application for property tax exemption, the City of International Falls gives \$54,000 to Backus annually to support its mission. The application also lists \$43,028 in income from donations, \$943 in gifts, and \$68,625 in government grants (comprised of \$54,000 from the City and \$14,625 from the County). An income statement from 2009 that was attached shows \$17,202 fundraising income, as well as the listed \$54,000 city support and \$14,625 county support.

In terms of non-qualifying income, the statement shows \$28,218 concert/show income, \$35,646 membership income, \$40,235 rental income, \$34,862 kitchen income, and \$16,031 summer food service program income.

Based on the financial statements included, income from gifts, donations, and grants has exceeded income received from the performance income, membership income, rental income, etc. Based on this information, it appears that Backus *may* meet this requirement. Further information may be requested by your office to verify that the government grants are qualifying government grants for these purposes. Specifically, Minnesota Statutes, section 272.02, subdivision 7, paragraph (c) states:

“In determining whether rental housing property qualifies for exemption under this subdivision, the following are not gifts or donations to the owner of the rental housing: (1) rent assistance provided by the government to or on behalf of tenants; and (2) financing assistance or tax credits provided by the government to the owner on condition that specific units or a specific quantity of units be set aside for persons or families with certain income characteristics [emphasis added].”

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government (both requirements do not need to be met); or there may be a reasonable justification for failing to meet this requirement.

Of all the requirements, this one is the most difficult to determine whether Backus qualifies for exemption, or if there is a reasonable justification for failing to meet this requirement. Backus provides reduced rates for use of the auditorium and other lease space to non-profit organizations whose programs support the Backus mission. They have stated that 71% of the building is used for “public and community purposes” to support its mission.

The organization states that the property is operated as a community center. Their purpose statement reads: “Historic Backus/AB, a community center in the heart of International Falls, where past, present and future come together to celebrate the arts, culture, recreation, and life-long learning.” Another stated goal is to preserve, restore, and re-use two landmark buildings. The principal use of the property, according to Backus, is to “support our mission.” Unfortunately, it is unclear how the organization *itself* uses the building to achieve its mission other than leasing it and maintaining it.

The Articles of Incorporation for Backus does not outline a clear statement of the organization’s mission or charitable endeavor beyond “This corporation is organized exclusively for charitable and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.” The Backus organization itself does not, based on the material provided, appear to provide educational programs, and it is difficult to ascertain whether the lease agreements are qualifying “charitable purposes.”

Lessees use the space for such purposes as a summer food service program that provides meals to children at no cost, a space for 4-H program activities, space leased to a University of Minnesota Extension office, space leased to the Minnesota Department of Public Safety, and childcare endeavors. Some meeting spaces are provided at no cost, and (as stated) reduced rates are provided to the non-profit organizations.

In cases such as these, there is an additional burden to verify that *individuals* are receiving a charity at the property, or whether there is a reasonable justification for why the property does not provide a charity. For non-profit organizations that own buildings for lease (lessors) and provide reduced-rate leases to other non-profit organizations (lessees), it should be verified that the non-profit *lessees* are also providing a charity (i.e. services provided to the public at reduced or no cost, or the lessee organization must alleviate the burdens of government). It may also be the case that Backus' lease agreements allow the lessees to accomplish charitable purposes that they would not otherwise be able to do without the relationship to the Backus organization; however, this would be more difficult to establish.

A 1967 Minnesota Attorney General Opinion (Op. Att. Gen. 414a-10, March 15, 1967) cited a Massachusetts Court Case when looking into a similar property use setup (*Massachusetts Medical Society v. Assessors of Boston*, 340 Mass. 327, 332, 164 N.E.2d 325, 328), “Whether an institution is in its character literary, benevolent, charitable or scientific will depend upon the declared purposes and the actual work performed... An institution will be classed as charitable if the dominant purpose of its work is for the public good.” In this opinion, the Attorney General suggested regarding whether the use of a property for charitable purposes benefited the public as a whole, or only a limited class of persons with the public deriving only an incidental benefit: “The assessor... should then consider whether the purposes and activities are directed at public benefits or the corporation is organized and operated to benefit primarily the membership.”

Therefore, it must be determined whether the property is not only used to further the mission of Backus, but if, through its uses, the property provides a charity to the public (and not just benefits for members or lessees). In other words, there must be an identifiable link between the existence of the Backus organization and a charity being provided. If the organization is unable to prove that a charity is being provided, or that it is alleviating the burdens of government, it must provide reasonable justification for failing to meet this requirement.

Additionally, Backus leases space to for-profit business. Even if it is determined that a portion of the property may be exempt, these portions that are leased to and used by for-profit endeavors would be *pro rata* taxable.

Requirement 5: The beneficiaries of the charity are unrestricted, or, if restricted, the class of persons to whom the charity is made available is one having a reasonable relationship to the charitable objectives.

Once again, it must be determined that a charity is being provided at this property. If it is determined that a charity is being provided, it must further be determined that the class of persons to whom the charity is provided is not restricted (e.g., if only members of the organization are being provided reduced rates for services, this requirement would not be met).

Based most specifically on the requirements outlined in number 3 above, it is not clearly established whether the organization is eligible for property tax exemption, although it is not clearly established whether the property is fully taxable either. Depending on your further review of the property and its charitable uses, you may determine it to be *pro rata* exempt as an institution of purely public charity.

You may also confer with neighboring counties to establish whether there are similarly used properties, and whether those properties have been exempt or taxable and under what reasoning. Please note that our opinion regarding this organization's eligibility for exemption is purely advisory in nature and is based solely on the facts provided. If any of the facts were to change, or if more information and factual statements are gathered, our opinion as to the exemption ability of the organization is subject to change as well.

If either the assessor or the organization disagrees with this advisory opinion, the institution or assessor may request through the Department of Revenue that the eligibility for exemption be reviewed by an advisory board comprised of members of the Minnesota Council of Nonprofits, the Department of Revenue, and the Minnesota Association of Assessing Officers. This review process was outlined in a bulletin to all County Assessors on exemptions for institutions of purely public charity.

The property owner may also appeal its tax exempt status to Minnesota Tax Court. The deadline for appealing to Tax Court is April 30 of the year in which taxes become payable. The deadline is statutory and is not subject to change even if the property owner has applied for an informal appeal to the review board. The decision of the Tax Court is official for property tax purposes. Tax Court appeal information can be found online at www.taxcourt.state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

June 13, 2011

Byron Swart
Nobles County Assessor
bswart@co.nobles.mn.us

Dear Mr. Swart,

Thank you for your recent letter regarding the application for property tax exemption as an institution of purely public charity from the Bibles for Missions Thrift store located in the City of Worthington.

Minnesota Statutes, section 272.02, subdivision 7 outlines the requirements for property tax exemption as an institution of purely public charity. There are six basic requirements for property tax exemption in this subdivision. Also, taxation is the rule and exemption is the exception. With virtually any type of exempt property, the qualifying parcel must be owned by an exempt institution, used for exempt purposes, and ownership of the property must be reasonably necessary to further the mission of the exempt organization. This three-prong test is used when making these determinations.

Beyond the six statutory requirements for property tax exemption outlined in M.S. 272.02, subdivision 7, the organization seeking exemption must also be exempt from federal income taxes under section 501(c)(3). We have advised assessors that if an organization is able to verify that the organization is exempt from federal income taxes as a 501(c)(3) organization, it can be reasonably assumed that the property meets requirements 1, 4, and 6. The Bibles for Missions Thrift provided proof that they are exempt from federal income taxes as a 501(c)(3) organization, and as such could be expected to meet these requirements. Therefore, we refer to the second, third, and fifth requirements of M.S. 272.02, subdivision 7 to discuss the additional qualifications for exemption.

Based on the documentation provided, we refer directly to the third requirement to address the particular concerns we have regarding potential exemption of this property. Based on the information provided, we will not need to address the second or fifth requirements for exemption.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government (both requirements do not need to be met); or there may be a reasonable justification for failing to meet this requirement.

Based on the information provided, the use of this specific property in the City of Worthington is as a retail thrift store. The thrift store sells used merchandise. The proceeds of these sales are used to purchase bibles for distribution through an affiliated or parent organization located in Michigan. Based on the information provided by the organization, there is no actual charity taking place at this property, nor does the organization at this property provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the

government. Additionally, there is no reasonable justification for not providing a charity at this property.

Because of failing to meet the third requirement or provide reasonable justification for failure to do so, it is our opinion that this property is not eligible for exemption as an institution of purely public charity. Please note that our opinion regarding this organization's eligibility for exemption is purely advisory in nature and is based solely on the facts provided. If any of the facts were to change, or if more information and factual statements are gathered, our opinion as to the exemption ability of the organization is subject to change as well.

If either the assessor or the organization disagrees with this advisory opinion, the institution or assessor may request through the Department of Revenue that the eligibility for exemption be reviewed by an advisory board comprised of members of the Minnesota Council of Nonprofits, the Department of Revenue, and the Minnesota Association of Assessing Officers. This review process was outlined in a 2010 bulletin to all County Assessors on exemptions for institutions of purely public charity. [As an aside, if the organization chooses to appeal its tax status through the Assessor's Office or any other venue, it would be appropriate to include the three most recent years' Federal Form 990, as opposed to years 2007, 2008, and 2009 which were submitted to the Department of Revenue.]

The property owner may also appeal its tax exempt status to Minnesota Tax Court. The deadline for appealing to Tax Court is April 30 of the year in which taxes become payable. The deadline is statutory and is not subject to change even if the property owner has applied for an informal appeal to the review board. The decision of the Tax Court is official for property tax purposes. Tax Court appeal information can be found online at www.taxcourt.state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

October 17, 2011

A. Keith Albertsen
Douglas County Assessor
keith.albertsen@mail.co.douglas.mn.us

Dear Mr. Albertsen,

Thank you for your question to the Property Tax Division regarding an application for property tax exemption. The Community Memorial Home at Osakis (D.B.A. Galeon) has applied for property tax exemption for a portion of the property used as a wellness and therapy center consisting of a pool, weight room, and exercise room. The wellness center portion of the property is currently considered taxable, and we would concur with your opinion that the wellness center is a taxable use of the nursing home property.

The Community Memorial Home/Galeon has applied for property tax exemption on this portion of the property as an institution of purely public charity under Minnesota Statutes, section 272.02, subdivision 7. Upon review of the documentation provided with an attorney from the Department of Revenue Legal Division, we have determined that the wellness center property is not eligible for exemption under this subdivision. Specifically, the organization fails to meet the second requirement, which is that “the institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.” The wellness center component does not receive donations, gifts, or government grants. Part of the funding for the wellness center is through government grants for the nursing home, but the current use of the wellness center is a taxable use of the nursing home property. Additionally, when considered on its own merits as potentially an institution of purely public charity, the wellness center’s revenue is primarily derived from fees for services and membership fees. The organization has not provided reasonable justification for failure to meet this requirement.

Therefore, it is our understanding that the wellness center portion of the Community Memorial Home at Osakis/Galeon is taxable. This opinion is based solely on the facts as provided. If any of the facts change, our opinion is subject to change as well.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

December 13, 2011

A. Keith Albertsen
Douglas County Assessor
keith.albertsen@mail.co.douglas.mn.us

Dear Mr. Albertsen,

Thank you for your recent questions to the Property Tax Division related to property tax exemption eligibility for various properties used by Habitat for Humanity. You have asked for our opinion on the taxability of four different property scenarios.

For each scenario, we utilize the guidelines set forth that for property to be eligible for exemption, it must be owned by a qualifying exempt entity, used for a qualifying exempt purpose, and ownership of the property must be reasonably necessary for the organization to further its mission.

When Habitat for Humanity purchases or is given a piece of property as a potential building site for a home for some disadvantaged individual, should it be exempt from property tax?

It is our understanding that most County Assessors are exempting bare lots owned by Habitat for Humanity and intended for building a home. These lots are owned by a qualifying entity, used for that entity's purpose, and are clearly used for the purposes of Habitat for Humanity, as owning a bare lot is reasonably necessary to further its mission. The exemptions that we know of have been granted under Minnesota Statutes, section 272.02, subdivision 7 as institutions of purely public charity.

If Habitat for Humanity purchases a building and uses it for their administrative offices, would that be exempt?

If the offices are used for exempt purposes and are reasonably necessary to further the organization's mission, they may be eligible for property tax exemption. The most likely exemption eligibility would be as an institution of purely public charity, and the corresponding application and documentation would need to be supplied to the County Assessor.

A local Habitat for Humanity is considering purchasing a building that used to be a service/garage area. They are considering using the space for "re-purposing" building supplies. The plan would be they would accept (or purchase at reduced rates) new, discontinued building supplies or salvaged building supplies (cabinets, trim, doors, fixtures, etc.) and sell them in the service/garage area. Proceeds would be applied to the home building projects they do. Would this area be exempt?

Exemption eligibility for such a property is unclear, as the actual use of the property is not clearly an exempt use. We have issued opinions in the past that have stated that sales activities may not disqualify a property from exemption, but that there must be charitable activities taking place at the property. We have issued opinions stating that charitable organizations that own

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property used for sales to generate funds with which to carry on their mission at a separate location are *not* exempt. If the Habitat for Humanity organization purchases and uses this building in the suggested manner, it would be incumbent on the organization to file for property tax exemption and for the county assessor to review all of the facts of the situation to determine if it is eligible for exemption.

Habitat for Humanity owns a property that has a 30' x 50' pole garage on it that is used to store construction equipment, a work site trailer, and miscellaneous supplies used for the home building projects they do. Would this be exempt?

As with the items above, it must be determined that the property is used for qualifying exempt purposes and that its ownership is reasonably necessary to further the mission of Habitat for Humanity.

In cases where it is difficult to determine the exemption eligibility of a property, the onus is on the property owner to supply the County Assessor with the information deemed necessary to arrive at a conclusion. We also recommend reviewing the guidelines for property tax exemption for institutions of purely public charity that are available in the Property Tax Administrator's Manual, *Module 5 – Exemptions*, that is available on the Department of Revenue website at http://taxes/property_tax_administrators/pages/other_supporting_content_propertytaxadministratorsmanual.aspx. Some of the opinions we have issued related to institutions of purely public charity are also available at the Minnesota Association of Assessing Officers website, under the Department of Revenue link.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA • REVENUE

May 30, 2012

Peggy Trebil
Goodhue County Assessor
peggy.trebil@co.goodhue.mn.us

Dear Ms. Trebil:

Thank you for your recent mailing to the Property Tax Division regarding an application for exemption as an institution of purely public charity. The property in question is owned by the Zumbrota Area Arts Council. The building is a movie theater, and the upper story is used as an apartment by the former owners of the building. You have provided the application and documentation to our division, and have asked for our opinion on the exemption eligibility of this organization.

Minnesota Statutes, section 272.02, subdivision 7 outlines the requirements for property tax exemption as an institution of purely public charity. There are six basic requirements for property tax exemption in this subdivision. Also, taxation is the rule and exemption is the exception. With virtually any type of exempt property, the qualifying parcel must be owned by an exempt institution, used for exempt purposes, and ownership of the property must be reasonably necessary to further the mission of the exempt organization. This three-prong test is used when making these determinations.

Beyond the six statutory requirements for property tax exemption outlined in M.S. 272.02, subdivision 7, the organization seeking exemption must also be exempt from federal income taxes under section 501(c)(3). We have advised assessors that if an organization is able to verify that the organization is exempt from federal income taxes as a 501(c)(3) organization, it can be reasonably assumed that the property meets requirements 1, 4, and 6. The Zumbrota Area Arts Council provided proof that they are exempt from federal income taxes as a 501(c)(3) organization, and as such could be expected to meet these requirements. Therefore, we refer to the second, third, and fifth requirements of M.S. 272.02, subdivision 7 to discuss the additional qualifications for exemption.

Based on the documentation provided, we refer directly to the third requirement to address the particular concerns we have regarding potential exemption of this property. Based on the information provided, we will not need to address the second or fifth requirements for exemption.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government (both requirements do not need to be met); or there may be a reasonable justification for failing to meet this requirement.

According to the organization's own application, the question "Do you provide goods or services for reduced or no cost?" the organization answered "No." The Zumbrota Area Arts Council (ZAAC) offers a variety of arts events, where tickets are sold to the public. In fact, much of the "donations" listed for the organization are in fact membership fees and program revenues rather than traditional donations. There are seven "music in the park" events sponsored by the ZAAC

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where admission is provided for free and ice cream sandwiches are offered. However, it is not clear that this event takes place at the State Theater property. Based on the information provided by the organization with their application for exemption, it does not appear that a “charity” is clearly being provided at this property, or that a material number of the recipients of the charity receive the benefits or services at reduced or no cost. Additionally, it does not appear that the organization alleviates the burdens or responsibilities of government. Finally, there is no reasonable justification provided for failure to meet this statutory requirement.

We would also like to address that the portion of the property used as a residence by the former owners would not be considered a charitable use of the property, and that portion of the property is also ineligible for exemption.

It is our opinion that this property owned by the ZAAC is likely taxable. Please note that this opinion is based solely on the facts as provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If the organization disagrees with the assessor’s determination, they may appeal to Minnesota Tax Court. If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

Property Tax Division
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MINNESOTA • REVENUE

July 10, 2012

Patricia Stotz
Mille Lacs County Assessor
635 2nd Street SE
Milaca MN 56353
pat.stotz@co.mille-lacs.mn.us

Dear Ms. Stotz:

Thank you for your recent letter regarding an application for exemption in your county. “Eternal Seed Providers, Inc.” applied for property tax exemption as an institution of purely public charity. The property in question is a residential property (previously, it had been classified as residential homestead and then seasonal residential recreational before the current owners deeded the property to their organization, Eternal Seed, in 2011). The property owners allow the use of this property to spread the word of the Lord Jesus Christ and to offer a north woods environment for spiritual development. You have denied exemption to these property owners, but they have asked for the department’s opinion.

Reviewing the application and documentation was made difficult by the fact that the Mille Lacs County Assessor’s Office is using an outdated application for exemption as an institution of purely public charity. We will provide you with the updated application, which requests information related to the statutory guidelines for exemption as described in Minnesota Statutes, section 272.02, subdivision 7. The 2004 application you are using does not contain the same information as the 2009 application which was reformatted to address law changes that year.

There are six basic requirements for property tax exemption in this subdivision. Also, taxation is the rule and exemption is the exception. With virtually any type of exempt property, the qualifying parcel must be owned by an exempt institution, used for exempt purposes, and ownership of the property must be reasonably necessary to further the mission of the exempt organization. This three-prong test is used when making these determinations.

Beyond the six statutory requirements for property tax exemption outlined in M.S. 272.02, subdivision 7, the organization seeking exemption must also be exempt from federal income taxes under section 501(c)(3). We have advised assessors that if an organization is able to verify that the organization is exempt from federal income taxes as a 501(c)(3) organization, it can be reasonably assumed that the property meets requirements 1, 4, and 6. Eternal Seed Providers, Inc. provided proof that they are exempt from federal income taxes as a 501(c)(3) organization, and as such could be expected to meet these requirements. Therefore, we refer to the second, third, and fifth requirements of M.S. 272.02, subdivision 7 to discuss the additional qualifications for exemption.

Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.

Based on the documentation provided, it is not clear that the organization is supported by material donations, gifts, or government grants for services to the public. The organization listed minimal donations in 2011, but did not clearly state where those donations came from. This

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requirement is not clearly met, nor was reasonable justification provided for not meeting this requirement. Additionally, the organization states that they may receive income in the form of donations for allowing individuals to use the property. This is considered a “fee for service” and not a donation to the organization.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government.

Based on the information provided, a charity is not clearly provided at this property. That is, it is not established whether a material number of individuals receive benefits or services at reduced or no cost from this property. It appears that the stated use of the property – for a getaway for spiritual purposes – is provided at a cost to individuals who wish to use the property.

Additionally, the organization does not provide services to the public that alleviate the burdens or responsibilities of government. This requirement is not clearly met, nor was reasonable justification provided for not meeting this requirement.

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

If a charity were to be provided, it does not appear that the organization would restrict the beneficiaries of the charity. However, as described above, it is not clear that a charity is being provided at this property.

It is our opinion that this property does not qualify for exemption as an institution of purely public charity. If the owners of the property disagree with your decision, they may appeal their taxable status to Minnesota Tax Court. If you have additional questions, please do not hesitate to contact the division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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Updated 3/15/2024 - See Disclaimer on Front Cover



August 24, 2012

Chuck Pelzer
Todd County Assessor's Office
chuck.pelzer@co.todd.mn.us

Dear Mr. Pelzer,

Thank you for your recent letter to the Property Tax Division regarding a property's application for exemption as an institution of purely public charity. You have provided documentation and an exemption application for Alisha's Care Center, Inc. and you have asked for our opinion.

Minnesota Statutes, section 272.02, subdivision 7 outlines the requirements for property tax exemption as an institution of purely public charity. There are six basic requirements for property tax exemption in this subdivision. Also, taxation is the rule and exemption is the exception. With virtually any type of exempt property, the qualifying parcel must be owned by an exempt institution, used for exempt purposes, and ownership of the property must be reasonably necessary to further the mission of the exempt organization. This three-prong test is used when making these determinations.

Beyond the six statutory requirements for property tax exemption outlined in M.S. 272.02, subdivision 7, the organization seeking exemption must also be exempt from federal income taxes under section 501(c)(3). We have advised assessors that if an organization is able to verify that the organization is exempt from federal income taxes as a 501(c)(3) organization, it can be reasonably assumed that the property meets requirements 1, 4, and 6. Alisha's Care Center, Inc. provided proof that they are exempt from federal income taxes as a 501(c)(3) organization, and as such could be expected to meet these requirements. Therefore, we refer to the second, third, and fifth requirements of M.S. 272.02, subdivision 7 to discuss the additional qualifications for exemption.

Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.

A Federal Form 990 is the most accurate way to verify the income and expenses of the organization. A Federal Form 990 was not provided, so we cannot easily verify the income and expenses for Alisha's Care Center, Inc. The organization did provide an "Account QuickReport" for January 1 through May 12, 2012 which shows both deposits and donations that were deposited into an account. We cannot determine what the deposits or donations are for by reviewing this QuickReport. There was also a report of donation of time (i.e., volunteer hours) that individuals provided to the center. Based on this information, it is not clear whether Alisha's Care Center, Inc. meets this requirement. Further information may be requested by your office to verify that the donations and deposits meet this requirement or that there is other evidence of material support by gifts, donations, or grants.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government (both requirements do not need to be met); or there may be a reasonable justification for failing to meet this requirement.

Based on the information provided by the organization, it is not clear whether recipients of the organization are receiving benefits or services at a reduced or no cost. Additionally, there is nothing provided that proves that a charity is taking place. The organization states that the property operates as an accredited birthing center/well woman clinic and provides instruction on women/children health and nutrition. When asked the question on the exemption application: **Are the recipients of the organization required to pay for assistance in whole or in part**, the organization selected yes and stated “people pay for the use of the facility for a birth – which includes supplies used.” This leads to additional questions, such as how are these services charged to a recipient? Are they based on income? Does the organization offer any free services? Are there reduced rates offered for the services that the recipients pay for? In other words, there is no proof provided to show that a charity is taking place and if there are any beneficiaries of the charity.

Therefore, there must be an identifiable link between the existence of the organization and a charity being provided. If the organization is unable to prove that a charity is being provided, or that it is alleviating the burdens of government, it must provide reasonable justification for failing to meet this requirement.

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

Once again, it must be determined that a charity is being provided at this property. If it is determined that a charity is being provided, it must further be determined that the class of persons to whom the charity is provided is not restricted.

Based most specifically on the requirements outlined in number 3 above, it is not clearly established whether the organization is eligible for property tax exemption. Depending on your further review of the property and its charitable uses, you may determine if the property would be eligible for property tax exemption as a purely public charity or taxation.

You may also confer with neighboring counties to establish whether there are similarly-used properties, and whether those properties have been exempt or taxable and under what reasoning. Please note that our opinion regarding this organization’s eligibility for exemption is purely advisory in nature and is based solely on the facts provided. If any of the facts were to change, or if more information and factual statements are gathered, our opinion as to the exemption ability of the organization is subject to change as well.

If either the assessor or the organization disagrees with this advisory opinion, the institution or assessor may request, through the Department of Revenue that the eligibility for exemption be reviewed by an advisory board comprised of members of the Minnesota Council of Nonprofits, the Department of Revenue, and the Minnesota Association of Assessing Officers. This review process is outlined in the Property Tax Administrator’s Manual.

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

appeal to the review board. The decision of the Tax Court is official for property tax purposes. Tax Court appeal information can be found online at www.taxcourt.state.mn.us.

In cases where it is difficult to determine the exemption eligibility of a property, the onus is on the property owner to supply the County Assessor with the information deemed necessary to arrive at a conclusion. We also recommend reviewing the guidelines for property tax exemption for institutions of purely public charity that are available in the Property Tax Administrator's Manual, *Module 5 – Exemptions*, that is available on the Department of Revenue website at http://www.revenue.state.mn.us/local_gov/prop_tax_admin/Pages/Manuals-and-Education.aspx

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

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March 11, 2013

Angela Johnson
Carver County Assessor's Office
ajohnson@co.carver.mn.us

Dear Ms. Johnson:

Thank you for submitting your question to the Property Tax Division regarding a property seeking exemption as a purely public charity in your county. You have provided the following:

The Minnesota Golf Academy is a newly formed non-profit organization. This organization's mission is to develop and operate a premier golf training facility for juniors and other beginning golfers, thereby promoting the game of golf in Minnesota. To support the mission of the Academy, Hazeltine National Golf Course, has agreed to lease approximately 61 acres for \$1 per year for 25 years to the Minnesota Golf Academy. The lease is conditional upon the Academy utilizing the land as a golf training facility for youth, handicapped, and other beginner golfers at a minimal cost. The Minnesota Golf Academy has submitted an application for tax exemption as an institution of purely public charity.

In order to qualify as an institution of purely public charity, six requirements must be met:

Requirement 1: The stated purpose of the undertaking of the organization is to be helpful to others without immediate expectation of material reward. Meeting this requirements is determined by 501 (C)(3) determination letter.

Requirement 2: The institution must be supported by material donation, gifts, or government grants for services to the public in whole or in part.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government.

Requirement 4: That the income received, including material gifts and donation, must not produce a profit to the institution which is distributed to private interests. Meeting this requirement is determined by 501 (C)(3) determination letter.

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

Requirement 6: That dividends, in form or in substance, or assets upon dissolution are not available to private interest. Meeting this requirement is determined by 501 (C)(3) determination letter.

In order for an organization to qualify as an institution of purely public charity, it must first be exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. Qualifying organizations must meet all six requirements of an institution of purely public charity, unless there is a "reasonable justification" for failing to meet requirement 2, 3, or 5. Assessors may request additional information from the applicants in order to prove that "reasonable justification" for failing to meet a requirement is met. As always, the onus is on the taxpayer to prove eligibility for exemption.

From the information submitted, this organization is not exempt from federal income taxation under section 501 (C)(3) of the Internal Revenue Code at this time, therefore, the organization does not qualify for property tax exemption as an institution of purely public charity.

Please keep in mind that it is the assessor's duty to determine eligibility for property tax exemption. If an applicant applies for exemption as an institution of purely public charity but does not meet the six requirements and the assessor does not find that reasonable justification applies, there are two options for appeal: an appeal to an advisory review board, which will provide advice to the assessor and/or the organization; or an appeal to Minnesota Tax Court.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

April 1, 2013

Peggy Trebil
Goodhue County Assessor's Office
Peggy.trebil@co.goodhue.mn.us

Dear Ms. Trebil:

Thank you for submitting your question to the Property Tax Division regarding an organization seeking property tax exemption as a purely public charity in your county. You have provided the following:

The Red Wing Area Seniors paid \$475,000 for 2 properties, and a separate entity, Red Wing Collectors Society Foundation, paid \$500,000 for one property. Both organizations purchased part of the Pottery Annex Condos of Red Wing. After the purchase, Red Wing Area Seniors and Red Wing Collectors Society Foundation formed an LLC, but continue to operate as two separate charities, each with individual ownership of these properties. Red Wing Area Seniors has completed an exempt application and you have determined that it qualifies for exemption as a senior facility.

Red Wing Collectors Society Foundation is applying for a purely public charity exemption as a museum and educational opportunity for individuals to learn about the Red Wing clay industry. You have provided their application, articles of incorporation, and 990 forms for 2009, 2010 and 2011. You are requesting our opinion if the Red Wing Collectors Society Foundation meets the eligibility criteria for exempt status as an institution of purely public charity.

The requirements for exemption as an institution of purely public charity are found in Minnesota Statutes, section 272.02, subdivision 7:

- “(1) whether the stated purpose of the undertaking is to be helpful to others without immediate expectation of material reward;*
- (2) whether the institution of public charity is supported by material donations, gifts, or government grants for services to the public in whole or in part;*
- (3) whether a material number of the recipients of the charity receive benefits or services at reduced or no cost, or whether the organization provides services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government;*
- (4) whether the income received, including material gifts and donations, produces a profit to the charitable institution that is not distributed to private interests;*
- (5) whether the beneficiaries of the charity are restricted or unrestricted, and, if restricted, whether the class of persons to whom the charity is made available is one having a reasonable relationship to the charitable objectives; and*
- (6) whether dividends, in form or substance, or assets upon dissolution, are not available to private interests.”*

To begin, the statutory requirements will be reviewed to see if the organization qualifies for exemption. These items typically include:

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

If you are able to receive a copy of the organization's IRS 501(c)(3) determination letter, it can be used along with the Articles of Incorporation to determine that requirements 1, 4, and 6 are met. From here, we will look into requirements 2, 3, and 5 to determine whether the properties qualified for property tax exemption as an institution of purely public charity.

Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.

Based on the 990 forms and additional information received from the Red Wing Collectors Society Foundation, it appears that the institution is supported by material donations and grants. After review of the information, it appears that this requirement likely has been met.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate the burdens or responsibilities that would otherwise be borne by the government.

Upon review of this requirement, we have determined that the Red Wing Collectors Foundation's mission is to provide a museum and educational opportunity to learn about the Red Wing clay industry. According to the application submitted by the organization, the museum is free and open to the public with approximately 3,400 members. One area in which there was concern was the number of individuals who are actually benefitting from the reduced or no cost services provided by the organization. If there are a material number of people receiving the benefits from this organization at reduced or no cost, we would be of the opinion that this requirement has been met.

Requirement 5: The beneficiaries of the charity must be unrestricted.

Based on the information received, there did not appear to be any restrictions to who receives the benefits the Red Wing Collectors Society Foundation provides. Therefore, this requirement has been met.

Based on the information you have provided, it is our advisory opinion that the organization qualifies for property tax exemption as an institution of purely public charity, provided that there are a material number of individuals actually receiving the reduced or no cost services. Please note that our opinion is purely advisory in nature and is based solely on the facts provided. If any of the facts were to change, our opinion is subject to change as well. Ultimately, the decision to grant or deny property tax exemption is the County Assessor's, and this decision is appealable to Minnesota Tax Court.

We also recommend referring to the Property Tax Administrator's Manual, *Module 5 – Exempt Property*, which contains a very useful section on institutions of purely public charity.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator

Information and Education Section

Property Tax Division

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MINNESOTA • REVENUE

April 17, 2013

Dave Sipila
St. Louis County Assessor's Office
sipilad@stlouiscountymn.gov

Dear Mr. Sipila:

Thank you for submitting your question to the Property Tax Division regarding a property seeking exemption as an institution of purely public charity in your county. You have provided the following:

You have a request for exemption as a purely public charity from an organization called Seeds of Hope Youth Ranch. This organization owns property in St. Louis County for the purpose of rescuing abused and neglected horses, and training and restoring them back to health while facilitating the therapeutic healing of abused and neglected children and adults.

You are not aware of any facilities like this in your county and upon reviewing their application; you are inclined to grant the exemption. You are asking if there are any other facilities similar to this one in the state of Minnesota, and if so, you would like to know their taxable status.

After researching this topic, we are not aware of any other facilities similar to the one you have described. I have located the survey regarding exemptions of institutions of purely public charity conducted in 2009 that you mentioned on our website at http://www.revenue.state.mn.us/propertytax/reports/acp_09_ppcharity.pdf. If you would like the department's opinion on the taxable status of this organization, please send the application and additional information as required by statute in order for us to make an informed decision on this property's eligibility as an institution of purely public charity.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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June 14, 2013

Chuck Pelzer
Todd County Assessor's Office
chuck.pelzer@co.todd.mn.us

Dear Mr. Pelzer,

Thank you for contacting the Property Tax Division regarding a letter we sent you on August 24, 2012. In 2012, you provided us with information regarding a property's application for exemption as an institution of purely public charity (Alisha's Care Center, Inc.). It was determined in 2012 that the information you provided was not sufficient enough for us to come to a conclusion as to whether the property qualified for exemption as an institution of purely public charity. You have now provided us with additional information and would like to know our opinion on whether the property does qualify for exemption. We will focus on the requirements necessary for exemption that we were not able to review prior to receiving the most recent information.

Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.

The organization supplied a Federal Form 990 along with other documentation. It is our opinion that the organization appears to be supported by material donations, gifts, and government grants. Therefore, this requirement appears to be met.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government (both requirements do not need to be met); or there may be a reasonable justification for failing to meet this requirement.

Based on the information provided, the organization provides benefits or services at a reduced cost. The organization provides a sliding scale fee schedule based on household size and annual income for their services. Provided that there are individuals who are benefitting from this sliding scale, this requirement also appears to be met.

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

The beneficiaries of the charity are persons meeting income and needs requirements. Therefore, the beneficiaries have a reasonable relationship to the charitable objectives of the organization and this fifth requirement is met.

Based solely on the information provided, it appears that the property may qualify for exemption as an institution of purely public charity. Please note that if any of the facts were to change, or if more information and factual statements are gathered, our opinion as to the exemption of the organization is subject to change as well. Ultimately, the decision to exempt the property is yours to make and your decision is appealable to Minnesota Tax Court if the organization disagrees. If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

June 21, 2013

Joe Skerik
Beltrami County Assessor's Office
joe.skerik@co.beltrami.mn.us

Dear Mr. Skerik:

Thank you for submitting your question to the Property Tax Division regarding The Bemidji Area Tennis Foundation (BATA), an organization seeking property tax exemption as an institution of purely public charity. You have provided the following:

- The organization's application for exemption as an institution of purely public charity.
- The organization's statement of purpose.
- A description of the proposed principal use of the property.
- A description of why the organization believes the property should be granted exemption and why property ownership is necessary.

To qualify as an institution of purely public charity, six requirements must be met. The requirements for exemption as an institution of purely public charity are found in Minnesota Statutes, section 272.02, subdivision 7:

- “(1) whether the stated purpose of the undertaking is to be helpful to others without immediate expectation of material reward;*
- (2) whether the institution of public charity is supported by material donations, gifts, or government grants for services to the public in whole or in part;*
- (3) whether a material number of the recipients of the charity receive benefits or services at reduced or no cost, or whether the organization provides services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government;*
- (4) whether the income received, including material gifts and donations, produces a profit to the charitable institution that is not distributed to private interests;*
- (5) whether the beneficiaries of the charity are restricted or unrestricted, and, if restricted, whether the class of persons to whom the charity is made available is one having a reasonable relationship to the charitable objectives; and*
- (6) whether dividends, in form or substance, or assets upon dissolution, are not available to private interests.”*

We begin by reviewing the statutory requirements to see if the organization qualifies for exemption. These items typically include:

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

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If you are able to receive a copy of the organization's IRS 501(c)(3) determination letter, it can be used along with the Articles of Incorporation to determine that requirements 1, 4, and 6 are met. In this case, we have not been provided this information. For purposes of this review, we will assume that this organization does have a 501(c)(3) determination letter and meets qualifications 1, 4, and 6. However, you must verify 501(c)(3) status before approving the application for exemption. For purposes of this letter, we will look at requirements 2, 3, and 5 to determine whether the property qualifies for property tax exemption as an institution of purely public charity.

Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.

We have not been provided with any Federal Forms 990 for this organization. According to the information provided by the organization: "*BATA is currently holding large capital campaigns to finance the building of the new indoor tennis facility. Currently, BATA shows a profit of income only because of these campaigns. Once the facility is built, our projected annual budget will be roughly breakeven*". Based on this information, it is unclear whether this organization is supported by material donations. The organization will need to provide federal 990 forms and additional donor information, to determine if this requirement has been met. Based on the information provided, it is unclear that this requirement has been met.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate the burdens or responsibilities that would otherwise be borne by the government.

Based on the information provided, there are no current recipients of a charity, as the BATA has not yet purchased the property or put it to use for a charitable purpose.

Upon review of this requirement, we have determined that the Bemidji Area Tennis Association's (BATA) main purpose is to "*promote the game of tennis within Bemidji and the surrounding communities and to promote fitness for people of all ages.*" According to the information submitted by the organization: "*BATA hopes to rent the indoor tennis facility to some of the local charter schools for their physical education classes since there is a need for indoor physical-activity space for these institutions and we plan to rent to local high schools and the BSU girl's tennis program to provide them much needed court time in the fall, winter and spring. BATA plans provide a place where schools can take field trips so students learn how to play tennis and get exercise. We will also provide a much needed location for additional tennis tournaments that are run at about cost to keep the entrance fees minimal.*" Also, the organization has stated that once the facilities are purchased, there will be hourly fees for individuals to play tennis, but there will be scholarships provided to those who cannot afford the hourly court fee.

One area in which there was concern was the number of individuals who are actually benefitting from reduced- or no-cost services provided by the organization. From the information provided, the proposed facilities will be rented to schools and there are entrance fees for all who enter, as well as an hourly fee for those who use the tennis courts. Although there will be scholarships provided, because there has not been any use of the property, no one has benefitted from the scholarships. If there are a material number of people receiving the benefits from this organization at reduced or no cost once the property is put to use, we would suggest that you re-review this requirement; however, with the information we have received, we are of the opinion that this requirement has not been met.

Requirement 5: The beneficiaries of the charity must be unrestricted.

Based on the information received, there did not appear to be any restrictions to who will receive the benefits the Bemidji Area Tennis Association provides. Therefore, this requirement would be met.

Continued...

Continued from Page 2

Based on the information you have provided, it is our advisory opinion that the organization, does not qualify for property tax exemption as an institution of purely public charity at this time. You may wish to re-review the application for property tax exemption as the property begins to be used for a charitable purpose. Please note that our opinion is purely advisory in nature and as always, the responsibility is on the taxpayer to prove eligibility for exemption.

Ultimately, the decision to grant or deny property tax exemption is the County Assessor's, and this decision is appealable to Minnesota Tax and/or Supreme Court.

We also recommend referring to the Property Tax Administrator's Manual, *Module 5 – Exempt Property*, which contains a very useful section on institutions of purely public charity.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

Property Tax Division
600 North Robert Street
Mail Station 3340
St. Paul, MN 55146

Tel: 651-556-6099
Fax: 651-556-3128
TTY: Call 711 for Minnesota Relay
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MINNESOTA • REVENUE

March 9, 2016

Nancy Gunderson
Clay County Assessor
nancy.gunderson@co.clay.mn.us

Dear Ms. Gunderson:

Thank you for submitting your question to the Property Tax Division regarding possible exemption of a dental clinic in your county. You have submitted the following scenario and question:

Scenario:

- Apple Tree Dental, a 501(c)(3) non-profit entity, has applied for property tax exemption as an institution of purely public charity.
- The building's principal use is to provide outpatient dental services to community members.
- It is also a base for mobile dental services to long-term care facilities, Head Start schools, and others.
- The mission of the organization is to improve oral health care in the lives of people with special access needs and who face barriers to receiving care.
- The organization provides dental care to the general population, and also provides a sliding scale fee for patients based on family income. Patients who have no means of paying may apply for free services.
- According to their records, 80.8% of the organization's services were provided to low-income patients enrolled in Medical Assistance or Minnesota Care assistance programs in 2015.
- Also according to their records, the organization received 52.9% of the market value of their services in 2015.
- The general public utilizes full, non-discounted prices, which Apple Tree uses to offset the cost of providing care to lower-income individuals and individuals on state programs.
- The organization claims that it is funded by donations, gifts, and government grants.

Question: Does this dental care facility qualify for exemption as an institution of purely public charity?

Answer: The organization does not clearly qualify for exemption as an institution of purely public charity.

It was not clear from the information provided that the primary purpose of the dental clinic was to provide charity to the public, or whether its primary purpose is to provide dental services and the charity care is only a portion of the overall work.

Ideally, if the organization wanted to pursue the potential for exemption, it would provide:

- Federal income tax form 990 for the last three years, which would outline detailed income and expense information
- A description of the sliding-scale fee system and how many individuals utilize the system, compared to the number of individuals who use full-cost services (whether using private insurance or not)

The advisory review board for institutions of purely public charity has reviewed cases of similar types of business practices. The board has determined that write-offs for charity provided are not considered a charity provided by the organization. It would be helpful if the organization could provide more information related to how their business provides charitable care.

As you know, taxation is the rule when it is not clear that a property should be exempt. Ultimately, it is the assessor's decision whether or not to exempt a property. If the property owner disagrees, the property owner may appeal to Minnesota Tax Court. Additionally, the assessor may request additional review by an advisory review panel. Information on how to apply for a review is outlined in the [Property Tax Administrator's Manual](#), *Module 5 – Exempt Property*.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6091
Email: proptax.questions@state.mn.us

June 10, 2016

Sherri Kitchenmaster
Lyon County Assessor
SherriKitchenmaster@co.lyon.mn.us

Dear Ms. Kitchenmaster:

Thank you for submitting your question to the Property Tax Division regarding a property's application for exemption as an institution of purely public charity. You have provided the following information and an exempt application for Bluebird Creek Conservation Club.

Information:

- An organization submitted an application for exemption as an institution of purely public charity.
- The property was put into CREP and the conservation club, the organization, received the payments to maintain the property.
- The payments are no longer being received.

Question:

Does this organization qualify for exemption as an institution of purely public charity?

Answer:

There are six basic requirements for property tax exemption under Minnesota Statutes, section 272.02, subdivision 7. With virtually any type of exempt property, the qualifying parcel must be owned by an exempt institution, used for exempt purpose, and ownership of the property must be reasonably necessary to further the mission of the exempt organization.

Beyond the six statutory requirements for property tax exemption outlined in M.S. 272.02, subdivision 7, the organization seeking exemption must also be exempt from federal income taxes under section 501(c)(3). According to the organization's application, they meet this requirement, however we advise you to request proof that they are indeed exempt from federal income taxes as a 501(c)(3) organization. If they qualify as a 501(c)(3) organization it can be reasonably assumed that the property meets requirements 1, 4, and 6. We refer to the second, third and fifth requirements of M.S. 272.02, subdivision 7 to discuss the additional qualification for exemption.

Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.

Based on this information, it is not clear whether the organization meets this requirement. On the exemption application, the organization stated they do not receive donations, gifts or government grants. Though the organization states they receive Conservation Reserve Enhancement Program (CREP) payments, you verified they are no longer being received by the organization. Being enrolled in the CREP program and receiving payments does not constitute as receiving donations, gifts or government grants. Therefore, we do not feel this requirement is not met.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government (both requirements do not need to be met); or there may be a reasonable justification for failing to meet this requirement.

Based on the information provided by the organization, they state there are no recipients of the organization that are receiving benefits or services at a reduced or no cost. However, it is not clearly defined as to what the charity is being provided at the property's location or whether the benefits or service provided is something that is needed, and no metrics of anyone benefitting. Though findings from a survey conducted by the advisory review board

show nature preservation sites (Nature Conservancy land) are commonly exempted from property taxes throughout the state, additional information should be requested on the charity being provided, beyond just public access, by the organization in order for this requirement to be met.

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

Once again, it must be determined that a charity is being provided at this property. If it is determined that a charity is being provided, supporting documentation the organization provided states the property is accessible to the public and does not restrict anyone from using the property.

Based on the information the organization provided, it is our opinion that the organization does not clearly qualify for property tax exemption as an institution of purely public charity. If you find requirement 2 is met or the organization has reasonable justification for not being met, and the organization is indeed providing a charity at this property, it may qualify as an Institution of Purely Public Charity. Please note that our opinion regarding this organization's eligibility for exemption is purely advisory in nature and is based solely on the facts provided. If any of the facts were to change our opinion is subject to change as well.

If either the assessor or the organization disagrees with this advisory opinion, the institution or assessor may request, through the Department of Revenue that the eligibility for exemption be reviewed by an advisory board. The property owner may also appeal its tax exempt status to Minnesota Tax Court.

In cases where it is difficult to determine the exemption eligibility of a property, the onus is on the property owner to prove eligibility for exemption by supplying the County Assessor with the information deemed necessary to arrive at a conclusion.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
Supervisor, Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

May 30, 2017

Cheryl Wall
Wilkin County Assessor's Office
cwall@co.wilkin.mn.us

Dear Ms. Wall,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- An organization dedicated to the preservation of pheasants owns four parcels in Wilkin County.
- One of the three parcels has been exempt for many years.
- The exempt parcel was changed to taxable for taxes payable in 2017 after a discussion with the county's Property Tax Compliance Officer.
- The organization believes the one parcel should remain exempt because it was acquired as a gift from the county, and due to the nature of the organization.

Question: Does the parcel qualify for exemption being it is owned by the pheasant preservation organization?

Answer: No, ownership by the organization does not automatically qualify the parcel for exemption because the organization is not one of the specific exempt entities listed in Minnesota Statute 272.02, subdivision 2 – 6, regardless of how the organization obtained the parcel. However, based on the application provided, the organization is claiming exemption as a purely public charity; therefore, the assessor will need to review Minnesota Statute 272.02, subdivision 7 to verify whether or not the organization qualifies.

Statute outlines six basic factors that must be considered when making a final determination on the taxability of property under this subdivision. There is no indication by the limited material included that the organization is providing any charitable related activities at the parcel's location or whether the benefits or service provided are needed, and no metrics of anyone benefitting by use of the parcel. Though findings from a survey conducted by the advisory review board show some pheasant habitat preservation organization sites may be exempted from property taxes, additional information should be requested on the charity being provided, beyond pheasant habitat or public access, by the organization in order for the assessor to determine if this requirement is met.

If the organization makes application and qualifies as a purely public charity under this law, the assessor should exempt the property. If the assessor makes the determination that the organization does not qualify as a purely public charity and the organization does not agree, they may choose to submit the request for review by the Purely Public Charity Board. If the organization fails to qualify for purely public charity, the parcel would remain taxable for taxes payable in 2017.

You also mention in your e-mail that the organization owns four parcels, but only the one parcel in question has ever been granted exemption. Is there a significant difference between the three taxable parcels and the parcel in question? If not then it would appear the parcel receiving exemption would be subject to the same tax treatment as the other parcels. If the parcel is receiving exemption because it is used in a different way than the other parcels, such as providing public service in some manner which the organization can prove, that might be reason for the tax treatment to differ.

As always, taxation is the rule and exemption is the exception. If the information requested by the county assessor is not supplied, or the assessor decides the materials provided do not support the organization's claims that it operates as a purely public charity, the assessor has the legal authority to deny the exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin

State Program Administrator

Property Tax Division

Information & Education

Phone: 651-556-6091

January 5, 2018

Connie Erickson
Yellow Medicine County Assessor's Office
connie.erickson@co.ym.mn.gov

Dear Ms. Erickson,

Thank you for submitting your question to the Property Tax Division regarding the Fagen Fighters WWII Museum's eligibility to qualify as an Institution of Purely Public Charity. You have provided the following scenario and question:

Scenario:

- Fagen Fighters WWII Museum applied for property tax exemption as an Institution of Purely Public Charity.
- The county requested and received the following documentation:
 - Fagen Fighters, a 501 (c)(3) non-profit entity, has applied for property tax exemption as an institution of purely public charity
 - Articles of Incorporation include a museum showcase aircraft and ground equipment used during WWII.
 - The Museum's is open to the public free of charge.
 - Federal Form 990 for 2014 and 2015
 - Statement of organization's function to preserve the past, promote patriotism and inspire the future by acquiring, archiving and displaying for public viewing aircraft, ground vehicles, memorabilia and other artifacts from WWII.
 - Mission of the Organization is to preserve the memory of the heroes of WWII, promoting patriotism and inspire tomorrow's leaders to study history.
 - Contributions and or donations exceeds profit-generating activities (i.e. airshow rents etc).

Question: Does this organization qualify for exemption as an institution of purely public charity?

Answer: Based on a review of the Minnesota Statute section 272.02, subdivision 7, and prior guidance, it appears that Fagen Fighters WWII Museum may qualify as an institution of purely public charity. The six basic requirements for property tax exemption appeared to be met, with a partial exception of requirement 2.

Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part; or there may be a reasonable justification for failing to meet this requirement.

Based on the information provided by the organization, rent, cost of goods sold, airshow fees and rides do not qualify as material donations, gifts, or government grants

However, income from gifts, donations, and grants exceed income received from airshow fees & rides, rental income, and costs of goods sold. From this information, it appears as though requirement 2 is likely met.

Please note that the Property Tax Division's opinion is purely advisory. As you know, taxation is the rule when it is not clear that a property should be exempt. Ultimately, the County Assessor is responsible for determining exemption, and your opinion is appealable by the property owner to Minnesota Tax court and/or Minnesota Supreme Court. If you feel this organization does not qualify and deny the exemption, the property owner may request a second opinion or further review by the Charity Review Board.

Information on how to apply for a review is outlined in the Property Tax Administrator's Manual, *Module 5 – Exempt Property*.

Additionally, our opinion is based on the facts provided, so if any of the facts were to change or opinion may be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6091

February 12, 2018

Len Peterson
Len.Peterson@co.koochiching.mn.us
Koochiching County

Dear Mr. Peterson,

Thank you for submitting your question to the Property Tax Division regarding a property's application for exemption as an institution of purely public charity. You have provided the following documentation and an application for purely public charity.

Scenario:

- A property in Koochiching County has a foundation that provides the following activities:
 - Camping
 - Swimming
 - Canoeing
 - Rock climbing
- An application for exemption under institutions of purely public charity was submitted to the county
- Consolidated financial statements show roughly 40% in material donations and gifts compared to total revenue

- Documents indicating IRS 501 (c)(3) exemption from federal income tax
- Articles of incorporation outlining the purposes of the corporation; which highlighted: to advance and promote education, improve national standards for camping and to promote well-being through conservation
- Detailed description of the organization's function; to advance and promote education, allow growth and development through exploration, improving national standards for camping and conservation

Question: Does this property qualify for property tax exemption as an Institution of Purely Public Charity?

Answer: Based on the information you have provided it is our advisory opinion that the organization may qualify for property tax exemption as an institution of purely public charity. In order for an organization to qualify as an institution of purely public charity it must first be exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. Qualifying organizations must meet all six requirements of an institution of purely public charity, unless there is a "reasonable justification" for failing to meet requirement 2, 3, or 5. Assessors may request additional information from the applicants in order to prove that "reasonable justification" for failing to meet a requirement. As always, the onus is on the taxpayer to prove eligibility for exemption.

According to the information submitted, it appears as though the Camping and Education Foundation meets the requirements as an institution of purely public charity with the further review of requirements 2 and 3.

Requirement 2: The institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part:

Based on the financial statements submitted, in 2015 roughly 40% of income received is comprised of material donations and/or gifts. This requirement may call for further consideration and clarification as the percentage of income received by fees and services exceeds the amount of donated material. Also, ensure there is not a benefit received for the donation given, such as if a donation is \$20 however in return \$10 is received in material reward, only \$10 of donation should be considered. While there is no defined amount of material donations, gifts or grants that qualifies an institution to meet requirement 2, this information may be used to determine if an organization's purpose is charitable. We feel this requirement is likely met.

Requirement 3: A material number of the recipients of the charity must receive benefits or services at reduced or no cost, of the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government.

According to the information submitted, scholarships are available to campers unable to pay. The reported "material number" was 18% of total scholarship recipients. Minnesota Statute does not define a minimum amount required for a "material number," however this information may be used by the assessor when determining if an organization's purpose is charitable. This requirement is likely met.

Please note that the Property Tax Division's opinion is purely advisory. Ultimately, the County Assessor is responsible for determining exemption, and your opinion is appealable by the property owner to Minnesota Tax court and/or Minnesota Supreme Court. If you feel this organization does not qualify and deny the exemption, the property owner may request a second opinion or further review by the Charity Review Board.

Additionally, our opinion is based on the facts provided, so if any of the facts were to change or opinion may be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information and Education Section

Property Tax Division
Information & Education
Phone: 651-556-6091

February 16, 2018

Ginger Woodrum
Hubbard County Assessor's Office
glwoodrum@co.hubbard.mn.us

Dear Ms. Woodrum,

Thank you for submitting your question to the Property Tax Division regarding exemption of an assisted living center. You have provided the following scenario and question:

Scenario:

- A parcel owned by Hubbard County has both a skilled nursing facility and assisted living facility.
- Both the skilled nursing facility and assisted living facility were exempt.
- It was determined after a review of the property that the assisted living portion was exempt in error.
- The county determined that the assisted living facility should apply for exemption as a purely public charity.
- A deed, application for exemption and the management agreement between the County and the assisted living facility were included.

Question 1: Should the assisted living portion of the property be exempt from taxation, and if so, what MN statute supports this determination? What application should the property owner file?

Answer: No. Based on the information provided, the assisted living facility does not appear to qualify for property tax exemption. To qualify for exemption as an assisted living facility, there are very specific requirements that must be met. Under MN Statute, section 272.02, subdivision 66: an elderly living facility may be exempt if it meets the following requirements.

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

Based on the information provided, it does not appear the facility meets these requirements to qualify for exemption.

If it was determined that the facility meets requirements in MN Statute, then the property owner should file an "Application for Property Tax Exemption" or for general property tax exemption.

Question 2: Since the assisted living portion of the property was missed as taxable, should the property be omitted under MN Statute 273.02 subds. 1 & 2?

Answer: No, assuming the county had the property on the tax rolls. Omitted property is property that has not been entered onto the assessment or tax rolls, and are escaping all forms of taxation/valuation/classification. This should not be confused with misclassified and/or undervalued property. If the entire property was not on the tax rolls then it would be considered omitted property. It appears the property was receiving an exemption in error, which means that the exemption should be removed. The property itself should already have a value and classification associated to the property that the assessor has determined.

Question 3: Is more information needed to determine if this property qualifies for exemption, and if so what information would be most beneficial in making that determination?

Answer: It appears the county has recommended that the facility apply for exemption as a Purely Public Charity, this is the only avenue they have to possibly qualify for exemption. I have attached an application for exemption as an Institution of Purely Public Charity for your convenience. The following documentation is required when filing for exemption as an Institution of Purely Public Charity (please refer to page two of the application for more details):

- Application for exemption as a purely public charity
- Supporting document requests by the assessor or provided by the applicant
- Federal Form 990 and/or other income and expense statements for the **previous three years**
- IRS 501(c)(3) determination letter or substitute
- Articles of Incorporation
- A detailed description of the organization's function, outlining why the organization believes it qualifies for property tax exemption
- The assessor's letter of denial, explaining the reasoning for the assessor's decision.

Please refer to the Minnesota Property Tax Administrator's Manual [Module 5 – Exempt Property](#) for more information.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6091

November 26, 2019

Robin Nelson
Washington County Assessor's Office
R.Nelson@co.washington.mn.us

Dear Ms. Nelson,

Thank you for submitting your question to the Property Tax Division regarding exemption as an institution of purely public charity. You have provided the following scenario and question:

Scenario:

- An application for exemption as an institution of purely public charity was submitted to the county.
- The property is owned by a for-profit entity and leased to a clinic.
- The clinic provides outpatient psychiatric services as well as behavioral and emotional programs for children and adolescents.
- The owning entity and clinic are not tax-exempt under section 501(c)(3) of the Internal Revenue Code.
- Income received is mostly paid for by patients' private medical insurance.
- There is an agreement with the clinic and Northeast Metro Intermediate School District to provide educational services for student patients at the clinic.
- Every therapeutic hour and school hour is counted towards school credits.
- The school district is required to pay for mandated clinic services for students that cannot be accommodated in a school environment and do not have the ability to pay.

Question: Does this applicant qualify for property tax exemption under Minnesota Statute?

Answer: No, this property does not clearly qualify for property tax exemption. From the information provided, it does not appear the applicant meets the qualifications for exemption as an institution of purely public charity. Minnesota Statute is clear that to qualify for exemption as an institution of purely public charity, the organization must be exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code.

In addition, it is not clear that the school district retains **exclusive** rights to any of the space in the clinic. Therefore it may not meet the requirements to qualify under Minnesota Statutes, section 272.02, subdivision 42 (4) which states that for property leased or rented to a school district *"the lease must provide that the school district has the exclusive use of the property during the lease period."* Generally, property is taxable when it is owned and used by a for-profit private entity. Although there is an agreement with the school district to provide educational services, the primary use of the property appears to be for the services provided by the clinic and would not qualify for property tax exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6091

April 30, 2021

Joe Udermann
Waseca County Assessor's Office
joe.uder mann@co.waseca.mn.us

Dear Mr. Udermann,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- A retreat center in your county is owned by a 501c(3) non-profit entity
- The property consists of five parcels totaling 37 acres and contains several individual residential structures and a retreat center
- The retreat center and residential structures are offered for rent to the public on the entity's website
- Additionally, the residential structures have been offered for rent through online websites that offer short-term residential rental properties
- For assessment 2020, the parcel containing the rentable cabins was classified 3a commercial
- For assessment 2021, that parcel was classified 4b(1) per the recent law change on short-term rental residential properties
- The entity filed an application for exemption as an Institution of Purely Public Charity for the parcel being taxed on March 31, 2021
- On April 14, 2021, the entity sent a letter stating that they will cease from offering these cabins as short-term residential rental properties through the online listing services used in the past

Question: How should the parcel be classified?

Answer: The issue of classification is separate from exemption and must be done prior to the consideration of any application for exemption. Based on the information provided it appears the classification was correct in both 2020 and 2021 assessment years for the parcel containing the cabins used as short-term residential rentals to the public.

Question: How should the county treat the parcel's exempt status?

Answer: The cabins lost their exempt status due to the change in use, which led to taxes being levied against the property for payable year 2021. Statute does not allow for exempt status to be granted retroactively to change the tax burden of a property for the current year.

In the recent letter dated April 14, 2021, the owner states the entity will permanently cease from renting the cabins to the general public through online rental websites and is taking this action to restore the entire property to the exempt status it received prior to the cabins being rented out for short-term residential use. This

change will require the assessor to again review the ownership of the parcel, that the use is an exempt purpose, and the necessity of ownership to further the mission of the exempt organization to qualify for property tax exemption. In addition to the three-prong test for exempt status, to qualify as an Institution of Purely Public Charity they must meet all six requirements in Minnesota Statutes 272.02, subdivision 7 (or have reasonable justification for not meeting certain requirements). That entire process to consider exemption based on qualification as an Institute of Purely Public Charity is laid out in the [Property Tax Administrator's Manual, Module 5 Exempt Property](#).

Even if the parcel is deemed to be exempt, this change would not take place until the next assessment year (2022). For a parcel taxable on the assessment date to be removed from the tax roll, the qualifying non-profit or exempt entity must **acquire** the property prior to July 1. Simply changing the use will not qualify it to be removed if the ownership remains the same.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

February 1, 2024

Julie,

Thank you for contacting the Property Tax Division regarding exemption as an institution of purely public charity (IPPC). You provided us with the follow scenario and question.

Scenario:

- A non-profit residential property applied for exemption as an IPPC in June 2023.
- Property provides low-cost rental housing for qualifying Mayo patients.
- Organization received IRS 501(c)(3) designation October 2021.
- Financial statements were provided from December 2021 – present.
- Organization did not meet donation threshold to file a 990 in 2021.
- Applicant claims \$105,000 in donations and gifts is stated on the application.
- To qualify for services, patients must fulfill several requirements:
 - Be a caregiver or in active cancer treatment and
 - Permanently reside outside the city of Rochester Minnesota

Question: Does the organization qualify for exemption as an institution of purely public charity?

Answer: As with virtually any type of exempt property, the organization must prove that it is being used for a charitable purpose, be owned by a non-profit organization, and demonstrate the necessity of ownership to be considered for exemption. In addition to this three-prong test, to qualify for exemption as an IPPC an organization must also have 501(c)(3) designation and meet the six statutory requirements outlined in [Minnesota Statute 272.02 subd. 7.](#)

Based on the information provided, it is not clear if the organization meets requirement number 2,

“the institution must be supported by material donations, gifts, or government grants for services to the public in whole or in part.”

While the application lists donations and gifts of \$105,000, the documentation provided did not clearly depict that information. If the organization can provide documentation that it meets this requirement, or a reasonable justification for failing to meet the factor is provided to the assessor, then it may qualify. However, based on the documentation provided it does not appear that the applicant qualifies for exemption at this time.

This opinion is based on the information provided and may change if any of the facts were updated and or if additional information is provided. The onus is on the organization seeking exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922



Job Opportunity Building Zones (JOBZ)

April 27, 2004

Steve Kuha
Cass County Assessor
4th St & Minnesota Ave
P.O. Box 3000
Walker, MN 56484

Dear Steve:

In a telephone conversation this morning we discussed the JOBZ program and the role of the assessor in its implementation.

The city of Walker sold a piece of property located in a designated JOB zone. The purchaser plans to construct an assisted living care facility on the property. You question if the assisted living care facility would be eligible for inclusion in the JOB zone and the subsequent exemption from tax. Your question was based upon the JOBZ requirement that exemptions apply only to property classified under Minnesota Statute 273.124 subdivision 24, the commercial/industrial 3(a) class. You quite correctly reasoned that an assisted living care facility would be class 4(a) (residential real estate containing four or more units). This caused you to question how an assisted living care facility would be eligible for inclusion in the JOBZ program.

Additionally, you questioned a paragraph in the Department of Employment and Economic Development publication *JOBZ News* Issue 1, March 23, 2004, that stated:

“But the law also requires that exemptions apply to property classified under sec.273.13, subd 24 – which is the commercial/industrial tax class 3(a). That means if a parcel in a designated sub – zone is currently classified as something else – agriculture, for instance –the local taxing jurisdiction must reclassify the property as class 3(a) property.”

I contacted the Department of Employment and Economic Development for clarification. First of all, I asked if an assisted living care facility could be included in the JOBZ program. I was informed that the decision had been made at the outset of the program to exclude both assisted living care facilities and nursing homes from the JOBZ program.

Although this answered my immediate question with respect to the assisted living care facility, I sought clarification on the language that you questioned from the March 23, 2004, newsletter. This is the explanation I received. Often times, agricultural or residentially classed land abuts an existing industrial park. For expansion purposes these lands were frequently included within the new JOB zones. Although these lands are properly classed according to their current use, the newsletter is informing local taxing jurisdictions that when a qualified business acquires the property the land class must be changed to reflect the commercial/industrial use of the land.

I hope this answers your questions, if you have any additional questions or concerns please let me know.

Very truly yours,

JOHN F. HAGEN, Manager
Information and Education Section
Phone: (651) 556-6106
E-Mail: john.hagen@state.mn.us

September 21, 2005

Farley Grunig
Pipestone County Assessor
Courthouse 416 S. Hiawatha
P.O. Box 458
Pipestone, Minnesota 56164-1566

Dear Mr. Grunig:

Your e-mail to John Hagen has been forwarded to me for reply. In your e-mail you indicated that an exempt parcel of property owned by a city has been designated as part of a Job Zone. With the exception of the site for the proposed JOBZ building, the property is being farmed but there is no official lease. You have asked if there is any provision in the JOBZ program that would preclude you from taxing the property that is being farmed as personal property to the farmer.

To the best of our knowledge, there is no provision in the JOBZ program that would prevent you from taxing the property that is being farmed to the farmer even if no lease exists. Minnesota Statute 272.01, subdivision 2 states in part that:

“When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available (emphasis added) and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.”

Therefore, if a farmer is farming the exempt property under any agreement with the city, written or otherwise, it is taxable as personal property to the farmer as if the farmer owned the property.

Additionally, the exemption provided in Minnesota Statute 272.02, subdivision 64 for properties that are located in a JOB Zone pertains only to improvements and not to land. Therefore, even if a qualified business were to construct a building on land owned by the city but leased to the qualified business, that business would still be subject to the personal property assessment for the land as if they owned it.

If you have further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

July 7, 2008

Mr. Bruce Sandberg
Hibbing City Assessor
401 East 21st Street
Hibbing, MN 55746

Dear Mr. Sandberg:

Your e-mail to Gary Amundson has been forwarded to me for response. You outlined the following situation. A qualifying business located in a Job Opportunity Building Zone (JOBZ) fell out of compliance with its business subsidy agreement effective March 17, 2008. You have asked if you should add the property back to the tax rolls for the 2008 assessment.

As you know, Minnesota Statutes, section 272.02, subdivision 38, paragraph (a) states that:

“Any property exempt from taxation on January 2 of any year which, due to sale or other reason, loses its exemption prior to July 1 of any year, shall be placed on the current assessment rolls for that year. The valuation shall be determined with respect to its value on January 2 of such year. The classification shall be based upon the use to which the property was put by the purchaser, or in the event the purchaser has not utilized the property by July 1, the intended use of the property, determined by the county assessor, based upon all relevant facts.”

Based on the information you provided and because the business fell out of compliance in March 2008, in our opinion you should place the property back on the tax rolls at its full estimated market value for the 2008 assessment for taxes payable in 2009, and classify the property according to its use. We recommend that you notify the property owner of this change and indicate that the only remaining appeal option is to Minnesota Tax Court.

In addition, newly enacted legislation may require that the property owner repay any property tax benefits received for taxes payable in 2007 and 2008. We do not have the procedures formalized yet, but you can expect additional information in the near future. If you have additional questions or concerns regarding the payback provisions, please direct them to derrick.hodge@state.mn.us.

If you have any assessment-related questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE L. NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

July 7, 2009

Julie Roisen
Blue Earth County Assessor
P.O. Box 3567
Mankato MN 56002

Dear Ms. Roisen,

Thank you for your recent question to the Property Tax Division. You have asked what happens to an exempt JOBZ property upon sale of the property. In order to answer your question, we conferred with the Department of Revenue's JOBZ Program Coordinator. She stated:

“[A] JOBZ property can be sold and not lose the exemption if it has a current exemption. Property owners do not have an agreement for benefits within the JOBZ program. The agreement is with the business going into the property and the business is the one that receives the benefits from the JOBZ program. In some situations the property owner and the business are the same however if one simply owns property in a designated JOBZ zone they do not receive a tax reduction. It is not until a business starts within that property that has established a JOBZ agreement that the benefits are given.

With that said if a property's taxes were reduced for a period of time due to having a JOBZ renter, once that renter is gone or removed from the program their property taxes are returned to their former values.”

In other words, if the qualifying business (whether the business is the tenant or owner of the property) no longer operates at the property, the exemption is removed. If a new qualifying business begins operating at the property after the sale, it must apply for the JOBZ benefits but may be able to have an exemption. The exemption is for the business, but is applied to the business' property taxes.

If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

2009320

August 27, 2009

Lori Schwendemann
Lac Qui Parle County Assessor
600 Sixth Street
Madison MN 56256

Dear Ms. Schwendemann,

Thank you for your recent question to the Property Tax Division regarding a JOBZ property in your county. The Minnesota Department of Employment and Economic Development (DEED) has notified you that a property in your county no longer qualifies for JOBZ benefits. Minnesota Statutes, section 469.319 requires the business to pay back the JOBZ benefits received during the two years immediately prior to the business' disqualification. You have asked if Lac qui Parle County is responsible for sending out new tax statements for taxes payable in 2008 and 2009.

Minnesota Statutes, section 469.319, subdivision 4 outlines the auditor's duty to prepare tax statements. Paragraphs (c) and (f) of that subdivision states in part:

“For the repayment of property taxes, the county auditor shall prepare a tax statement for the business, applying the applicable tax extension rates for each payable year and provide a copy to the business and to the taxpayer of record. The business must pay the taxes to the county treasurer within 30 days after receipt of the tax statement...”

For determining the tax required to be repaid, a reduction of a state or local sales or use tax is deemed to have been received on the date that the good or service was purchased or first put to a taxable use. In the case of an income tax or franchise tax, including the credit payable under section 469.318, a reduction of tax is deemed to have been received for the two most recent tax years that have ended prior to the date that the business became subject to repayment under this section. In the case of a property tax, a reduction of tax is deemed to have been received for the taxes payable in the year that the business became subject to repayment under this section and for the taxes payable in the prior year.”

Unless the business has received a waiver from the Commissioner of Revenue, the county auditor is to prepare a tax statement, applying the applicable tax extension rates for each payable year, and provide copies to the business and to the taxpayer of record. The business must pay the taxes to the county treasurer within 30 days of receipt of the tax statement. Because this business is subject to repayment in 2009, the county auditor must bill the business for any JOBZ exemption granted for taxes payable in 2009 and 2008. The billing should be separate from the tax statement for the taxes payable in 2010, but will be added to the pay 2011 tax statement if unpaid. If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division



Leased Property

September 9, 2002

Robert Lindvall
Stearns County Assessor's Office
Admin Center Room 37
705 Courthouse Square
St. Cloud, Minnesota 56303

Dear Mr. Lindvall:

Your e-mail of July 23, 2002, to John Hagen has been referred to me for a reply. In your e-mail you stated that Good New Assembly of God was considering a land lease for approximately 4.25 acres of property from a private individual. The church intends to build their new facility on this site. You stated that the lease would likely be a 10-year lease with the church having first right of refusal to purchase the land. You have asked if the land would be taxable or exempt.

In our opinion, the property would be taxable. The courts have ruled that for an institution to qualify for exemption there must be a concurrence of ownership and use. This means that the property must be owned by the church and used for church purposes to be considered exempt from property taxes.

If you have further questions, please contact our division.

Sincerely,

STEPHANIE NYHUS, Senior Appraiser
Information and Education Section
stephanie.nyhus@state.mn.us
(651) 296-0335

May 19, 2003

Bob Hansen, Hubbard County Assessor
301 Court Avenue
Park Rapids, Minnesota 56470-1483

Dear Bob:

Your information request form dated May 2, 2003, has been referred to me for reply. Your specific question was: Is land leased from a governmental unit taxable if it is not used in connection with a business conducted for profit.

In your situation, a gentleman is leasing property located on Blacksmith Lake from Hubbard County. He has a cabin located on the property. The property is used seasonally for recreational purposes. The assessor has placed a land value on this lease property. The gentleman has had legal opinion that the leased land is not taxable if a private individual is not using the property in connection with a business conducted for profit. The legal council has cited Minnesota Statute 272.01, subdivision 2 (a) in defense of his opinion.

It is our opinion that both the land and buildings are taxable as property of the ground lessee per Minnesota Statutes 273.19, subdivision 1 and 1a.

Subdivision 1. Except as provided in subdivision 3 or 4, tax-exempt property held under a lease for a term of at least one year, and not taxable under 272.01, subdivision 2, or under a contract for the purchase thereof, shall be considered, for all purposes of taxation, as the property of the person holding it. In this subdivision, "tax-exempt property" means property owned by the United States, the state, ...

Subdivision 1a. For purposes of this section, a lease includes any agreement permitting a nonexempt person or entity to use the property, regardless of whether the agreement is characterized as a lease. A lease has a "term of at least one year" if the term is for a period of less than one year and the lease permits the parties to renew the lease without requiring that similar terms for leasing the property will be offered to other applicants or bidders through a competitive bidding or other form of offer to potential lessees or users (emphasis added).

Private economic interests cannot be allowed the benefit of another's tax exemption regardless of whether or not they are for profit. The building and land would be classified according to how the lessee uses them to the same extent as the lessee or user is considered the owner.

If you have further questions, please contact our division.

Sincerely,

RHONDA M. THIELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 296-3540
E-mail: rhonda.thielen@state.mn.us

May 24, 2004

Farley Grunig
Pipestone County Assessor
Courthouse 416 S. Hiawatha
P.O. Box 458
Pipestone, Minnesota 56164-1566

Dear Mr. Grunig:

Your e-mail to John Hagen has been forwarded to me for reply. In your e-mail, you asked us several questions.

First, you outlined the following situation. In 1990, a city entered into an agreement with a private party to use the private party's vacant site for city park purposes. Since that time, the city has improved the site with a picnic shelter and playground equipment. You have never seen a formal lease for the property and the terms of the lease are unclear. You have asked if the property that is leased by a unit of government for a period of 99 years and used for government purposes would be exempt from property tax.

In our opinion, the answer is yes, the property would be exempt from property tax. As you are aware, typically there must be a concurrence of ownership, use and necessity of ownership for a property to qualify for exemption. However, in this case, we refer to Attorney General Opinion No. 299 from 1940. In that case, a private owner leased land to the Federal Government as part of the St. Croix Recreational Demonstration Area and the land was considered to be exempt if the government was granted exclusive use of the land. If you are satisfied that the city has been granted exclusive use of the land and it is used for public purpose, and in this case, it appears it is since the city has constructed improvements on the property that are available for public use, you may grant the exemption. However, we would recommend that you obtain a copy of the lease and review its terms prior to granting the exemption.

Second, you asked if certain rights to a property are held by a unit of government (i.e. RIM conservation easements, DOT living snow fences, drainage easements, etc.) and the remaining rights continue to be held by a private individual, what rights should be valued as taxable?

In our opinion, assessors should, unless directed otherwise by statute, value property as if the entire bundle of rights is in tact – the fee simple interest. This was clearly stated in a recent letter to all county assessors from former Assistant Commissioner Ray Krause regarding valuation of subsidized housing, but the concept is just as applicable here. This requirement of assessors to value the fee interest was succinctly summarized in *TMG Life Ins. Co. v. County of Goodhue*, 540 N.W.2d 848 (Minn. 1995) aff'g File No. C9-94-479 (Minn. Tax Ct. Dec. 15, 1994):

“The fundamental disagreement between the parties is what interest should be valued for tax purposes, the fee, or the leased fee interest? The fee is the entire interest or the entire ‘bundle of rights.’ According to the bundle of rights theory, complete real property ownership, or title in fee, consists of a group of distinct rights. Each of these rights can be separated from the bundle and conveyed by the fee owner to other parties in perpetuity or for a limited time period. When a right is separated from the bundle and transferred or mortgaged, a partial, or fractional, property interest is created. (Footnote omitted.)

(Continued...)

Farley Grunig
May 24, 2004
Page 2

Appraisers must understand partial interests to define appraisal problems. At the start of any appraisal assignment, the property rights to be valued must be clearly identified. (Emphasis supplied.)

American Institute of Real Estate Appraisers, The Appraisal of Real Estate 121 (10th ed. 1992).

...The task of the assessor is to value the full market value of the entire fee interest of property for taxation. The property may be divided into different interests and estates and the tax payment obligation may be divided by contract between owner and lessee, but the assessor values the whole, not the separate parts. Osborne Properties v. County of Hennepin, File No. TC-2748 (Minn. Tax Ct. Feb. 16, 1984); Hillcrest Development v. County of Hennepin, File No. TC-2208 (Minn. Tax Ct. Sept. 5, 1984); and Jermyn v. County of Stearns, File No. 44347 (Minn. Tax Ct. Dec. 12, 1984)."

Therefore, unless there is a change in the current statute, assessors should value the property at its market value as if the entire bundle of rights was in tact.

Third, you asked if government-owned structures located on privately-owned land should be taxable. You referenced two past situations in Cottonwood County – a shed owned by the Soil and Water District and a county-owned recycling shed. I researched letters written to Cottonwood County back to the early 1980's. I found one letter where we concluded that a city-owned booster station located on an easement over private property would likely be exempt. In addition, I found a letter that stated a shed constructed by the Soil and Water District on private property may possibly be exempt. In that case, we suggested that you review the terms of the lease to ensure that the owner of the land does not receive any benefit from the storage building that is located on the leased land. If it was determined that the Soil and Water District had exclusive use of the building, we indicated that it would be appropriate to grant exemption from property tax on the building. We are not aware of any statutory changes that would cause us to change our opinions on those issues.

Hopefully we have answered all your questions. Please contact our division if you require further assistance.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128

Enclosures

March 21, 2005

Robert Moe
Otter Tail County Assessor
Courthouse 121 West Junius Street
Fergus Falls, Minnesota 56537

Dear Mr. Moe:

Thank you for your recent email regarding the exemption of a facility for the mentally ill.

You supplied the following information: A 16-unit facility for the mentally ill will be built by the Fergus Falls Port Authority and leased to the Minnesota Department of Administration. The port authority will be responsible for maintenance of the building as part of the lease. Since the port authority is a public function of the city of Fergus Falls and the unit will be leased to the state, you have asked if it will be appropriate to exempt the property as public property.

It is our opinion that the property would be exempt since the property will be owned by one unit of government (port authority) and leased to another unit of government (state of Minnesota) and will be public property used for a public purpose as a treatment facility for mentally ill individuals.

If you have further questions, please contact our division.

Very truly yours,

JOHN F. HAGEN, Manager
Information and Education Section
Property Tax Division
Phone: (651) 556-6106
E-Mail: john.hagen@state.mn.us

April 18, 2005

Curtis Becker
Isanti County Assessor
Government Center
555 18th Avenue SW
Cambridge, Minnesota 55008-9386

Dear Mr. Becker:

Thank you for your email regarding the taxation of a mall in the city of Cambridge.

From the email and phone conversations with you, you provided the following:

- October 31, 2001 - The city of Cambridge purchased the bankrupt Cambridge Mall (51,970 total square feet) via a warranty deed.
- October 1, 2002 - The city leased the entire mall to the Economic Development Authority (EDA).
- October 1, 2002 - The EDA then leased back a portion (approx. 28,000 square feet) of the mall to the city for city offices.
- October 1, 2002 – The EDA leased the remainder of the mall (approximately 23,970 square feet) to an Army recruiter (1,044 square feet), the Department of Public Safety (1,013 square feet) and other commercial shops.
- You indicated that the attorney for the city of Cambridge has contacted you concerning the taxation of the mall. The tax statements have been sent to the city of Cambridge for the last three years on the commercial portion of the mall. You state that the attorney now says that you should be sending a personal property tax statement to each of the taxable tenants. You said that you have never taxed tenants as personal property on your other malls, but the attorney says according to Minnesota Statutes, Section 272.01, you should be.

You have asked how the tenants in the mall should be taxed.

As you know, typically, property that is exempt from property tax becomes taxable when it is leased. After reviewing the information you provided, we would recommend that the property that is leased for commercial purposes be considered a personal property assessment and be taxed directly to the tenant.

In the case of the Department of Public Safety and the Army recruiter, if, in those situations, the EDA (a unit of government) is leasing the property directly to another unit of government (United States or State of Minnesota), those tenants would likely be exempt since the property is leased from one unit of government to another unit of government. However, the leases should be reviewed before making a final determination.

If you have further questions, please contact our division.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

April 20, 2005

Daniel Eischens
Jackson County Assessor
Courthouse
413 Fourth Street
Jackson, Minnesota 56143

Dear Mr. Eischens:

Your letter to John Hagen has been forwarded to me for reply. You have asked us for clarification on the taxable status of property that is owned by the Department of Natural Resources and is farmed under an “agricultural lease” or a “cooperative farming agreement.”

As you know, property owned by the DNR is typically exempt from property tax. As you are also aware, exempt property that is leased, loaned, or otherwise made available and used in connection with a business for profit is typically assessed as personal property to the lessee of the property as if they were the owner. This would ordinarily be the case with property that is owned by the DNR and leased under an “agricultural lease” to a farmer who farms the property. Often, that lease agreement would state that the farmer (lessee) would be responsible for any property taxes levied on the property.

However, the situation is different in the case of “cooperative farming agreements.” Minnesota Statute 97A.135, subdivision 3 specifically states that:

On any public hunting, game refuge, wildlife management area, or scientific and natural area lands, the commissioner may enter into written cooperative farming agreements on a sharecrop basis, without competitive bidding, for the purpose of wildlife and plant management. Cooperative farming agreements may also be used to allow pasturing of livestock. The agreements may provide for the bartering of a share of any crop, produced from these lands, for services or products that will enhance or benefit the management of state lands for plant and animal species. Cooperative farming agreements pursuant to this section shall not be considered leases for tax purposes under section 272.01, subdivision 2, or 273.19.

Therefore, land owned by the DNR and farmed under a cooperative farming agreement is not taxable. If there is any doubt as to whether a property is leased under an “agricultural lease” or a “cooperative farming agreement” we suggest that you clarify the situation with the DNR.

If you have further questions, please contact our division.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

December 11, 2006

Mary Black
Cook County Assessor's Office
411 2nd Street
Grand Marais, Minnesota 55604

Dear Mary:

Thank you for your question regarding a property that is owned by the city of Grand Marais and leased to the Gunflint Gals, LLC. The Gunflint Gals, LLC is the developer of East Bay Suites and Condominiums. You have provided a copy of the lease for our review and have asked us if this property should be valued and assessed.

After reviewing the lease, it is our opinion that the property should be valued and assessed as personal property to the Gunflint Gals, LLC. Minnesota Statute 272.01, subdivision 2, paragraph (a) is very clear. It states that:

“When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.”

Since the property was exempt as public property used for a public purpose and is now being used by a private developer in conjunction with the condominium property, the owner of the property should be assessed for the use of that property.

If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division
Fax: (651) 556-3128

December 11, 2006

Sue Schulz
McLeod County Assessor
Courthouse
830 11th Avenue E.
Glencoe, Minnesota 55336

Dear Sue:

Thank you for your question on exempt property. You outlined the following situation. A church in the city of Hutchinson purchased a commercial building next to the church. They allow non-profit entities to use the office space at no charge. Recently, an attorney for the church contacted you requesting exemption on the commercial building. You have asked if the property should be taxable or exempt.

As you know, there are three keys to exemption from property tax. They are:

1. **Ownership** – the property must be owned by an exempt entity;
2. **Use** – the property must be used by the exempt entity to further the stated purposes of the exempt entity; and
3. **Necessity of Ownership** – the property must be reasonably necessary for the operation of the exempt entity.

In the case you described, the church only fulfills the ownership requirement. The commercial property is not used by the church and ownership of the commercial property is not reasonably necessary for the operation of the church. Therefore, it is our opinion that the property is taxable.

If you have any further questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division
Fax: (651) 556-3128

February 14, 2007

Michael Trettel
Morrison County Assessor's Office
Administration Building
213 1st Avenue SE
Little Falls, Minnesota 56345

Dear Mr. Trettel:

Thank you for your e-mail regarding county fairgrounds property. In your e-mail you indicated that you recently became aware that the county fairground buildings are being leased for storage of campers. You believe the leases are for approximately six months in length. You have asked if the property should be taxable.

In response to your question we consulted with our legal staff. It is our opinion that you should obtain copies of the leases from the county and review them to determine who is leasing the property (a business or an individual taxpayer), as well as the terms and lengths of the leases.

In the meantime, we can try to offer you some guidance as to whether or not these leases should cause the county to lose their exemption from property tax. As you are aware, any time an exempt property is leased, it puts the exemption at risk. In this case, after you review the leases, the property MAY become taxable under one of the following scenarios.

If the property is held under a lease for at least a year, it may become taxable under Minnesota Statute 273.19, subdivision 1 which states in part that:

"...tax-exempt property held under a lease for a term of at least one year, and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, shall be considered, for all purposes of taxation, as the property of the person holding it. In this subdivision, "tax-exempt property" means property owned by the United States, the state, a school, or any religious, scientific, or benevolent society or institution, incorporated or unincorporated, or any corporation whose property is not taxed in the same manner as other property..."

If the property is used in connection with a business for profit (i.e. a recreational vehicle dealer stores inventory there), it would be taxable under Minnesota Statute 272.01, subdivision 2, paragraph (a) which states that:

"When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property."

(Continued...)

Michael Trettel
Morrison County Assessor's Office
February 14, 2007
Page 2

Hopefully, we have provided enough guidance for you to research the situation and make a determination on the exempt/taxable status of the buildings in question. If, after reviewing the leases, you believe you need additional assistance, we would be happy to review them and issue a more conclusive opinion at that time. If you have additional questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

August 31, 2006

Mary Black
Cook County Assessor's Office
411 2nd Street
Grand Marais, Minnesota 55604

Dear Mary:

Your question has been assigned to me for reply. You outlined the following situation. A limited liability company (LLC) is developing a condominium project in the city of Grand Marais. The LLC has leased a portion of property next to the complex from the city of Grand Marais and will use the property for parking purposes. According to the lease you have provided, the LLC does not pay the city any money to lease the property. However, the LLC is responsible for maintenance, snow, dirt, and trash removal of the property. The lease is for an indeterminate length and can be terminated by the city at any time. You have asked if the property owned by the city and leased to the LLC is taxable.

Ordinarily property that is owned by a unit of government and used for public purposes is exempt from property tax. However, Minnesota Statute 272.01, subdivision 2, paragraph (a) states that:

“When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.”

Therefore, since the property is being used by the condominium complex for parking, it is our opinion that the property leased from the city would be taxable as personal property to the lessee (LLC).

If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

July 13, 2007

Robert Moe
Otter Tail County Assessor
505 West Fir Street
Fergus Falls, Minnesota 56537

Dear Bob:

Your inquiry to John Hagen has been assigned to me for reply. You stated that the Salvation Army has proposed to lease out their kitchen to a for profit food service management company. We are assuming that the Salvation Army facility is currently exempt from property tax. You have asked if this type of arrangement would allow the property to continue to be exempt from property tax, or if the fact that the Salvation Army is no longer using the property for their own purposes, but are leasing the property to a for profit company would make it taxable.

As you know, to achieve exemption from property tax, there must be a concurrence of ownership by an exempt entity, use of the property for an exempt purpose, and a necessity for the exempt entity to own the property to further the stated purposes of the entity. In addition, whenever exempt property is leased, the exemption is put at risk.

Based on the limited information that was provided, it is our opinion that the portion of the property used by the food service management company would be taxable because it is no longer being used for an exempt purpose. Therefore, it should be assessed as real property to the owner of the property - the Salvation Army.

Please understand that this opinion is based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have additional questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

October 10, 2007

Doreen Pehrson
Nicollet County Assessor
Nicollet County Courthouse
501 S. Minnesota Ave.
St. Peter, MN 56082

Dear Ms. Pehrson,

I am responding to your recent inquiry regarding an exemption for church property located in North Mankato. The property includes an existing church which you have listed as exempt property. The Congregation has acquired property and is building a new church structure and when construction is complete, the congregation will be moving into the new church. Members of the church have asked you about the taxable status of the existing property after they begin using the new church building.

The existing property qualifies for exemption from property taxes because it is both owned by a church AND used for the purpose for which the church was organized. It is this concurrence of ownership and use that is the basis of the exemption according to the Minnesota Supreme Court decisions interpreting the exemption for churches and church property. Not all property owned by a church is exempt and not all property used by a church is exempt. Ownership and use for church purposes must be present to allow an exemption.

You asked if the existing property would continue to be exempt if the church made the property available for use by another church congregation either at no cost or at some minimal cost that covers expenses only. You asked further about the exemption if the church leased the property to a day care facility.

In our opinion, if the church that owns the property no longer uses the property for the purpose for which the church was organized, the property loses its exemption. If the church transferred ownership of the existing property to another congregation to use as a church, no matter what the consideration, the new congregation may apply for a new exemption and, if it meets all the requirements for exemption, you will likely grant an exemption. The new exemption will be based on the concurrence of ownership and use by the subsequent congregation.

We have not reviewed cases where a church retains property it formerly used as a place of worship and now leases or makes the facility available to others. Because taxation is the rule and exemption the exception to the rule in Minnesota, we would begin the analysis by presuming taxability. Since exemption decisions are based solely on the individual facts, you would need to consider any application on its own merits to determine if it meets the rigorous requirements for exemption.

If you have any additional questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

Dorothy A. McClung
Property Tax Division

January 16, 2008

Steve L. Skoog
Becker County Assessor
Becker County Courthouse
915 Lake St.
P.O. Box 787
Detroit Lakes MN 56502

Dear Mr. Skoog,

I am responding to your recent inquiry regarding property located in Osage recently purchased by Grace Community Church. The property is improved with a store building and is adjacent to the property already owned by the Church which the Church uses for church purposes. Representatives of the Church tell you that the Church intends to remodel the store building in 2008 to be used as follows:

- 20% for offices for a nursing service through which the Church will offer free home care for the needy; the services will be broad based and open to anyone who needs such services;
- 40% for a teen center;
- 20% for Sunday school classrooms; and
- 20% for food and clothing storage from which the Church will be offering donated clothes for a reduced fee or for free if the client cannot afford the fee and a food shelf open to any person who needs the food.

You have asked our advice on whether this newly acquired property should be exempt as an extension of the Church. Based on the facts presented, we cannot respond definitively. Our advice to you is to ask the Church for more details on how the nursing services, clothing store and food shelf will be operated. We believe you should ask how these operations will be funded. For example, will the Church be hiring the nurse and any staff required for the home care? Will recipients be expected to pay any or all of the costs? Or is this service totally supported by donations to the Church? Ask the same questions about the clothing and food storage operations.

If you ultimately find that the Church is operating these services as a Church outreach and the members of the Church are supporting all or a significant amount of the costs, we are of the opinion that an exemption is appropriate. Be sure you have the documentation in your files and the exempt application is completed.

If you have further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

Dorothy A. McClung
Property Tax Division

January 16, 2008

Farley R. Grunig
Jackson County Assessor
Jackson County Courthouse
405 Fourth St.
Jackson MN 56143

Dear Mr. Grunig,

I am responding to your recent inquiry regarding the taxability of structures that have been removed from their foundations and are waiting to be relocated to another building site. You asked us if the structures are taxed as real property or if they are exempt personal property. You asked us to define the issue as broadly as we can in order to provide guidance for assessors statewide.

It will be helpful to use an example. Let us assume that on January 2, 2007, a residential lot improved with a residence is assessed for taxes payable in 2008. We will also assume that the assessor values the land at \$50,000 and the structure as \$100,000 for a total value of \$150,000. Before the end of 2007 the structure is removed from its foundation and now sits on moving timbers waiting to be relocated to a site that has not been determined. The structure is not habitable because all connections to electricity, water and sewer have been severed. We assume that an assessor has verified that this is a temporary arrangement and not an attempt to evade property taxes. If this is the status of the property on January 2, 2008, how should an assessor treat the land and structure for the 2008 assessment?

The structure has become detached from the land and should be considered personal property as of the 2008 assessment date. Most personal property in Minnesota is exempt from ad valorem taxes unless specifically subjected to tax by law. We can find no authority to tax a detached structure that is sitting on moving timbers on the assessment date. Therefore, we believe the structure is exempt from both real and personal property taxes as of January 2, 2008.

The land should be listed on the tax roll as vacant. The land is valued as vacant and the value as vacant may exceed the 2007 value of \$50,000. The assessor will have to do a "highest and best use" analysis of the land as vacant to determine its estimated market value for 2008.

Let us further assume that the structure is moved in 2008 to a new lot and placed on a permanent foundation. The structure will become taxable again for the 2009 assessment as an improvement to the new lot. In effect, the structure "escapes" taxation for the 2008 assessment. This would be true for any type of structure, residential or other class.

If you have further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

Dorothy A. McClung
Property Tax Division

October 22, 2007

Tim Falkum
Kandiyohi County Assessor
Kandiyohi County Courthouse
400 Benson Ave. SW
Willmar, MN 56201

Dear Mr. Falkum,

In your recent inquiry you asked that we comment on the taxability of a strip of land in Kandiyohi County.

The city of Willmar is considering the purchase of a strip of land that will be 150 feet wide and three miles long. It appears that purchase of this long piece of property will allow the City access to its wastewater treatment facility. After acquisition of the property, the City may allow the adjacent farmers to continue farming the land at no cost to the farmers. How should you treat this property for tax purposes?

The property would become exempt when the City acquires it for a public purpose and access to the City facility would qualify as a public purpose. However, the use of the property by the adjacent farmers would be a taxable use. Minnesota Statutes, section 273.19, provides that the use of property that is exempt because it is owned by the federal, state or local government is taxable to the person who uses the property just as if they actually owned it. In this case, the farmers are not technically leasing the property from the City but the farmers and the City will apparently have some agreement permitting the farming use by the adjacent owners and you can conclude that only the adjacent landowners will have the opportunity for such use. We believe that subdivision 1a of section 273.19 makes such a permitted use of otherwise exempt land a taxable event. The tax would be a personal property tax, based on the estimated market value of the land but billed to the farmers, not the City.

If you have any further questions, please contact us at proptax.questions@state.mn.

Sincerely,

Dorothy A. McClung
Property Tax Division

February 26, 2008

Peggy Trebil
Goodhue County Assessor
509 West 5th Street Room 208
Red Wing, Minnesota 55066

Dear Ms. Trebil:

Thank you for your e-mail regarding property owned by the Red Wing Port Authority. It has been assigned to me for reply. You outlined the following situation. The Red Wing Port Authority purchased a property in February 2007. A portion of the property is used as an office/warehouse and is leased to a private business. In addition, farm land is also leased to another individual. You have indicated that the property is taxable and have asked for our opinion on the situation.

Ordinarily, property that is owned by a port authority would be exempt from property tax under Minnesota Statute 469.059 if the property is used for port authority purposes. However, Minnesota Statute 272.01, subdivision 2, paragraph (a) states, in part, that:

“When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.”

Therefore, since both the office/warehouse and the farm land are leased to other entities, it is our opinion that the properties are taxable. This should be a personal property assessment to the lessee of the property.

You also asked if the old railroad depot in Red Wing that is owned by the Red Wing Property Conservation Fund, a 501(c)(3) organization would be exempt from property tax. Unfortunately, we cannot definitively answer that question. If they are not a unit of government, it is unlikely they could qualify as public property used for a public purpose. If you would like us to review it for possible exemption, please forward a copy of the application for exemption, the articles of incorporation, at least three years Federal Form 990, copies of the leases, and any other information that may be helpful.

If you have further questions or concerns regarding the property owned by the Port Authority, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE L. NYHUS, SAMA
Principal Appraiser
Information and Education Section

May 19, 2008

Mr. John Gellatly, City Assessor
City of Duluth
411 West First Street
Duluth, MN 55802

Dear Mr. Gellatly:

Thank you for your letter regarding the TCF Bank's automatic teller machine (ATM) leases located on the University of Minnesota – Duluth campus. Based on the letter to you from the Tom Gottwalt, Vice President and Director of Tax, and the copy of the application for exemption from property tax completed by TCF, it is our understanding that TCF believes that their leases for ATMs located on the campus are exempt from personal property tax due to the fact that they are located on property presently owned by an educational institution chartered by the territorial legislature.

After reviewing the information provided, we consulted with our legal staff. As you know, all property is presumed taxable unless it is exempted by law. The property of the University of Minnesota is exempt from property tax as an educational institution pursuant to Minnesota Statutes, section 272.02, subdivision 5. However, whenever an exempt property is leased, it puts the exemption at risk. Minnesota Statutes, section 272.01, subdivision 2, paragraph (a) states that:

When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.

We concur with TCF's assertion that their leases are exempt from the tax imposed under the above subdivision as stated in Minnesota Statutes, section 272.01, subdivision 3, paragraph (c) because the property is owned by an educational institution chartered by the territorial legislature. However, while the leases may be exempt under Minnesota Statutes, section 272.01, subdivision 3, in our opinion, the leased property would be subject to the tax imposed under Minnesota Statutes, section 273.19 which states in part that:

...tax-exempt property held under a lease for a term of at least one year, and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, shall be considered, for all purposes of taxation, as the property of the person holding it. In this subdivision, "tax-exempt property" means property owned by the United States, the state, a school, or any religious, scientific, or benevolent society or institution, incorporated or unincorporated, or any corporation whose property is not taxed in the same manner as other property.

(Continued...)

Mr. John Gellatly, City Assessor
City of Duluth
May 19, 2008
Page 2

Therefore, any space that TCF, or any other entity, leases should be taxed. The assessment should be a personal property assessment to TCF bank. The leased space should be valued pursuant to Minnesota Statutes, section 273.11 which states that all taxable property should be valued at its market value, the minimum value being \$100.

The final question is that of whether the amount of space leased by TCF constitutes a substantial portion of the property. It is unclear from the materials submitted how much space on the campus is leased by TCF bank. There is also no statutory guidance as to what constitutes a substantial enough use so as to render a portion of an otherwise exempt property taxable. Therefore, we must look for guidance in case law. In *Christian Business Men's Committee of Minneapolis v. State*, 1949, 228 Minn. 549, 38 N.W.2d 803, the court stated that "*in determining whether a portion of a building devoted primarily to a tax exempt use is substantial, what is substantial is a question of fact to be determined in light of a reasonable, natural, and practical interpretation of that term.*"

Attorney General opinion 414-D-12 from 1954 also states that "*where building is owned by a charitable or other tax-exempt institution and one substantial part thereof is directly, actually, and exclusively occupied by such institution for purpose, for which it was organized, and another substantial portion thereof is primarily used for revenue by rental to general public, building with grounds thereof is pro rata exempt from taxation and pro rata taxable according to its separate uses.*"

In our opinion, if the space leased by TCF is simply a small space for an ATM located in a common area of a building, it would not appear that the use would be "substantial" enough to warrant imposing a personal property tax. However, if TCF leases a substantial portion of space for its exclusive use, the county can and should impose a personal property tax in that situation.

If you have any additional questions or concerns, please contact our division.

Sincerely,

STEPHANIE L. NYHUS, SAMA
Principal Appraiser
Property Tax Division

C: Tom Gottwalt, Vice President
Director of tax
TCF Bank
200 Lake Street East
Wayzata, MN 55391

MINNESOTA • REVENUE

June 16, 2010

Peggy Trebil
Goodhue County Assessor
Goodhue County Assessor's Office
Box 408 509 5th Street
Red Wing, MN 55066

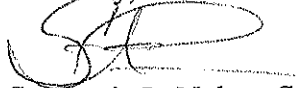
Dear Ms. Trebil:

Your question regarding a city-owned parcel of property has been forwarded to me for response. You outlined the following situation: the City of Cannon Falls was quitclaimed a parcel of land in 2004. The parcel contains a billboard. The City did not file for exemption when the property was acquired because they were trying to sell it and they paid the property taxes on the property for 2005 through 2008. However, the property taxes for 2009 and the first half of 2010 are now delinquent. The city administrator has requested the property be exempted. You have asked us how to proceed.

In our opinion, this property is taxable. As you are aware, there are three components that must be satisfied to achieve exemption from property tax – ownership by an exempt entity, use of the property for an exempt purpose, and it must be reasonably necessary for the exempt owner to own the property to achieve the purpose of their organization. As you are also aware, public property is exempt if it is used exclusively for public purposes pursuant to the Minnesota Constitution and Minnesota Statutes, section 272.02, subdivision 8. In this case, while the property is owned by the City of Cannon Falls, it is leased as a site for a billboard, and not used exclusively for public purposes. Therefore, while the ownership requirement is met, it is not clear that the use and necessity requirements are met in this case. For this reason, it is our opinion that the property is taxable as real property to the city.

We hope this answers your question. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,



Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section

MINNESOTA ▪ REVENUE

March 23, 2011

Randy Des Marais
Wright County Assessor's Office
Randy.DesMarais@co.wright.mn.us

Dear Mr. Des Marais,

Thank you for your recent question to the Property Tax Division. I apologize for the delay in response. Additional responsibilities during the legislative session have inhibited our ability to respond to all questions in a timelier manner. You contacted Stephanie Nyhus in early February to seek clarification on the applicability of Green Acres on a property that is leased by a farmer from a school district. Because the property is taxable to the farmer, and because the farmer is eligible to extend his homestead to the property, you have asked if the farmer is also able to extend Green Acres benefits to the property.

Minnesota Statutes, section 272.01, subdivision 2, provides that taxes are extended “in the same amount and to the same extent as though the lessee or user was the owner of such property.” Section 273.19, subdivision 1, also provides, “tax-exempt property held under a lease for a term of at least one year, and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, shall be considered, for all purposes of taxation, as the property of the person holding it.”

Historically, we have interpreted these sections of statute allow homestead to be granted to the leased property if it is used by the lessee as a permanent residence or is used as part of the lessee's homestead. The taxes are a lien against the lessee (personal property tax). However, we do not believe that the valuation deferral applied under section 273.111 (Green Acres) is applicable in these cases. Because taxes deferred under the Green Acres program are a lien against the property (rather than against the person), it would not be appropriate to extend a lien against school district property, or any property which would otherwise be exempt. Therefore, in the case you have outlined, the property is not eligible for deferral under Green Acres and must be taxed based on its highest and best use value.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

April 6, 2011

Marci Moreland
County Assessor
Carlton County
P.O. Box 440
Carlton MN 55718
Marci.Moreland@co.carlton.mn.us

Dear Ms. Moreland,

Thank you for your recent request for a Department of Revenue opinion on the taxability of a property in your county. You have outlined the following scenario: There is a facility in your county that built a new nursing home which you have classified as exempt. The vacated nursing home building was then leased to two entities: a day care center, and women's treatment facility for alcohol. The owner leases the property, and rents are paid by State of Minnesota Human Services. The attorney for the owner of the building contends that because the occupant is "of exempt stature", the building should not be taxable. It is not clear under which statute the attorney believes the property qualifies for property tax exemption.

As provided in the Property Tax Administrator's Manual, *Module 5 – Exempt Property*:

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

In other words, a property must meet this three-prong test of ownership by an exempt entity, use by that exempt entity for its exempt purposes, and necessity of ownership of that property by the entity to further the exempt entity's purposes. If a property is owned by a nursing home but is not used for nursing home purposes, exemption is not guaranteed.

If the property owners believe that they should be exempt from property taxes, they must provide you with an application for property tax exemption along with any supporting documentation that you believe is necessary to verify that the property meets the requirements above for exemption, as well as the requirements of the statutory exemption they are seeking (e.g. the requirements of Minnesota Statutes, section 272.02, subdivision 90 for exemptions for properties owned and used by nursing homes or subdivision 7 for institutions of purely public charity).

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us. Additionally, the Property Tax Administrator's Manual is available online via the following link:

http://taxes.state.mn.us/property_tax_administrators/pages/other_supporting_content_propertytaxadministrators_manual.aspx

Very sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

May 12, 2011

Dave Sipila
St. Louis County Assessor
sipilad@stlouiscountymn.gov

Dear Mr. Sipila,

Thank you for your question to the Property Tax Division regarding the taxability of a structure in your county. You have outlined the following situation: There is a parcel of privately-owned property in St. Louis County. The property is currently leased to the U.S. Postal Service for \$1,500 per year. The U.S. Postal Service has placed a modular building on this property. The modular building is used as the Forbes Post Office. The building is affixed to a permanent foundation, and has water and sanitary systems.

While the land is owned by a private individual, the building is owned by the U.S. Postal Service. You are correct in your opinion that the land is taxable because it is owned by a private individual. However, you have asked about the taxable status of the building itself (as it is owned by an entity that is otherwise exempt).

In order to answer your question, we first refer to the definition of real property under Minnesota Statutes, section 272.03, subdivision 1:

“For the purposes of taxation, ‘real property’ includes the land itself, rails, ties, and other track materials annexed to the land, and all buildings, structures, and improvements or other fixtures on it, bridges of bridge companies, and all rights and privileges belonging or appertaining to the land, and all mines, iron ore and taconite minerals not otherwise exempt, quarries, fossils, and trees on or under it.”

The structure in the scenario you have outlined is therefore taxable as real property. You are correct to not separate the land and structures on privately-owned property in the situation you have outlined. The land and improvements are taxable to owner of the real property (in this case, the individual and not the U.S. Postal Service).

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us. Additionally, please note that this opinion is based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA • REVENUE

April 27, 2012

Jodi Lindberg
Deputy Assessor
Kanabec County Assessor's Office
jodi.lindberg@co.kanabec.mn.us

Dear Ms. Lindberg:

Your recent question to Larry Austin was referred to the Property Tax Division for response. You outlined the following information: A non-profit organization will be leasing a portion of their building to a for-profit business. You were unable to find guidance on the Department of Revenue website, but wanted to know our opinion as to whether the leased portion of the property would be taxable or exempt.

This information is available in the Property Tax Administrator's Manual, Module 5 – Exempt Property. The manual is available on our website. Related to leasing exempt property, the manual states:

“Whenever property that is exempt from property tax is leased, the exemption is put at risk because the property is not being used for the purpose for which the exemption was originally granted. Remember, the exemption was granted based on ownership, use (by the owner) for an exempt purpose, and necessity of ownership to accomplish the stated purpose of the exempt organization. Generally, the property is taxable under section 272.01 if the property is used by a private entity for profit, or under section 273.19 if the property is held under a lease for a term of at least one year (can be on a for profit or non-profit basis).”

In other words, you would correctly tax the portion of the property that is used by a for-profit business. The tax would be *in personam*, i.e. to the lessee, and not to the owner. If you have any further questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us. Thank you.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

Property Tax Division
600 North Robert Street
Mail Station 3340
St. Paul, MN 55146

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Fax: 651-556-3128
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MINNESOTA • REVENUE

May 14, 2012

Jodi Lindberg
Deputy Assessor
Kanabec County Assessor's Office
jodi.lindberg@co.kanabec.mn.us

Dear Ms. Lindberg:

Thank you for your follow-up question to a letter we recently issued regarding an exempt entity leasing a portion of their building to a for-profit company. You have asked if the July 1 conversion date applies in this case if the property is leased rather than sold.

We again refer to the Property Tax Administrator's Manual, *Module 5 – Exempt Property*, which provides, “Any property exempt from taxation on January 2 of an assessment year, which loses its exemption prior to July 1 of that year, shall be placed on the assessment rolls for that year.” In other words, the property would become taxable if its use changed to a taxable use at any time between the January 2 assessment and the July 1 cutoff date. If a property is used for exempt purposes during the time period between January 2 and July 1, the exempt status of the property does not change for the assessment year.

We strongly recommend referring to the Property Tax Administrator's Manual, which is available on the Department of Revenue website (www.revenue.state.mn.us). If you have any additional questions, please contact us via proptax.questions@state.mn.us. Thank you.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

May 17, 2012

Joe Udermann
Nobles County Assessor
judermann@co.nobles.mn.us

Dear Mr. Udermann:

Thank you for your recent email to the Property Tax Division regarding an agreement between the City of Worthington and a property manager for a property that the city owns. On December 12, 2011 we issued a response giving our opinion on the taxability of the property based on the city's management agreement at that time. Recently however, the city updated its management agreement and changed some of the parameters of how the facility would be managed. The new agreement gives the city more control over operations of the property.

Upon review of this new documentation, it is our opinion that the convention and event center property is likely exempt as public property used for a public purpose. The management agreement that we recently reviewed delegates only ministerial duties to the manager, which is allowed. The management agreement does not delegate discretionary or policy-making decisions to the manager in our opinion.

To give a few examples, section 4.1 limits the manager to using the property only for purposes provided in the agreement, which must be for public purposes. Section 5.2 preserves the city powers to establish fees, hours, and services offered. Finally, section 14.1 gives the city the power to terminate the agreement if the manager fails to fulfill any conditions or obligations of the agreement.

In summary, the city remains responsible for (and in control of) how the property will be used, and will review the details of the operation. If the management agreement changes or use of the property changes, the exemption may be put at risk. However, if the terms of the most recent agreement are adhered to, we do not anticipate a problem with the property being exempt as public property used for a public purpose.

If you have any additional questions, please do not hesitate to contact our division via proptax.questions@state.mn.us. Thank you.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

August 29, 2012

Dave Sipila
St. Louis County Assessor
sipilad@stlouiscountymn.gov

Dear Mr. Sipila:

Thank you for your recent question to the Property Tax Division regarding exemption eligibility of a property in your county. You have outlined the following situation: St. Louis Catholic Church owns seven vacant lots in the city of Floodwood. These seven lots are not contiguous to the church property, nor are they currently used for church purposes. The church leases these lots to the Floodwood School for \$1 per year. The lots are across the street from the school, which uses this land for recreational space. The seven lots are currently taxable, as they are owned by the church but not used for church purposes, nor are they reasonably necessary for the church to own. However, the church contends that the current lease and use situation should qualify the properties for exemption. You have asked for our opinion.

You are correct that anytime an exempt property is leased, the exemption may be put at risk because it is not being used for the purpose for which the exemption was originally granted. Generally, the property is taxable under section 273.19, if the property is held under a lease for a term of at least one year (on either a for-profit or non-profit basis). However, in the situation you have outlined, the property is likely still eligible for exemption under Minnesota Statutes, section 272.02, subdivision 42:

“Property leased to schools.

(a) Property that is leased or rented to a school district is exempt from taxation if it meets the following requirements:

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

It would appear that the above criteria are met, including (under clause 2) the requirement that the property be leased for a “nominal consideration.”

Because the property is used by the school district for the school’s purposes, it is our opinion that the property should be exempt. If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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October 18, 2012

A. Keith Albertsen
Douglas County Assessor
Keith.albertsen@mail.co.douglas.mn.us

Dear Mr. Albertsen:

Thank you for your recent question to the Property Tax Division regarding taxation of a leased residential property in your county. A local state park leases a residence to a resident manager. You have addressed Minnesota Statutes, section 272.011, which provides:

“any real property or portion thereof owned by the state and under the control of the state or any department, agency or institution thereof and regularly utilized as living accommodations for any officer or employee of the state or any department, agency or institution thereof shall be subject to assessment and taxation on the same basis as privately owned property of a like nature.”

You have asked the questions the following questions for which answers are provided.

1. To whom is a tax statement sent, the resident manager or the State of Minnesota?

Answer: Because this situation involves a lease agreement, taxation may also be applied as per Minnesota Statutes, section 273.19. In that case, the property “shall be considered, for all purposes of taxation, as the property of the person holding it [the leasehold interest].” Therefore, the resident manager would be responsible for paying property taxes.

2. Is the property to be treated as homestead or residential non homestead?

Answer: Section 273.19, subdivision 1, provides, “tax-exempt property held under a lease for a term of at least one year, and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, shall be considered, for all purposes of taxation, as the property of the person holding it.” Minnesota Statutes, section 272.01, subdivision 2, provides that taxes are extended “in the same amount and to the same extent as though the lessee or user was the owner of such property.”

Historically, we have interpreted these sections of statute allow homestead to be granted to the leased property if it is used by the lessee as a permanent residence or is used as part of the lessee’s homestead. The taxes are a lien against the lessee (personal property tax).

3. Is the leasehold interest assessed as real estate or a personal property interest?

Answer: As noted above, the taxes are *in personam* taxes. In other words, they are a lien against the individual lessee, not the property.

In consulting with our Legal Services division, we were informed that section 272.011 would apply to this property only if neither sections 272.01 nor 273.19 did. Thus, the state can avoid section 272.011, along with its apparent threat of forfeiture if there is nonpayment, as long as it uses leases of one year or more to make this property available to its managers or employees.

If you have any additional questions, please do not hesitate to contact us via proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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December 13, 2012

Wendy S. Iverson
Assessment Support Specialist
Dodge County Assessor's Office
wendy.iverson@co.dodge.mn.us

Dear Ms. Iverson:

Thank you for your recent question to the Property Tax Division regarding the taxability of a coffee shop located in a parking lot in a city park. You outlined the following: The City of Kasson owns a tract of land with a structure and a paved parking lot. The structure is being leased to an LLC that is using the building as a drive-up coffee shop. The coffee shop is located in the parking lot of a city park. The city has stated that they feel the building should be exempt due to the fact that it's being used for concessions. You have asked for clarification on the "concession exemption" that may or may not be applicable in this case.

Minnesota Statutes, section 272.01, subdivision 2 provides:

“(a) When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.

(b) The tax imposed by this subdivision shall not apply to:

(1) property leased or used as a concession in or relative to the use in whole or part of a public park, market, fairgrounds, port authority, economic development authority established under chapter 469, municipal auditorium, municipal parking facility, municipal museum, or municipal stadium; [emphasis added] ...”

We discussed your question with our Legal Services Division. In general terms, a lease is a contract by which an estate in real property is conveyed (e.g., an estate for years). It is not a fee simple estate, but it is the exclusive right to possess and use the property during the term of lease, and subject to its terms. Unless a contrary term appears in the contract, the tenant can exclude the landlord from the property.

A concession, by contrast, is the grant of a privilege. It does not convey an interest in the property, just a right related to the property. In this context, it would be the privilege of locating and operating the coffee shop in the city's park. The rights acquired by a concessionaire are akin to the rights a visitor gets at a state park, a museum, etc. A visitor to a private museum cannot exclude the owner.

In this scenario, the structure is being leased to the LLC. That contradicts the LLC having a concession. Therefore, the leased property is likely taxable under either Minnesota Statutes section 272.01, or section 273.19 subdivision 1. If the coffee shop is a non-profit charitable entity, there may be other considerations, but we did not infer that from the information you have provided.

The taxes imposed are assessed to the lessee of the property, and are not a lien against the property as per M.S. 272.01, subdivision 2, paragraph (c).

Please note that this opinion is based solely on the facts provided. If any of the facts change, our opinion is subject to change as well. If you have additional questions, please do not hesitate to contact us via email at proptax.questions@state.mn.us. Thank you.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

MINNESOTA • REVENUE

December 20, 2012

Michael Stalberger
County Assessor
Blue Earth County Assessor's Office
Michael.stalberger@blueearthcountymn.gov

Dear Mr. Stalberger:

Thank you for your question submitted to the Property Tax Division regarding a property exemption situation in your county. You have provided the following:

There is a multi-story office building in Mankato. The county formerly owned it and used it for offices. There was also leased space for other tenants. The property was sold for \$1 to an established non-profit in town which has been receiving property tax exemption as a purely public charity on their existing location. They will completely remodel the building and occupy a majority of it (nearly all the area on 4 of the 5 floors) to accommodate their growth and need for space.

They have proposed leasing the remaining space to "partners" (other non-profit groups that share a mission with them). They propose leases at below market rates. You explained to them that leasing property puts their exemption at risk due to the lack of concurrence of ownership, use, and necessity of ownership.

You have asked the following question: When an ownership entity qualifies for property tax exemption but leases space at a below-market rate to other non-profit entities that support/share a mission with the ownership group and would likely qualify for exemption on their own as the property owner, should that leased space be taxable? And if so, which entity should be responsible for the taxes and receive the tax bill?

Upon review of the information provided, we are of the opinion that if the space was leased at below-market rate (therefore not resulting in a profit for the exempt owner), and if the lessee holds a concurrent mission to the property owner, the leased space may remain exempt. It is also our opinion that if part of the exempt property owner's mission is to further promote their purpose by leasing space to an organization with a concurrent mission at below market rent, the property owner's exemption would carry over to the leased space. If this is not the case, then Minnesota Statute 273.19 guides us to tax the lessee of the leased space. The lessee may be eligible for exemption if the leased space is used for an exempt purpose and the lease is below market rate. If the lease is at or above market rate, the leased portion becomes taxable.

If it is the owner's exemption that carries over to the leased space, the owner of the property would be sent the tax statement for this property as this remains a real property assessment. If this is not the case, and the leased portion is taxable per Minnesota Statute 273.19, the lessee would be sent the tax statement and it would be treated as a personal property tax. Please note that if any of these facts were to change, our opinion would change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

January 3, 2012

Kandace Johnson
Finance Officer
Fillmore County Auditor/Treasurer's Office
<mailto:kjohnson@co.fillmore.mn.us>

Dear Ms. Johnson:

Thank you for your question submitted to the Property Tax Division regarding leasing exempt property. You have provided the following:

“I have a request from the DNR. They own land that they are going to be leasing to an individual after January 2013. It would be for a year or less. Do they have to pay taxes on that?”

For this question, the *Property Tax Administrator's Manual, Module 5- Exempt Property* was referenced.

Whenever property that is exempt from property tax is leased, the exemption is put at risk because the property is not being used for the purpose for which the exemption was originally granted. Remember, the exemption was granted based on ownership, use (by the owner) for an exempt purpose, and necessity of ownership to accomplish the stated purpose of the exempt organization. Generally, the property is taxable under section 272.01 if the property is used by a private entity for profit, or under section 273.19 if the property is held under a lease for a term of at least one year (can be on a for profit or non-profit basis).

If the property is held under a lease for at least a year, it may become taxable under Minnesota Statute 273.19, subdivision 1 which states in part that:

“...tax-exempt property held under a lease for a term of at least one year, and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, shall be considered, for all purposes of taxation, as the property of the person holding it. In this subdivision, "tax-exempt property" means property owned by the United States, the state, a school, or any religious, scientific, or benevolent society or institution, incorporated or unincorporated, or any corporation whose property is not taxed in the same manner as other property...”

Minnesota Statutes, section 273.19, provides that the use of property that is exempt because it is owned by the federal, state or local government is taxable to the person who uses the property just as if they actually owned it.

Per Minnesota Statutes 272.02, subdivision 38; if the lease is entered into before July 1, the property would be taxable for that assessment year. The tax would be a personal liability of the lessee. (MS 272.01, subd. 2(d).)

Minnesota Statutes 272.02 subdivision 38 provides:

“Any property, except property taxed as personal property under section [273.125](#), that is exempt from taxation on January 2 of any year which, due to sale or other reason, loses its exemption prior to July 1 of any year, shall be placed on the current assessment rolls for that year.

This would be a case where the property would lose its exemption because it is not being used for a qualifying exempt purpose (“or other reason”).

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If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

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MINNESOTA • REVENUE

March 28, 2013

Peggy Trebil
Goodhue County Assessor's Office

Dear Ms. Trebil:

Thank you for submitting your follow up question to the Property Tax Division regarding exempt property. You have provided the following:

If they (municipal golf course) have the 4 ½ acres open for the driving range and contract with Turf Solutions and Management to run it for 5 to 7 months during the 2013 season, will that portion be taxable for pay 2014 (the Red Wing High School golf program asked them to keep the driving range open)? Estimates are \$26,500 to keep open 7 months, \$24,500 to keep open 5 months. The estimated income would be around \$8,000, so this would not be a profitable endeavor.

According to Minnesota statutes 272.02, subdivision 62, "*all property acquired and used by a city is exempt to the extent provided in section 471.191, subdivision 4*" which states that "***any and all properties acquired and used, whether under lease or otherwise, by a city for the purposes authorized and contemplated in this section shall be deemed and are declared to be public property exclusively used for a public purpose and as such exempt from taxation, so long as and to the extent that such property is devoted to said purposes and is not subleased to any private individual, association, or corporation in connection with a business conducted for profit, for a term of three or more years. An agreement whereby a city, as owner or lessee, employs a private individual, association, or corporation to operate facilities for use of the public, for the purposes herein contemplated and subject to regulation by the public owner or lessee, is not a sublease for the purpose of this subdivision.***" [Emphasis added]

Since the property is used for public purposes, is owned by the city and is leased to a private corporation for less than 3 years, this property would still be eligible for property tax exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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October 23, 2013

Stephen Hacken
Winona County Assessor
SHacken@Co. Winona.MN.US

Dear Mr. Hacken:

Thank you for submitting your questions to the Property Tax Division concerning exemption for two different properties in Winona County.

Scenario 1: Westfield Golf Club is located on city land. This land is designated as park or recreational property.

The Westfield Golf Club is leased to Westfield Golf Club, Inc., a non-profit entity created solely to operate the golf course. The bar/restaurant is leased from this non-profit group to Westfield Bar and Lounge, Inc., a for profit corporation. This change is quite recent and was done to comply with an IRS inquiry into the non-profit status of the group overseeing the golf course. Rent is paid to Westfield Golf Club Inc.

Question 1:

Is the Westfield Golf Club (Municipal Golf Course) considered parkland and therefore relevant to the “concession in a park” exemption?

Answer 1:

In scenario 1, a municipal golf course on city owned property is *leased* to the Westfield Golf Club, Inc., a non-profit entity created solely to operate the golf course. In our opinion, the golf course may be exempt as municipal parkland used for a public purpose. However, the restaurant/bar is taxable under Minnesota Statutes section 272.01, or section 273.19 subdivision 1, because it is *leased* to a for-profit entity and is not being used in whole or part as a public park.

A concession is the grant of a privilege. It does not convey an interest in the property, just a right related to the property. The rights acquired by a concessionaire are akin to the rights a visitor gets at a state park, a museum, etc. In this scenario, a portion of the structure is being *leased* to the for-profit entity. That contradicts the entity having a *concession*. Therefore, the leased property is likely taxable under either Minnesota Statutes section 272.01, or section 273.19 subdivision 1.

Minnesota Statutes, section 272.01, subdivision 2 provides:

- “(a) When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.*
- (b) The tax imposed by this subdivision shall not apply to:*
 - (1) property leased or used as a concession in or relative to the use in whole or part of a public park, market, fairgrounds, port authority, economic development authority established under*

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chapter 469, municipal auditorium, municipal parking facility, municipal museum, or municipal stadium; ...”

Additionally, the use of the leased portion does not constitute a use relative the use of a public park as we understand.

Scenario 2: Dick’s Marine, a business, has inquired as to their taxable status as a concession inside a park. The property is leased to Dick’s Marine from the same city park for park and recreation purposes. From the city map provided, it does not indicate this property is in a park, and the park is located across the highway from the marina. This property has been assessed as personal property as far back as the county’s records go.

Question 2:

Does Dick’s Marine qualify as a concession in a park?

Answer:

In scenario 2, it appears from the map provided that Dick’s Marine is not located within a public park. Therefore, the concession in the park exemption would not be applicable.

The taxes imposed are assessed to the lessee of the property, and are not a lien against the property as per M.S. 272.01, subdivision 2, paragraph (c).

Please note that these opinions are based solely on the facts provided. If any of the facts change, our opinions are subject to change as well. If you have additional questions, please do not hesitate to contact us via email at proptax.questions@state.mn.us. Thank you.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

April 29, 2014

Scott Sutherland
St. Louis County Assessor's Office
SutherlandS2@stlouiscountymn.gov

Dear Mr. Sutherland:

Thank you for submitting your question to the Property Tax Division regarding the leasing of tax-exempt property. You have provided information related to three lease agreements in your county between an exempt government entity and a private organization. Each of the scenarios you brought forward is discussed below.

Summary question: Are leases taxable if they are for only a portion of the year? I.e., if a lease is only for over the summer months, is it taxable?

Answer: Leases for terms less than one year may be taxable.

Explanation: Tax-exempt property becomes taxable if:

1. It is leased to a private entity for a period of one year or more (under Minnesota Statutes, section 273.19, subd. 1), or
2. It is leased to a private entity for a business conducted for profit, including for periods less than one year (under section 272.01, subd. 2).

Situation 1: Lease agreement between City of Duluth and Fun Time LLC

- The terms of this lease agreement allow the entity (Fun Time LLC) to operate a bicycle rental business on the Canal Park property.
- This lease agreement begins in 2014 and expires in October, 2016.
- The lessee is allowed to use the property in the months of April through October (weather permitting).

Because this lease is to a private entity for business conducted for profit, and because the lease is for a term greater than one year, the property is taxable to the lessee.

Situation 2: Vending agreement between the Duluth Economic Development Authority and Crabby Ol'

Bill's

- This agreement allows the vendor to place a structure on the park property in order to operate its vending business.
- The vendor may place the structure in the park from May 15 to September 30 each year from 11:00 a.m. to 10:00 p.m.
- The vendor sells various food items and t-shirts.
- The agreement stipulates that if real estate taxes are assessed to the vendor property, the vendor must pay those taxes.
- The agreement is for five years.

In this scenario, the structure would be taxable to the lessee because it operates a business for profit, and because the lease is for a period of five years. However, based on a reading of the vendor agreement, it does not appear that the structure is taxable real estate. The vending structure is to be removed from the property daily, may not be used during most of the year, and is not clearly meant to be a permanent accession to the real estate. In this case, the structure should *not* be taxable. It is exempt as personal property.

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Updated 3/15/2024 - See Disclaimer on Front Cover

Situation 3: Wade Stadium Lease Agreement between City of Duluth and Northwoods League, Inc.

- This lease agreement permits the entity to use the Stadium for purposes of the Duluth Huskies Baseball Club.
- The agreement permits the ball club exclusive use of the stadium from four hours prior to a scheduled game until one hour after the end of each game.
- Between April 1 and October 31 of each year, the club has exclusive access to the areas beneath the stadium grandstand for storage purposes.
- Between May 15 and September 1 of each year the club has exclusive access to the locker room.
- The league also has non-exclusive use of restrooms, corridors, public walkways, etc.
- Beyond what is described as the league’s exclusive use, the city retains full access rights.

In this situation, what is described (although titled a “lease”) appears to be a concession. A concession is the grant of a privilege. Unlike a lease, a concession does not convey an interest in the property, just a right related to the property. In this context, it would be the privilege of using the stadium for purposes of baseball games. The rights acquired by a concessionaire do not allow it to exclude the owner (the City).

As previously noted, Minnesota Statutes, section 272.01, subd. 2 makes exempt property taxable when it is used by a private entity for business conducted for profit. The relevant statute reads in part:

*“(a) **When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.***

*(b) **The tax imposed by this subdivision shall not apply to:***

*(1) **property leased or used as a concession in or relative to the use in whole or part of a public park, market, fairgrounds, port authority, economic development authority established under chapter 469, municipal auditorium, municipal parking facility, municipal museum, or municipal stadium [emphasis added];...***

Because what you have described appears to be a concession relative to the use of the municipal stadium, this property is still considered exempt property owned by the city. While the agreement is titled a “lease” agreement, the actual language, rights, etc. appear to provide a *concession*, which is not taxable.

Please note that our opinion is based solely on our understanding of the facts as provided. If any of the facts were misinterpreted, or if any of the facts changed, our opinion would be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

March 25, 2015

Connie Erickson
Yellow Medicine County Assessor
Connie.Erickson@co.ym.mn.gov

Dear Ms. Erickson:

Thank you for submitting your question to the Property Tax Division regarding leasing church property. You have provided the following scenario and question.

Scenario:

- A storage building currently owned by a church is exempt.
- The Yellow Medicine County Food Shelf is looking to lease the storage building for its use.
- The Yellow Medicine County Food Shelf is a 501(c)(3) under Neighbors United.
- Articles of Incorporation are in place for the food shelf.
- Federal Form 990s have been filed.
- Rent to the church is unknown at this point, but it may be nominal.

Question: Would the portion of the structure being utilized by the food shelf be exempt as a purely public charity?

Answer: The portion leased to the food shelf may remain exempt; however, whenever property that is exempt from property tax is leased, the exemption is put at risk because the property is not being used for the purpose for which the exemption was originally granted. Remember, the exemption was granted based on ownership, use (by the owner) for an exempt purpose, and necessity of ownership to accomplish the stated purpose of the exempt organization. Generally, the property is taxable under section 272.01 if the property is used by a private entity for profit, or under section 273.19 if the property is held under a lease for a term of at least one year (can be on a for profit or non-profit basis).

Upon review of the information provided, we are of the opinion that if the space is leased at below-market rate (therefore not resulting in a profit for the exempt owner), and if the lessee holds a concurrent mission to the property owner, the leased space may remain exempt as an institution of purely public charity. You would want to review the food shelf's application for exemption in either case.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA • REVENUE

August 5, 2015

Bruce Nielsen
Lincoln County Assessor's Office
BNielsen@co.lincoln.mn.us

Dear Mr. Nielsen:

Thank you for submitting your question to the Property Tax Division regarding an easement on property. You have provided the following scenario and question.

Scenario:

- The Olsen family owns property in your county.
- An easement was granted to The Nature Conservancy for the use of this property.
- The Nature Conservancy is a nonprofit corporation.

Question:

Is the easement area exempt from property tax?

Answer:

No, the property the Olsen family owns in your county should remain taxable. The easement gives The Nature Conservancy the rights to use the property but does not transfer the ownership of the property. The property therefore should remain taxable and classified according to its use.

Please note that this opinion is based solely on the information provided. If any of the facts change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

MINNESOTA • REVENUE

September 4, 2015

Steven Bruggeman
St. Cloud City Assessor's Office
steven.bruggeman@ci.stcloud.mn.us

Dear Mr. Bruggeman:

Thank you for submitting your question to the Property Tax Division regarding possible exemption for property leased by the City.

Scenario:

- The St. Cloud City Hall is proposed to be conveyed to a private developer for \$1.00.
- The developer would lease the existing City Hall building back to the city under a 99-year lease for \$1.00.
- After 99 years, the city would vacate the building, and the developer would continue ownership.
- The city would be guaranteed occupancy and use rights during the lease term and the building would be strictly devoted to public purposes during that time.
- The city would be responsible for maintenance and operational costs.

Question: Under this proposal, would the City Hall building continue to be exempt as public property used exclusively for a public purpose?

Answer: The building may be eligible for continued exemption. While this case is hypothetical, if it occurred you would keep in mind that in order to maintain exemption, the property would need to be:

1. controlled by the city
2. leased for a *de minimis* amount
3. not benefit a private entity beyond the minimal benefit of the lease

This includes that any revenue generated from use of the building would go to the city and not the private entity.

As always, this opinion is based solely on the information as provided. We understand that this lease agreement is still being considered and nothing yet has occurred. If any of the facts of the situation change or if the lease does occur, our opinion may be subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6340
Email: proptax.questions@state.mn.us

December 10, 2015

David Sipila
St. Louis County Assessor's Office
sipilad@StLouisCountyMN.gov

Dear Mr. Sipila,

Thank you for contacting the Property Tax Division regarding leased property. We apologize for the delayed response. You provided us with the following information.

Scenario:

- The Duluth Transit Authority (DTA) is in the process of constructing a multi-modal transit hub in a four-level parking ramp being built in the City of Duluth.
- The property on which the ramp is being built comprises two parcels, one owned by Michigan Street Transit Center, LLC, and one owned by the DTA.
- The DTA is constructing the facility over the privately-owned parcel under the terms of a perpetual easement agreement granted to them by the property owner.
- The easement provides for the construction of a skywalk in a portion of this building which is connected to the larger Duluth system.
 - You understand that this area qualifies for property tax exemption under M.S. 469.127. The statutory definition of skyway system in M.S. 469.125 Subd. 4 states that it includes the portion of the system “through or above private property and buildings”.
- The DTA will be using the top three levels of the ramp for DTA offices, a police facility, bus drop off areas and indoor parking for buses, along with parking spaces for approximately 257 vehicles, of which 48 are allocated to the City of Duluth and 209 to the DTA.
 - The DTA will operate and maintain these areas and will collect the revenue from the parking operations.
- The lower level of the ramp will be used by the owner of the property for private parking, approximately 153 spaces, which will serve a separate building (Wells Fargo) across the street.
- M.S. 469.127 also provides for an exemption for “publicly owned parking structures”, but unlike skyways, it does not define them to include those constructed on private property or buildings.

Question: Can an easement interest in a property be considered “publicly owned” for the purposes of the exempt decision, while the underlying title to the property remains with a non-exempt owner?

Answer: Easement interest rights are only usage rights, they are not ownership rights. Therefore, easement interest cannot be considered “publicly owned” for the purposes of the exempt decision since the easement rights do not constitute ownership.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY

State Program Administrator Principal

Property Tax Division

Phone: 651-556-6091

Email: proptax.questions@state.mn.us

May 16, 2018

Michael Thompson
Scott County Assessor's Office
mthompson@co.scott.mn.us

Dear Mr. Thompson,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- The Scott County Community Development Agency (CDA) is considering building a mental health care treatment facility.
- The Scott County CDA will retain ownership of the facility.
- The Scott County CDA will lease the facility to a 501(c)(3) entity.
- The 501(c)(3) entity will manage the caseload of the treatment facility.
- It is assumed that the 501(c)(3) would otherwise qualify for exemption if it owned the property.
- It is assumed that the 501(c)(3) has a mission in line with the Scott County CDA.

Question: Would the property be exempt from property taxes given that the building is leased to the 501(c)(3) and the caseload managed by the 501(c)(3) and not the Scott County Community Development Agency?

Answer: It is difficult to provide answers to hypothetical scenarios, so for this opinion, we will treat the information as facts. The Scott County CDA appears to be an exempt entity under Minnesota Statutes Chapter 469, however since they are leasing the building you must review additional information to determine the property exemption. If the lease to the 501(c)(3) for the use of the mental health facility is over one year, then Minnesota Statute 273.19 requires that the lessee of the space be taxed as if they were the owner. You then must determine if the lessee is eligible for exemption if the leased space is used for an exempt purpose **and** the lease is below market rate. Once the 501(c)(3) uses and manages the building, they may apply for exemption. The county would need to determine if it meets the requirements for property tax exemption under M.S 272.02 or as an Institution of Purely Public Charity in order to qualify for property tax exemption.

Please note that if any of these facts were to change, our opinion would change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

February 6, 2019

Lori Schwendemann
Lac qui Parle Assessor's Office
lori.schwendemann@lqpc.com

Dear Ms. Schwendemann,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- Farmers for Dawson, an exempt entity, owns a building in town which is currently exempt from property taxes. Farmers for Dawson is exempt from federal income taxes under 501(c)(3) of the Internal Revenue Code.
- A non-profit corporation, Dawson Historical Properties, Inc., operates as a museum which is located in the building that is owned by Farmers for Dawson.
- Dawson Historical Properties is not currently exempt from federal income tax under the Internal Revenue Code 501(c)(3).
- The museum is open to the public, does not charge a fee, and no personal gain would be obtained from any future dissolving of the non-profit corporation as the proceeds would go to the owner of the building, Farmers for Dawson.

Question: Can the museum operate from a building owned by the Farmers for Dawson and receive an exempt status while the museum attempts to acquire its own 501 (c) (3) status with the federal government?

Answer: It is unclear whether there is a lease in place between the owner and the operator. If the exempt property is leased at a below-market rate, and if the lessee's purpose is to further the mission of the property owner that originally qualified the property for exemption, then the leased space may remain exempt while the museum attempts to acquire its own 501 (c) (3) status. If this is not the case, then [Minnesota Statute 273.19](#) indicates the lessee should be responsible for paying the tax on the property.

It is important to remember that if there is a change in a property's ownership, use, purpose etc...you must consider the possibility that the property may no longer qualify for exemption. Ultimately it is up to the assessor to make the final determination on whether a property qualifies for property tax exemption.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

June 14, 2019

David Sipila
St. Louis County Assessor's Office
sipilad@stlouiscountymn.gov

Dear Mr. Sipila,

Thank you for submitting your question to the Property Tax Division regarding personal property accounts. You have provided the following scenario and question:

Scenario:

- An otherwise exempt property was being leased to a non-exempt individual/entity.
- A personal property account had been created and the individual/entity was paying the assessed taxes.
- The lease was in place on January 2, and was subsequently terminated after that date.

Question: Would a personal property tax bill be generated for the following year if the lease is terminated prior to July 1 (December 31 for tax-forfeited property)?

Answer: According to Minnesota Statutes, section 272.02, subdivision 38, the date the lease was terminated would not trigger a change in exempt status as the property was not purchased or acquired by an exempt entity.

The statute states *“(b) Property, except property taxed as personal property under section [273.125](#), that is subject to tax on January 2 that is **acquired** before July 1 of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivisions 2 to 8.”*

As you have pointed out, M.S. 273.19 and M.S. 272.01 state that leased exempt property is to be treated as if it is the property of the person or entity leasing it for tax purposes. However, in our opinion this does not impact the requirements of M.S. 272.02 that the taxable property be “acquired” before July 1 of the assessment year to be granted exemption. Since the property was already owned by the exempt entity, and was taxable on January 2 due to the ongoing lease, it would remain taxable for that assessment year.

For leased tax-forfeited land, the December date relates to the initial forfeiture where it would be removed from the tax roll, or a subsequent resale where it would be added back to the tax rolls. This would not impact a situation where a tax-forfeited property was being leased on January 2, and taxed as personal property for that assessment year. Therefore, tax-forfeited land would be treated similarly to any other leased exempt property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division

Phone: 651-556-6091

June 14, 2019

David Sipila
St. Louis County Assessor's Office
sipilad@stlouiscountymn.gov

Dear Mr. Sipila,

Thank you for submitting your question to the Property Tax Division regarding leased exempt property. You have provided the following scenario and question:

Scenario:

- The State of Minnesota Department of Natural Resources (DNR) purchased property containing structures.
- The property and structures were leased back to the seller.
- The leasehold interest has been assessed as a personal property account to the lessee on the value of the structures only.
- The DNR is paying Payment in Lieu of Tax (PILT) based on the acquisition cost which included the land and the structures.

Question: Is it correct to have the lessee pay a personal property tax on the value of the structures if the DNR is making a PILT payment which is based on the acquisition cost of the land and those same structures?

Answer: Typically, leased structures on any exempt natural resources land would be valued separately and taxed as personal property to the lessee. In this case, the appraised value used to calculate the PILT payment includes the structures due to the language in Minnesota Statutes 477A.12, subdivision 3 that states *"the appraised value of acquired natural resources land is the purchase price until the next six-year appraisal required under this subdivision."* Since the PILT amount is based on that purchase price, and will remain at that value until the next required valuation and assessment date, the lessee should not be assessed directly for the value of the structures/improvements as they are included in that appraised value.

When the next required valuation and assessment is completed, the value of the leased structures should be assessed as personal property to the lessee and the in lieu portion of tax should assure exclusion of structures that are taxed as personal property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

August 5, 2019

Nathan J. Thompson
Moss and Barnett
Nathan.thompson@lawmoss.com

Dear Mr. Thompson,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- A for-profit entity owns an office building
- The for-profit entity plans to lease office space to a church
- Real estate taxes will be passed along to the church as part of the lease
- The church asserts that it should not pay property tax as an exempt entity

Question: In a building owned by a for-profit entity, is leased space exempt if the tenant is a church?

Answer: No. There are three main factors that must be met to qualify for exemption: ownership, use, and the necessity of ownership. In this case the church does not meet the ownership fact of exemption since they do not own the office space, and therefore would not be eligible for exemption. There is no specific statute that would allow a non-exempt property leased to a church to be exempt, even if the church would otherwise qualify for exemption if it was the sole property owner.

If you have any further questions, please contact the county assessor's office in the county where the property is located.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

November 18, 2020

Tony Rasmuson
Wright County Assessor's Office
tony.rasmuson@co.wright.mn.us

Dear Mr. Rasmuson,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- Wright County is considering leasing land to Monticello Public Schools for the purpose of building a nature school
- The property is to be leased as part of the Bertram Chain of Lakes regional park owned by Wright County and the City of Monticello
- While there are no official building plans at this time, the tentative plan is to build a 10,000 sq. foot structure located at Bertram Park's South Trailhead
- The building would be funded by a Private Cooperation or LLC and leased to the school district, and in the long run expected to turn a profit
- This school would include nature-based education into a regular school curriculum with an emphasis on outdoor or nature related activities

Question: In this scenario, would the leased land and school building be considered exempt?

Answer: It is difficult to provide answers to hypothetical scenarios, so for this opinion, we will treat all information regarding the proposed school as fact. County/city owned property that is used exclusively for public purposes is eligible for exemption, however whenever exempt property is loaned, leased, or otherwise made available to another entity, the exemption is put at risk. In this case, land leased to a school district would require the use to adhere to statutory guidelines for educational institutions to retain the exempt status.

Further, the construction of the improvements by an entity other than the school district would require the subsequent lease of that improvement to the school district to also meet the requirements outlined in statute. For a newly built structure leased to a school district to qualify, the following requirements must be met:

- The lease must be for at least 12 consecutive months
- The terms of the lease must require the school district to pay a nominal* consideration for use of the building;
- The school district must use the property to provide direct instruction in any grade from K through 12; special education for disabled children; adult basic education; preschool and early childhood family education; or community education programs, including provisions of administrative services directly related to the educational program at that site.

- The lease must provide that the school district has the **exclusive use** of the property during the lease period.

*The Department of Revenue has interpreted "nominal" on various occasions to mean something less than the cost to break even, or something that is small in comparison to what might properly be expected. In this case, it would be up to the assessor's judgement to determine if the terms of any potential lease of the planned building would meet this requirement.

Please note that if any of these facts were to change, our opinion would change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

January 15, 2021

Ben Thomas
St. Louis County Assessor's Office
thomasb1@StLouisCountyMN.gov

Dear Mr. Thomas,

Thank you for submitting your question to the Property Tax Division regarding assessment. You have provided the following scenario and question:

Scenario:

- A public entity has leased a portion of otherwise exempt land to an individual for use as a driveway
- The lessee uses this driveway to access their privately held property
- The lease is for a period of 10 years
- The lease stipulates that the leased portion of the exempt property remain open to public use

Question: How should these leases be treated for assessment purposes?

Answer: For leases held for a term of at least one year, Minnesota Statutes, section 273.19, provides that the use of property that is exempt based on ownership by the federal, state or local government is taxable to the person who uses the property as if they owned it. Statute does not differentiate between exclusive use by the lessee, or a lease that stipulates the public's continued right to use that portion of the exempt property.

Question: Would treatment be different if access was through an easement rather than a lease?

Answer: It is our opinion that an easement for access to a taxable parcel would add value to the benefiting parcel. In that case the taxable value would be included in the benefiting parcel's record rather than through a separate personal property tax account.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6922

August 11, 2022

Jason,

Thank you for contacting the Property Tax Division regarding property tax exemption. You provided us with the follow scenario and question.

Scenario:

- An entity with 501(c)(3) IRS designation leases property from a commercial entity.
- The 501(c) (3) entity (homeless shelter) applied for property tax exemption on the leased property.

Question: Can a 501(c)(3) entity qualify for property tax exemption when leasing property from a for-profit entity?

Answer: No, the property is taxable. Generally, for property to qualify for property tax exemption, a qualifying property must be owned by an exempt entity, used for exempt purposes, and the ownership of the property by the exempt entity must be reasonably necessary to further the mission of the exempt organization. In the scenario provided, the entity (homeless shelter) does not own the property and therefore would not be eligible for exemption because the property must first be owned by an exempt entity. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922



Manufactured Home Dealer Inventory

MINNESOTA · REVENUE

February 17, 2010

Janel Stewart
Chief Deputy Hubbard County Assessor
301 Court Avenue
Park Rapids, MN 56470

jstewart@co.hubbard.mn.us

Dear Ms. Stewart,

Thank you for your recent question regarding property tax exemption for manufactured homes owned as dealer inventory. This letter is follow-up to our correspondence dated November 19, 2009. We also discussed your questions with our attorney. The questions are each addressed below.

1. Does the manufactured home dealership need to provide a “Certificate of Title,” “Bill of Sale”, and/or “Tax Clearance Form” depicting the vehicle ID number, year, make, model, and title number of each individual unit?

Answer: No. Statute does not provide for any specific proof to be provided to qualify for exemption under Minnesota Statutes, section 168.012, subdivision 9. This section provides:

“The provisions of Minnesota Statutes 1957, section 272.02 or any other act providing for tax exemption shall be inapplicable to manufactured homes and park trailers, except such manufactured homes as are held by a licensed dealer and exempted as inventory.”

As long as the manufactured homes are held by a licensed dealer and listed as inventory, they may qualify for exemption. The onus is on the manufactured home dealer to provide the assessor’s office with proof that the homes are for sale as inventory.

2. If the dealership is unable to provide a Certificate of Title, Bill of Sale, and/or Tax Clearance Form, how can the county certify Tax Clearance for title transfer at this time?

Answer: Tax Clearance forms, which are required for the registrar to transfer title, are issued by the county in which taxes have been assessed. You are only responsible for stating that personal property taxes in Hubbard County have been paid. You are not responsible for determining if property taxes in other counties have been paid.

3. For the resale of used manufactured homes that are dealership inventory, is it necessary for the county assessor, county auditor, and/or county treasurer to sign a “Tax Clearance” form?

Answer: Before the registrar of motor vehicles can issue a certificate of title to transfer ownership, all manufactured homes must have a statement from the county auditor or county treasurer certifying that all personal property taxes levied on the unit in the name of the current owner at the time of transfer have been paid in that county. The statement must come from the auditor or treasurer of the county where the manufactured home is presently located (M.S. 168A.05).

4. What proof is necessary to verify that individual manufactured homes possess the proper “Tax Clearance” prior to becoming dealer inventory?

Answer: No proof is necessary. If the manufactured home is owned by the licensed dealer and for sale as inventory, it qualifies for exemption. A Tax Clearance form is only issued by Hubbard County before

the title transfers from the dealer's ownership to individual ownership. It is not necessary to verify that Tax Clearance Forms have been issued prior to ownership by the qualified manufactured home dealer.

5. If the manufactured home dealership owns the land that the manufactured homes are located on, are the manufactured homes to be taxed as real or personal property?

Answer: If the manufactured homes and the land are under identical ownership, and the homes are affixed to the property, they may be assessed as real property.

Minnesota Statutes, section 273.125, subdivision 8, clause (b) provides:

(b) Except as provided in paragraph (c), a manufactured home that meets each of the following criteria must be valued and assessed as an improvement to real property, the appropriate real property classification applies, and the valuation is subject to review and the taxes payable in the manner provided for real property:

(1) the owner of the unit holds title to the land on which it is situated;

(2) the unit is affixed to the land by a permanent foundation or is installed at its location in accordance with the Manufactured Home Building Code in sections 327.31 to 327.34, and rules adopted under those sections, or is affixed to the land like other real property in the taxing district; and

(3) the unit is connected to public utilities, has a well and septic tank system, or is serviced by water and sewer facilities comparable to other real property in the taxing district.

Because anything is possible with property that is movable, a situation could occur where the owner of the land owns the manufactured home but the manufactured home is not permanently affixed to the land or does not meet all three criteria. In that case, the assessor should treat the manufactured home as personal property. The land and any other improvements would be listed as real property and the manufactured home would be listed as personal property.

Exemption Eligibility

As for any property owner seeking exemption, the onus is on the property owner to prove that they qualify for exemption as allowed in statute. If the manufactured home dealer is able to prove that they are holding homes as dealer inventory in a manner sufficient for the assessor's office, they may qualify for property tax exemption. Specific forms are not required by law. If you have any further questions, please do not hesitate to contact our division via proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator

Information and Education Section

Property Tax Division

C: Bob Hansen, Hubbard County Assessor, bhansen@co.hubbard.mn.us



September 11, 2015

Amy McDonnell
Office Manager, Clay County Assessor's Office
Amy.mcdonnell@co.clay.mn.us

Dear Ms. McDonnell,

Thank you for submitting your question to the Property Tax Division regarding unoccupied mobile homes and tax exemption. You have sent to us the following scenario and question:

Scenario:

- An unoccupied mobile home held in inventory can be exempt from assessment for up to five years.
- A mobile home that has been exempt is about to lose its exemption and be taxed again.

Question: Can the five year exemption be restarted after being taxed for one year if it is then claimed again as dealer inventory?

Answer: Per Minnesota Statute 168.012, subd. 9a, the exemption can be for "up to five years after the date a home is initially claimed as dealer inventory." It is not clear based upon the information you provided that the exemption can be reinstated.

The key factor at play for your situation is that it can be claimed as dealer inventory and exempted if it is within five assessment years of initially being claimed as dealer inventory. However, if it has been more than five assessment years since the initial claim of the home as dealer inventory, then it cannot regain the exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz

State Program Administrator Senior
Property Tax Division
Phone: 651-556-4861
Email: proptax.questions@state.mn.us



Miscellaneous Exemption Questions

May 24, 2004

Farley Grunig
Pipestone County Assessor
Courthouse 416 S. Hiawatha
P.O. Box 458
Pipestone, Minnesota 56164-1566

Dear Mr. Grunig:

Your e-mail to John Hagen has been forwarded to me for reply. In your e-mail, you asked us several questions.

First, you outlined the following situation. In 1990, a city entered into an agreement with a private party to use the private party's vacant site for city park purposes. Since that time, the city has improved the site with a picnic shelter and playground equipment. You have never seen a formal lease for the property and the terms of the lease are unclear. You have asked if the property that is leased by a unit of government for a period of 99 years and used for government purposes would be exempt from property tax.

In our opinion, the answer is yes, the property would be exempt from property tax. As you are aware, typically there must be a concurrence of ownership, use and necessity of ownership for a property to qualify for exemption. However, in this case, we refer to Attorney General Opinion No. 299 from 1940. In that case, a private owner leased land to the Federal Government as part of the St. Croix Recreational Demonstration Area and the land was considered to be exempt if the government was granted exclusive use of the land. If you are satisfied that the city has been granted exclusive use of the land and it is used for public purpose, and in this case, it appears it is since the city has constructed improvements on the property that are available for public use, you may grant the exemption. However, we would recommend that you obtain a copy of the lease and review its terms prior to granting the exemption.

Second, you asked if certain rights to a property are held by a unit of government (i.e. RIM conservation easements, DOT living snow fences, drainage easements, etc.) and the remaining rights continue to be held by a private individual, what rights should be valued as taxable?

In our opinion, assessors should, unless directed otherwise by statute, value property as if the entire bundle of rights is in tact – the fee simple interest. This was clearly stated in a recent letter to all county assessors from former Assistant Commissioner Ray Krause regarding valuation of subsidized housing, but the concept is just as applicable here. This requirement of assessors to value the fee interest was succinctly summarized in *TMG Life Ins. Co. v. County of Goodhue*, 540 N.W.2d 848 (Minn. 1995) aff'g File No. C9-94-479 (Minn. Tax Ct. Dec. 15, 1994):

“The fundamental disagreement between the parties is what interest should be valued for tax purposes, the fee, or the leased fee interest? The fee is the entire interest or the entire ‘bundle of rights.’ According to the bundle of rights theory, complete real property ownership, or title in fee, consists of a group of distinct rights. Each of these rights can be separated from the bundle and conveyed by the fee owner to other parties in perpetuity or for a limited time period. When a right is separated from the bundle and transferred or mortgaged, a partial, or fractional, property interest is created. (Footnote omitted.)

(Continued...)

Farley Grunig
May 24, 2004
Page 2

Appraisers must understand partial interests to define appraisal problems. At the start of any appraisal assignment, the property rights to be valued must be clearly identified. (Emphasis supplied.)

American Institute of Real Estate Appraisers, The Appraisal of Real Estate 121 (10th ed. 1992).

...The task of the assessor is to value the full market value of the entire fee interest of property for taxation. The property may be divided into different interests and estates and the tax payment obligation may be divided by contract between owner and lessee, but the assessor values the whole, not the separate parts. Osborne Properties v. County of Hennepin, File No. TC-2748 (Minn. Tax Ct. Feb. 16, 1984); Hillcrest Development v. County of Hennepin, File No. TC-2208 (Minn. Tax Ct. Sept. 5, 1984); and Jermyn v. County of Stearns, File No. 44347 (Minn. Tax Ct. Dec. 12, 1984)."

Therefore, unless there is a change in the current statute, assessors should value the property at its market value as if the entire bundle of rights was in tact.

Third, you asked if government-owned structures located on privately-owned land should be taxable. You referenced two past situations in Cottonwood County – a shed owned by the Soil and Water District and a county-owned recycling shed. I researched letters written to Cottonwood County back to the early 1980's. I found one letter where we concluded that a city-owned booster station located on an easement over private property would likely be exempt. In addition, I found a letter that stated a shed constructed by the Soil and Water District on private property may possibly be exempt. In that case, we suggested that you review the terms of the lease to ensure that the owner of the land does not receive any benefit from the storage building that is located on the leased land. If it was determined that the Soil and Water District had exclusive use of the building, we indicated that it would be appropriate to grant exemption from property tax on the building. We are not aware of any statutory changes that would cause us to change our opinions on those issues.

Hopefully we have answered all your questions. Please contact our division if you require further assistance.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128

Enclosures

December 2, 2004

Gail Bondhus
Cottonwood County Assessor
Courthouse
900 3rd Avenue
Windon, Minnesota 56101

Dear Ms. Bondhus,

Thank you for your letter regarding the taxable status of a property located within a wildlife refuge.

In your letter, you stated that a parcel containing a house, garage, and 1.5 acres of land has been set aside for real estate purposes and classified residential nonhomestead property. The parcel is located in the Talcot Lake Wildlife Management Area, which is exempt as a wildlife refuge. The property was previously used as a residence by a former manager of the wildlife management area. The house has remained vacant since the retirement of the former manager of the wildlife management area in 2002.

You asked should the house, garage, and 1.5 acres of land be exempt or is it correct to leave it taxable.

M.S. 272.011 states in part that:

“...any real property or portion thereof owned by the state and under the control of the state... and regularly utilized (emphasis added) as living accommodations for any officer or employee of the state or any department... shall be subject to assessment and taxation...”

Since the property has not been occupied since 2002 and if there are no current plans to rent or allow the property to be used as a residence of another manager of the wildlife management area, then the property is not “regularly utilized” as stated in the above statute. Therefore, it is our opinion that the property should be exempt.

Sincerely,

MELISA REDISKE, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6092 Fax (651) 556-3128
E-mail: melisa.rediske@state.mn.us

April 4, 2005

Glen Erickson
Morrison County Assessor
Administration Building
213 1st Avenue SE
Little Falls, Minnesota 56345

Dear Mr. Erickson:

Your letter regarding property owned by the Lion's Club has been forwarded to me for a reply. The property consists of a baseball field, a play area, a shelter, and a parking lot. You explained that the Little Falls High School Junior Varsity baseball team and a number of local softball clubs utilize the baseball field. The shelter is used for Lion's Club meetings and is also rented out to the public for special occasions, such as high school graduations, family reunions, etc. You have asked if the property should be exempt in light of the 2003 law change that allowed certain baseball parks exemption from property tax.

We are of the opinion that the property owned by the Lion's Club is taxable.

As you know, in order to qualify for exemption, there must be a concurrence of ownership, use and necessity of ownership.

Organizations such as the Lion's Club are not ordinarily exempt for property taxes. They would have to establish that ownership by their organization makes them eligible for exemption. The property must also be used to further the stated purpose of the organization. Currently, the property in question has several uses: a baseball field, a play area, a shelter, and a parking lot. None of these uses would be considered to be uses that further the stated purpose of a Lion's Club. Minnesota Statute 272.02, subdivision 25, paragraph b, states that:

“Real property is exempt if it is owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), and primarily used (emphasis added) as a baseball park by amateur baseball players.”

Since the baseball park is only one of the current uses, and it is used only occasionally, we do not feel that it qualifies for exemption under this statute.

Additionally, they would have to meet the necessity of ownership test and establish that ownership of these facilities were necessary to further the stated purpose of their organization. It would be difficult to establish that the ownership of a ballpark was a necessary component of their existence.

(Continued...)

Glen Erickson
April 4, 2005
Page 2

You also asked us if changing the status of the Lion's Club to 501(c)(2) Title Holding Corporation would increase their chance of exemption from property tax. In our opinion, it would not since the Lion's Club is already a 501(c)(3) non-profit corporation.

If you have additional questions or concerns, please contact our division.

Sincerely,

MELISA REDISKE, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6092 Fax (651) 556-3128
E-mail: melisa.rediske@state.mn.us

April 14, 2005

Bob Hansen
Hubbard County Assessor
Courthouse
3rd & Court Street
Park Rapids, Minnesota 56470

Dear Bob:

Your inquiry regarding the taxable status of a property located in Hubbard County has been forwarded to me for reply. You have provided the following information. A wayside rest was recently constructed on land that is owned by the Park Rapids Chamber of Commerce and is attached to the building currently occupied by the Chamber. The entire property was conveyed via quitclaim deed from the Chamber of Commerce to the city of Park Rapids prior to construction. However, the quitclaim deed was never recorded. This is in contrast to a "Memorandum of Understanding" that states that the city of Park Rapids would accept ownership of the parking lot and the wayside rest portion of the building when construction was complete. According to this document, the Chamber of Commerce would retain ownership of its portion of the land and building as well as the All Veterans Memorial which is leased from the Chamber of Commerce for 99 years. You have asked which portion of the property, if any, should be exempt.

As you know, for exemption from property tax to occur, there must be a concurrence of ownership of the property by an exempt entity, use of the property to further the stated purpose of the exempt entity and a necessity of ownership of the property by the exempt entity. After reviewing the documents, it appears that even though the quitclaim deed is not recorded, the entire property is owned by the city of Park Rapids, since the deed is dated after the Memorandum of Understanding. Based on this premise, that the entire property, including the All Veterans Memorial, is owned by the city of Park Rapids, it is our opinion that the wayside rest, parking lot, and the All Veterans Memorial should be exempt as public property used for a public purpose.

However, any part of the property used by the Chamber of Commerce would be taxable. This would apply to any property owned or leased, formally or informally. Minnesota Statute 273.19, subdivision 1, states in part that:

"Except as provided in subdivision 3 or 4, tax-exempt property held under a lease for a term of at least one year, and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, shall be considered, for all purposes of taxation, as the property of the person holding it. In this subdivision, 'tax-exempt property' means property owned by the United States, the state, a school, or any religious, scientific, or benevolent society or institution, incorporated or unincorporated, or any corporation whose property is not taxed in the same manner as other property. This subdivision does not apply to property exempt from taxation under section 272.01, subdivision 2, paragraph (b), clauses (2), (3), and (4)."

(Continued...)

April 14, 2005
Bob Hansen
Page 2

Subdivision 1a further states that:

“For purposes of this section, a lease includes any agreement permitting a nonexempt person or entity to use the property, regardless of whether the agreement is characterized as a lease (emphasis added). A lease has a ‘term of at least one year’ if the term is for a period of less than one year and the lease permits the parties to renew the lease without requiring that similar terms for leasing the property will be offered to other applicants or bidders through a competitive bidding or other form of offer to potential lessees or users.”

Please understand that this opinion was formed using only the documents provided. If the facts of the situation were to change, our opinion would be subject to change as well. Our opinion is only advisory in nature. You, as the county assessor, must make the final decision of whether or not to grant the exemption. If the property owner disagrees with your decision, they may appeal to Minnesota Tax Court.

If you have further questions, please contact our division.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

March 20, 2006

Steve Skoog
Becker County Assessor
Courthouse 913 Lake Avenue
P.O.Box 787
Detroit Lakes, Minnesota 56502

Dear Steve:

Your e-mail in Indian property has been assigned to me for reply. First of all, let me apologize for the unacceptable delay in answering your questions. You outlined the following situation.

An individual owns a house located on an island owned by the Federal government and held in trust for the White Earth Band of Chippewa Indians. In the past, the entire property, both land and improvements, has been taxed as personal property to the occupant of the house, who leased the property in the name of a trust. Recently, the person who leased the island was able to trade a tract of land located in another county for the island property. The deed that transferred the island to the occupant was in the name of a corporation – Norski Investors LTD. The occupant is one of the members of Norski Investors LTD.

Question #1 – Should the improvements now be taxed as real property as part of the island since it is no longer held in trust with the Federal government?

Answer: Yes, this is appropriate.

Question #2 – If the property should be taxed as real property, is the occupant eligible for homestead?

Answer: Residential property that is owned by a corporation such as Norski Investors LTD cannot be homesteaded. Only farms, resorts, and hotels that are owned by entities may qualify for homestead under specific circumstances provided under Minnesota Statute 273.124.

Again, please accept my apology for the lateness of our response. If you have further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

February 27, 2007

Steve Hurni
Regional Representative
15085 Edgewood Road
Little Falls, MN 56345

Dear Steve:

Your question on “threshing” entities has been assigned to me for reply. You stated that one of your counties has a threshing entity that qualifies for the exemption provided in Minnesota Statute 272.02, subdivision 49. The owner has asked if they can get another exemption if they create another entity that would own the property.

As you know, Minnesota Statute 272.02, subdivision 49 states that agricultural historical society property is exempt from property tax if:

“...it is owned by a nonprofit charitable or educational organization that qualifies for exemption under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 2000, and meets the following criteria:

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

As the law states, this exemption is limited to one, 20-acre exemption per owner per county. If an entity makes application for exemption for another property of this type, the assessor should investigate to make certain that the property is truly owned by another entity and not just an entity with the same owners who are organized under a different name. If you or the county has additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

April 11, 2007

Troy Stewart
Pine County Assessor's Office
Courthouse
315 6th Street
Pine City, Minnesota 55063

Dear Troy:

Your e-mail has been assigned to me for reply. You outlined the following situation. Grand Casino Hinckley had 50 "chalets" (manufactured homes) located on a taxable parcel of land near the casino. The chalets were assessed as personal property to the Mille Lacs Band of Ojibwe Indians. Each chalet was 12 feet wide and 33 feet long. All assessments and taxes were current through 2005.

For the 2006 assessment, the chalets were still located on the same parcel of land and were assessed in the same manner as in previous years. The valuation notice was sent in March 2006, and the personal property tax statement was sent in July 2006. In July 2006, you were informed that 49 of the 50 chalets had been sold to the owner of a campground in December 2005. The Casino provided you with a copy of the bill of sale and a copy of the check that was given as payment. All 50 chalets were located on the casino property as of January 2, 2006 and were later moved to the campground. The Mille Lacs Band retained ownership of one of the chalets, and it is still located on the property. The taxes are current on that particular chalet. In addition, they have since added 50 new chalets to the property. The taxes are current on those chalets as well.

The Mille Lacs Band is refusing to pay the 2006 personal property taxes for the 49 chalets they sold in December 2005. The new owner has stated that he is exempt from the 2006 personal property taxes because he is a licensed manufactured home dealer and he is claiming that they are "inventory." You have asked a number of questions which are outlined below.

1. Was the Mille Lacs Band of Ojibwe under any obligation to notify the county that a change in ownership had taken place?

While it would have been nice if the seller had informed you of the sale, we are not aware of a specific statute that would require them to do so. In the future, you should encourage the Mille Lacs Band of Ojibwe to inform you as soon as the chalets are sold.

2. Does the fact that the new owner is a licensed dealer automatically exempt him from property tax on the units? And, do the units need to be located on his land in order for him to claim exemption as "dealer inventory?"

(Continued...)

Troy Stewart
Pine County Assessor's Office
April 11, 2007
Page 2

If the chalets are truly used as inventory and therefore exempt from property tax, the dealer should have made you aware of that fact. Since he did not inform you prior to July 1, 2006, the chalets were taxable for the 2006 assessment. Since he apparently purchased the chalets prior to the January 2, 2006 assessment date, it is our opinion that the dealer would be subject to personal property taxes assessed and payable in 2006.

In addition, if the dealer is not using the chalets as inventory (i.e. if they are offered for rent), they would not be exempt as inventory. Rather, they would be taxable as either real or personal property, depending on the ownership of the land where they are located.

3. Should the county records be changed to reflect the new owner as the owner of record for 2006? Currently, ownership is still listed under Mille Lacs Band of Ojibwe and any penalty and interest will be levied against them.

If they chalets are, in fact, inventory, it is our opinion that it would not be prudent to change the county records to reflect the new owner since they will likely sell again in the near future. If they are not inventory, you should change the name to reflect the ownership change.

Please understand that this opinion is advisory in nature. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information Education Section
Property Tax Division

August 1, 2007

Bob Schmitt
Scott County Assessor
Government Center 112
200-4th Ave. W.
Shakopee, MN 55379-1220

Dear Mr. Schmitt,

The Minnesota Valley Transit Authority (MVTA) has filed an application for exemption for a parcel of property located in the city of Savage that the MVTA will use as a transit park and ride lot.

The MVTA is an entity formed by a joint powers agreement among the cities of Apple Valley, Burnsville, Eagan, Rosemount and Savage to provide public transit services. Minnesota Statutes, section 471.59, authorizes governmental units to use joint powers agreements to jointly exercise any power common to the governmental units. A joint powers agreement allows a group of governmental entities to do together what they could each do separately.

Here, the five cities have joined to operate a public transit system. Together, they qualify under Minnesota Statutes, section 473.384, subdivision 2, clause (a) as a combination of cities eligible to receive financial assistance from the Metropolitan Council.

The MVTA property should be considered as if it is the property of any one of the cities that formed the MVTA. As such, the property used by the MVTA would be exempt as “public property used exclusively for public purposes.” Minnesota Statutes, section 272.02, subdivision 8.

The Application for Property Tax Exemption indicates that MVTA acquired the parcel as of February 2007. Section 272.02, subdivision 38, clause (b) provides that if property that was taxable on the assessment date is acquired for exempt purposes before July 1 of the assessment year, the property is exempt for that assessment year.

If you have further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

DOROTHY A. MCCLUNG
Property Tax Division

September 24, 2007

Wayne Anderson
Pope County Assessor
Pope County Courthouse
130 E. Minnesota Ave.
Glenwood, MN 56334

Dear Mr. Anderson,

I am responding to your September 11 inquiry regarding the taxability of a building housing a community center in Starbuck, Minnesota. The community center is a part of a new building in Starbuck built by the City to house the fire department, the police department and the city administrative offices. The community center is rented to individuals for wedding receptions and other civic functions. You asked our opinion on whether the portion of the building used as a community center becomes taxable if it is rented for wedding receptions and other private or civic events. In our opinion, the community center is exempt as public property used for a public purpose pursuant to Minnesota Statutes, section 272.02, subdivision 8.

Minnesota cities have broad statutory authority to acquire, operate and maintain facilities for public recreation. As outlined in Minnesota Statutes, section 471.191, cities can build and operate skating rinks, athletic fields, concert halls and “facilities for other kinds of athletic or cultural participation.” We have seen many cities in recent years building or acquiring community centers and almost always these centers will be made available for private events at a fee to the user. We expect the fees offset the operational costs of the centers. Centers that are used for multiple purposes by a community fit into the authorized uses outlined in the law. If a city built a center that was only available for rental and never used for broader community activities, we might question the public purpose. It would look more like a private business venture than a municipal recreational use.

If the city of Starbuck’s community center is available to the entire community, some rental that is fairly insignificant would not negate the public purpose of the property and it would remain exempt.

If you have any other questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

Dorothy A. McClung
Property Tax Division

MINNESOTA ▪ REVENUE

March 2, 2010

Dave Sipila
St. Louis County Assessor
100 N 5th Ave West, Room 212
Duluth MN 55802

sipilad@co.st-louis.mn.us

Dear Mr. Sipila,

Thank you for your recent letter to the Department of Revenue regarding property owned by Habitat for Humanity in St. Louis County. You have denied exemption as an institute of purely public charity because the property qualifies for homestead under Minnesota Statutes, section 273.124, subdivision 18. This section allows homestead under the following circumstances:

“Property undergoing renovation.

Property that is not occupied as a homestead on the assessment date will be classified as a homestead if it meets each of the following requirements on that date:

- (a) The structure is a single family or duplex residence.*
- (b) The property is owned by a church or an organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.*
- (c) The organization is in the process of renovating the property for use as a homestead by an individual or family whose income is no greater than 60 percent of the county or area gross median income, adjusted for family size, and that renovation process and conveyance for use as a homestead can reasonably be expected to be completed within 12 months after construction begins.*

The organization must apply to the assessor for classification under this subdivision within 30 days of its acquisition of the property, and must provide the assessor with the information necessary for the assessor to determine whether the property qualifies”.

This statute was enacted in 1993. It was (and remains) our understanding that that this provision was enacted so the first year’s taxes paid by the individual or family would be based on the property’s classification as a homestead. While actual use of the property as a homestead under an individual’s ownership would preclude the property from qualifying for exemption, the eligibility for homestead under this specific provision does not preclude the property from qualifying for exemption as an institution of purely public charity while it is still under the ownership of the qualifying 501(c)(3) organization.

Based on the application for exemption as an institution of purely public charity, it appears that the property will likely qualify for exemption. Every Habitat for Humanity property we have reviewed has proved to be eligible for property tax exemption. However, you would need to review the organization's Articles of Incorporation, financial documents, etc. in order to determine whether all qualifications for exemption are met. If the property does not qualify for exemption, it may qualify for homestead under M.S. 273.124, subd. 18.

Additionally, you may refer to the recently-released bulletin regarding exemptions for institutions of purely public charity for assistance in determining whether the property qualifies for exemption. If you have questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

August 13, 2010

Dave Sipila
St. Louis County Assessor
sipilad@co.st-louis.mn.us

Dear Mr. Sipila:

Thank you for your question concerning exempt property. You have provided us with the following scenario:

A parcel of property is owned by “The Cook Hospital in trust for the benefit of the Hospital and Nursing Home.” It is improved with a structure that is used as a thrift store. The store sells donated items to the public and the proceeds received are used to support hospital and nursing home operations. The store is staffed by volunteers from the hospital auxiliary. The store is not connected to the hospital or nursing home. Previously, the property has been classified as a purely public charity. However, during the 2010 application process it came to light that the Cook Hospital is a special hospital taxing district and not a 501(c)(3) organization, which disqualifies it from being exempt as a purely public charity. You have asked how this property should be classified.

We concur with your opinion that the thrift store property in question does not meet the qualifications to be exempt. The hospital building itself is exempt as a public hospital. However, the thrift store is not physically or functionally part of the hospital and would therefore not be covered under the hospital’s exemption. In addition, the property is not owned by a 501(c)(3) organization and therefore it cannot qualify for exemption as a purely public charity. In our opinion, this property would appropriately be classified as class 3a commercial.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

September 16, 2010

Jo Dooley
Wadena County Assessor's Office
dooleyjo@co.wadena.mn.us

Dear Ms. Dooley,

Thank you for your recent question to the Property Tax Division. In Wadena County, there is a 35.33-acre property, of which 13 acres are farmed (class 2a), 21.33 acres are rural vacant land (class 2b), and one acre is coded as seasonal residential recreational that contains an 18' x 10' building used as an announcer's stand for a riding arena. The riding organization that uses the property has asked why they are not eligible for exemption in the same manner that baseball parks and ice arenas are exempt. You explained that there is special legislation for baseball parks and ice arenas, but they have asked for further clarification.

As you know, in Minnesota all property is taxable except that which, by law, is exempt. That is, the presumption is that all property is taxable until it is proved otherwise. To be eligible for exemption, a property must be owned by an exempt entity, used by the exempt entity for eligible exempt purposes, and ownership must be reasonably necessary to further the goals of the exempt entity.

For ice arenas and baseball parks, this three-prong test is then compared to the exemption eligibility outlined in Minnesota Statutes, section 272.02, subdivision 25. You are correct that there is indeed special legislation for baseball parks and ice arenas:

“(a) Real and personal property is exempt if it is owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used for an ice arena or ice rink, and used primarily for youth and high school programs.

(b) Real property is exempt if it is owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), and primarily used as a baseball park by amateur baseball players.”

In this scenario, an ice arena or baseball park may be exempt if it meets the ownership requirement (a 501(c)(3) must own it), use test (“primarily used for” ice arena or ball park). Clearly, the ownership of an ice area or ball park would be reasonably necessary to meet the goals of the owners of the ice arena or ball park.

There is no similar legislation for riding arenas. The only eligibility for exemption would be under Minnesota Statutes, section 272.02, subdivision 7, as an institution of purely public charity. If the riding arena is a 501(c)(3) organization, it may apply for exemption under this subdivision.

We recommend referring to the department's March 1, 2010 bulletin on exemption eligibility for institutions of purely public charity as well as our recently-updated Property Tax Administrator's Manual, Module 5 – Exempt Property, which is available via the following link:

http://taxes.state.mn.us/property_tax_administrators/Documents/other_supporting_content_Module%205%20Exempt%20Property.pdf

Additionally, we recommend reviewing the classification of the riding arena, as SRR may not be the most applicable classification. If you have any further questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division



November 22, 2010

Nancy Gunderson
City Assessor
City of Moorhead
500 Center Avenue
Moorhead, MN 56561

Dear Ms. Gunderson:

Awhile back, Brad Averbeck, the property tax compliance officer for your region, forwarded a packet of information to our office regarding the Region 1 property in the city of Moorhead. This property is a regional management information center which provides centralized computer services for several school districts in the state. Region 1 has applied for exemption from property tax as a public school and you have asked for our opinion on the situation.

Based on the information you have provided and a subsequent telephone conversation with Bob Wheeler, Executive Director of Region 1, it is our opinion that this property should be exempt. It is our understanding that Region 1 was formed via a joint powers agreement under Minnesota Statutes, section 471.59 to provide services to a number of school districts via a regional management information center as provided under section 123A.23. It is known as school district 869 by the Minnesota Department of Education and is governed by a board of directors made up of representatives from its member districts. The employees are employees of school district 869 and contribute to the Public Employees Retirement Association (PERA) fund.

This opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have additional questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section

MINNESOTA ▪ REVENUE

February 16, 2011

Steve Skoog
Becker County Assessor
slskoog@co.becker.mn.us

Dear Mr. Skoog,

Recently, you asked Brad Averbeck, Regional Representative, his advice regarding the eligibility for exemption of a property in your county. Mr. Averbeck forwarded your question to our division for research and response. You have outlined the following scenario: The Lakes Crisis and Resource Center, which operates a shelter for women who have experienced domestic violence, is planning to build a new facility. They have considered changing the ownership of the new property to an LLC as a holding company, which would in turn lease the property back to the shelter. The Lakes Crisis and Resource Center would be 90% owner of the LLC, and the remaining 10% owned by a corporation. You have asked if, in this scenario, the property would become taxable.

While it appears that this question is hypothetical in nature, we will provide some information for you. The most common eligibility for property tax exemption for such a property is in Minnesota Statutes, section 272.02, subdivision 13, which provides:

“Emergency shelters for victims of domestic abuse.

Property used in a continuous program to provide emergency shelter for victims of domestic abuse is exempt, provided the organization that owns and sponsors the shelter is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code, notwithstanding the fact that the sponsoring organization receives funding under Section 8 of the United States Housing Act of 1937, as amended.”

The other potential option for property tax exemption would be for the property to qualify as an institution of purely public charity under section 272.02, subdivision 7. However, in either case, the property must be owned and operated by a qualifying 501(c)(3) non-profit organization. If the ownership of the property is not a 501(c)(3) organization, it does not meet the statutory requirements for exemption under either of these provisions.

If you have any other questions or concerns, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

C: Brad Averbeck, Regional Representative

June 28, 2011

Eric Lindberg
eric.lindberg@co.dakota.mn.us
Dakota County Assessor's Office

Dear Mr. Lindberg:

Thank you for your question concerning the taxation of airplane hangars. You have asked the following question regarding government-owned hangars in cities of with a population of less than 50,000 that are leased to private entities:

The City of South St. Paul owns the airport (<50,000 population). The business does repair work on aircraft: sometimes parts, floats, rehab (re-upholstery, etc). It is a business not contracted to a certain company but doing work as a repair destination for both individual plane owners and other small business plane owners (small charter flights, aviation-related business, photography, etc.). Does this fall into the "repair of commercial-use aircraft" category and therefore taxable as personal property?

Utilizing the Property Tax Administrator's Manual, Module 5 – Exempt Property, we look to the chart on page 53 and answer the following questions:

Who owns the property? Answer: A government entity with a population less than 50,000.

How is the hangar used? Answer: It is leased or used by a private individual for aviation-related business. Although this business appears to repair some commercial use aircraft, it is our opinion that the business is aviation-related as defined in Minnesota Statute 272.01, subd.2(b)(2)(ii): "*provide(s) aviation goods, services, or facilities to the airport or to the general public.*"

Therefore, our opinion is that this hangar (including the land) is exempt.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

June 30, 2011

Gloria Pinke
Dakota County Assessor's Office
gloria.pinke@co.dakota.mn.us

Dear Gloria,

Thank you for your recent question to the Property Tax Division regarding exemptions for the American Red Cross. You have outlined the following situation: The American Red Cross acquired property in Dakota County as a gift in February of 2011. Taxes payable in 2011 based on the 2010 assessment are \$51,214.00. The Red Cross has not completed an application for property tax exemption, and has stated that it is not required to pay the taxes from the 2010 assessment as the Red Cross is an instrument of the United States and therefore immune from property taxes. You have asked the following questions, which are answered in turn.

Question 1: Is the Red Cross exempt regardless of when the title transferred to them?

Answer: As an instrumentality of the federal government, the Red Cross is exempt from property taxes. The Red Cross provided your office with a memorandum that cites a court case which states, “[t]he Red Cross is a United States Government instrumentality which is immune from state and local taxation when it is lawfully pursuing its mandated purposes.” The mandated purposes of the Red Cross include: to provide volunteer aid in time of war to the sick and wounded; to act as a liaison between the people of the United States and its military forces; to carry a system of relief in times of peace, mitigating suffering caused by calamities; or anything else that is consistent with these purposes. Therefore, barring any clearly taxable use the property, it is indeed immune from taxes and therefore exempt from property taxes.

In terms of qualifying for exemption if the Red Cross acquired the property after the assessment date, Minnesota Statutes, section 272.02, subdivision 38, paragraph (b) allows the following:

“Property, except property taxed as personal property under section 273.125, that is subject to tax on January 2 that is acquired before July 1 of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivisions 2 to 8.”

Subdivision 8 includes public property used for a public purpose, which the Red Cross' exemption would fall under. Therefore, since it was acquired prior to July 1 of the assessment year, it is eligible for exemption for the 2011 assessment.

Question 2: Is the Red Cross liable for taxes payable in 2011?

Answer: Because the Red Cross is immune from taxation as an instrumentality of the United States, the organization is not liable for the taxes based on the 2010 assessment. The state (or political subdivision) has no power to divest a federal instrumentality of its title as a means of enforcing taxes. Therefore, any property taxes based upon the assessment of the property prior to its acquisition by the Red Cross are uncollectable during the time that the Red Cross owns the exempted property. The lien for the taxes does, however, remain on the property.

Question 3: Is any property owned by the Federal Government required to file an exempt application?

Answer: It is not necessary for the Red Cross to file an application for property tax exemption. Because its tax immunity exists by virtue of *federal* law, it is not subject to any procedural provision of State law. The assessor may request documentation or additional information if ownership or use of the property by the qualifying exempt organization is unclear, however it is not required that an application be submitted before exemption can be applied.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

September 15, 2011

Larry Austin
Regional Representative
Minnesota Department of Revenue
Larry.austin@state.mn.us

Dear Mr. Austin:

You have received a question from St. Louis County concerning the taxation of a golf course owned by the City of Ely and the Town of Morse. The City and the Township have leased the golf course to the Ely Golf Club, Inc. - a 501(c)(7) corporation - for a nominal consideration and the organization handles the day-to-day operations of the golf course. You have asked if this property would be exempt from property taxes under Minnesota Statutes 471.191.

Minnesota Statute 471.191, subdivision 4 states that:

“Any and all properties acquired and used, whether under lease or otherwise, by a city for the purposes authorized and contemplated in this section [city public recreation facilities, including golf courses] shall be deemed and are declared to be public property exclusively used for a public purpose and as such exempt from taxation, so long as and to the extent that such property is devoted to said purposes and is not subleased to any private individual, association, or corporation in connection with a business conducted for profit, for a term of three or more years. An agreement whereby a city, as owner or lessee, employs a private individual, association, or corporation to operate facilities for use of the public, for the purposes herein contemplated and subject to regulation by the public owner or lessee, is not a sublease for the purpose of this subdivision.”

As you are aware, ordinarily a golf course that is owned by a city would be exempt as public property used for public purposes. However, whenever a portion of an exempt property is leased, it puts the exemption at risk. In this case, it is important to differentiate between (1) a *lease* and (2) a *management agreement*. Under normal circumstances, the essential difference between the two is that under a management agreement the city would hire someone else to run the golf course as the city dictates, as opposed to a lease in which the city leases the golf course to someone else to run as they see fit.

In order to determine what kind of agreement the two parties have, we may require certain information such as (i) who decides the hours of operation; (ii) who decides what the fees will be; (iii) who decides what kind of services have to be offered, and when (i.e., foodservice, a locker room, etc.).

However, in general, if the city decides what the hours are and what the fees will be, and gives the other party a set fee or a percentage for the other party to do the actual work; that is likely a management agreement and the property is still public property being used for public, not private, purposes. Alternatively, if the “lessee” gets to decide what the hours are, what the fees will be, and what they want to sell and at what price; that is generally a sufficient indication that it is a lease

instead of a management agreement and therefore the property may be taxable. The concept is that under a lease, the private person is using the property for their own (private) purposes, not a purely public purpose, so the property would not be exempt under Minnesota Statutes 471.191; 272.01, subdivision 2; or 273.19.

If this response is not sufficient to answer the question, it may be necessary to request more specific information from the St. Louis County Assessor concerning the agreement between the City of Ely and the golf club.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

December 12, 2011

Byron Swart
Nobles County Assessor
bswart@co.nobles.mn.us

Dear Mr. Swart,

Your recent question to Sherri Kitchenmaster, Regional Representative, was forwarded to the Property Tax Division for research and response. The city of Worthington will be opening a municipal event center. They have entered into a management agreement with an individual who is not a city employee. The management agreement allows the new individual to operate the facility, and the manager (or the firm that manages the facility) will receive 90% of the gross sales. You have asked if this property would be eligible for exemption.

While we are not able to give absolute answers based on hypothetical situations, we can provide some general information related to the taxability of city-owned recreational facilities. As you are aware, city-owned property that is used exclusively for public purposes is eligible for exemption. If the property is loaned, leased, or otherwise made available to a private entity, the exemption is put at risk. In the scenario you have detailed, it appears that the municipal event center will be covered by a management agreement, but it is not clear that this necessarily constitutes a lease.

Essentially, leases and management agreements are treated differently when one looks into whether a city-owned property may be taxable or exempt. Under normal circumstances, the main difference between the two is that under a management agreement the city would hire someone else to run the facility as the *city* dictates, whereas under a lease the city leases the facility to someone else to run as *lessee* sees fit.

In order to determine what kind of agreement the two parties have, you may require certain information such as (i) who decides the hours of operation; (ii) who decides what the fees will be; (iii) who decides what kind of services have to be offered, and when (i.e., foodservice, a locker room, etc.). However, in general, if the city decides what the hours are and what the fees will be, and gives the other party a set fee or a percentage for the other party to do the actual work, that is likely a management agreement and the property may still be public property used for public purposes. Alternatively, if the “lessee” gets to decide what the hours are, what the fees will be, and what they want to sell and at what price; that is generally a sufficient indication that it is a lease instead of a management agreement and therefore the property may be taxable. The concept is that under a lease, the private person is using the property for their own (private) purposes, not a purely public purpose, so the property would not be exempt under Minnesota Statute section 471.191, 272.01, or 273.19.

While it appears that the documentation provided by the City of Worthington reflects a management agreement rather than a lease, the facts of the situation must be considered when operation of the property actually begins. The opinions in this letter are based solely on the information provided, and if any facts of the situation change our opinion would be subject to change as well.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA • REVENUE

April 9, 2012

Pat Walters
Winona County Assessor's Office
PWalters@Co.Winona.MN.US

Dear Ms. Walters

Thank you for your question concerning the taxation of an airplane hangar owned by the City of Winona airport. The factors to be considered are as follows:

- The City of Winona has a population of less than 50,000.
- B2W Corporation has been identified by the assessor as a “fixed base operator” at the City of Winona airport. B2W Corporation leases the airport terminal building from the city.
- A portion of the terminal building consists of a hangar, used to store an airplane owned by the Fastenal Corporation. The business of the Fastenal Corporation is *not* an aviation-related business.
- When the airplane is put into service (i.e., to fly Fastenal employees to other cities to conduct corporation business), it is flown by pilots who are employees of B2W Corporation (the fixed base operator).

You have asked if the hangar should be taxable or exempt.

In our opinion, the proper way to determine whether the hangar is taxable is to look at the sequence of events. When the hangar was leased by the city to the B2W Corporation for their use in their business as a fixed base operator, the building was exempt under Minnesota Statute 272.01, subdivision 2(b)(2), the first (i) and (ii) clauses: *“property leased to or used by any person or entity including a fixed base operator, and... used as a hangar for the storage or repair of aircraft or to provide aviation goods, services, or facilities to the airport or general public.”*

However, the hangar was leased by the B2W Corporation to Fastenal for Fastenal to use in the conduct of its business. This event negated the exemption pursuant to Minnesota Statute 272.01, subdivision 2(b)(2), the second clause (ii): *“hangars leased by a private individual association, or corporation in connection with a business conducted for profit other than an aviation-related business.”*

For an airplane hangar owned by a government entity in a city with a population of less than 50,000, if the hangar is leased to a private entity for a (non-aviation) business for commercial use, the hangar and land are taxable personal property to the lessee.

Therefore, it is our opinion that the hangar is taxable as a personal property tax to the lessee or user of the hangar. This opinion is based upon our understanding of the information you provided. If the facts of the situation were to change, our opinion would be subject to change as well. You may also wish to refer to the Property Tax Administrator's Manual, *Module 5 – Exempt Property*, which contains a table that is useful in determining when these properties are taxable or exempt.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA • REVENUE

August 20, 2012

Lori Schwendemann
Lac qui Parle County Assessor
lori.schwendemann@lqpc.com

Dear Ms. Schwendemann:

Thank you for your recent question submitted to the Property Tax Division regarding exemption eligibility for property in your county. You have outlined the following: A 240-acre parcel was purchased by the Nature Conservancy. This parcel contains 132 acres of native prairie, which the previous owner had certified as native prairie with the Department of Natural Resources. The remaining land is tillable and waste (although you did not state whether the tillable land was actually tilled). The Nature Conservancy called your office to indicate that they would be paying taxes on the land because the property was purchased using Lessard-Sams Outdoor Heritage Fund money. You have asked if they are eligible for native prairie exemption.

Native prairie land exemptions are granted under Minnesota Statutes, section 272.02, subdivision 12:

“Native prairie lands are exempt. The commissioner of the Department of Natural Resources shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which the lands are located. Pasture land used for livestock grazing purposes shall not be considered native prairie for the purposes of this subdivision. Upon receipt of an application for the exemption provided in this subdivision for lands for which the assessor has no determination from the commissioner of natural resources, the assessor shall refer the application to the commissioner of natural resources who shall determine within 30 days whether the land is native prairie and notify the county assessor of the decision. Exemption of native prairie pursuant to this subdivision shall not grant the public any additional or greater right of access to the native prairie or diminish any right of ownership to it.”

In other words, the 132 acres of native prairie may be exempt if the conditions for exemption – including certification by the DNR – are met.

For the remainder of the lands that are not native prairie, any exemption eligibility would need to be determined based on statutory guidelines for exemption. For example, if the Nature Conservancy sought exemption on the remainder of the lands as an institution of purely public charity, the requirements of Minnesota Statutes, section 272.02, subdivision 7 would need to be met. The onus is on the property owner to prove eligibility for property tax exemption.

In terms of the funding used by the Nature Conservancy to purchase the lands, we can find no prohibition against property tax exemption for properties purchased using Lessard-Sams Outdoor Heritage Fund monies. The Minnesota Constitution, Article XI, section 15 (the “outdoor heritage, clean water, parks and trails, and arts and culture” amendment) does not contain any limitation on property tax exemptions. Additionally, the Outdoor Heritage Fund statute (M.S. 97A.056) does not contain limitations on property tax exemptions. Finally, we did not notice any appropriations in Laws 2011 or Laws 2012 related to the Outdoor Heritage Funds that limited property tax exemptions.

Continued...

...Continued from page 1

While there does not appear to be any general law regarding property tax exemption limits for lands acquired with the Lessard-Sams Outdoor Heritage Fund money, it may be prudent to verify with the property owners to make sure they did not voluntarily agree to forego property tax exemption on these lands.

Therefore, it is our opinion that so long as statutory requirements for exemption are met, there does not appear to be a prohibition on property tax exemption in this case for lands acquired by the Nature Conservancy using funds from the Lessard-Sams Outdoor Heritage Council. Please note that this opinion is based solely on the facts as provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have any further questions, please contact us via proptax.questions@state.mn.us. Thank you.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

May 16, 2013

Brian J. Gust
Senior Property Assessor
Crow Wing County
322 Laurel Street, Suite 15
Brainerd, MN 56401
brian.gust@crowwing.us

Dear Mr. Gust:

Thank you for submitting your question to the Property Tax Division regarding the taxability of an airplane terminal building in your county. You have provided the following: A business, Airmotive, operates out of the Brainerd Lakes Airport. They are a company that leases and operates out the main terminal building at the airport. They are a servicing company for airplanes. They provide fueling and lavatory services for airplanes as well as catering and other services. The owner of the business has indicated that his business is a “fixed base operator”. Currently, they are being assessed property taxes. The terminal building is owned by a government entity, and the population of Brainerd is less than 50,000. The land is tax exempt. The business is in the main terminal and is currently being assessed property tax.

You have asked if the status of the business as a “fixed base operator”, even though the business leases space in the main terminal, exempts them from property taxes.

Based on the information you have provided, it appears that this property is exempted by Minnesota Statutes, section 272.01, subdivision 2, which provides in part:

“(b) The tax imposed by this subdivision shall not apply to:

- (1) property leased or used as a concession in or relative to the use in whole or part of a public park, market, fairgrounds, port authority, economic development authority established under chapter 469, municipal auditorium, municipal parking facility, municipal museum, or municipal stadium;***
- (2) property of an airport owned by a city, town, county, or group thereof which is:***
 - (i) leased to or used by any person or entity including a fixed base operator; and***
 - (ii) used as a hangar for the storage or repair of aircraft or to provide aviation goods, services, or facilities to the airport or general public [all emphasis added];...***

If you have any further questions, please contact our division at proptax.questions@state.mn.us. Thank you.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
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MINNESOTA • REVENUE

July 26, 2013

Steven Carlson
Becker County Assessor's Office
sccarls@co.becker.mn.us

Dear Mr. Carlson:

Thank you for submitting your question to the Property tax Division concerning the taxation of a golf course owned by the City of Detroit lakes. You have provided the following:

In your county, the City of Detroit Lakes owns a municipal golf course. The golf course is leased to the Detroit Country Club, Inc. (DCC). The DCC is a Minnesota non-profit corporation exempt from taxation pursuant to Section 501 (c) (3) of the Internal Revenue Code.

You have asked for the Department of Revenue's opinion regarding the taxable status of the City of Detroit Lakes Municipal Golf Course.

Upon review of the documentation submitted, it is our opinion that the municipal golf course is likely exempt under Minnesota Statute 471.191, subdivision 4. It appears that the DCC is subject to regulations by the City of Detroit Lakes and the city is sufficiently involved in the management/operations of the golf course. The lease agreement does not delegate discretionary or policy-making decisions to the DCC in our opinion.

To give a few examples, section 14.4 indicates that all income and profits must be used first to retire any debts for improvements to the property, and then to the reduction of fees for use by the public of the course and facilities. Section 14.5 specifically mandates that the golf course and facilities are to be operated for the benefit and recreation of the general public and for the City of Detroit Lakes. Finally, section 15.3 provides that the DCC cannot implement a new fee schedule without approval from the City.

After discussing this situation with our legal department, it was suggested that there should also be something from the city to indicate that the elected council is overseeing the operations of the course for the public's benefit. If the city does not perform this oversight, there is the potential that the lessee could begin operating the course of its own purposes, and not the city's. The city does not need to do much. For example, an annual declaration or resolution from the city council, based on staff recommendations, citizen comments, and the council's own personal observations would be enough. Regardless of how they decide to do this, the city cannot eliminate this oversight entirely and still have the course be considered a public course.

In summary, the city remains responsible for (and in control of) how the property will be used, and will review the details of the operation. If the lease agreement changes or use of the property changes, the exemption may be put at risk. However, if the terms of the agreement are adhered to, we do not anticipate a problem with the property being exempt as public property used for a public purpose. Please note that our opinion is purely advisory and is subject to change if the facts of the situation change.

If you have any additional questions, please do not hesitate to contact our division via proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

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July 30, 2013

Steven Carlson
Becker County Assessor's Office
sccarls@co.becker.mn.us

Dear Mr. Carlson:

Thank you for submitting your follow-up question to the Property Tax Division concerning the taxation of a golf course owned by the City of Detroit lakes as discussed in a letter you received dated July 26, 2013.

Question: You would like to know if the restaurant, bar, and pro shop would still be taxable?

Answer: Yes, the restaurant, bar, and pro shop should remain taxable. Nothing in our previous correspondence changes the taxability of those uses.

If you have any additional questions, please do not hesitate to contact our division via proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

July 31, 2013

Paul Gassert
Carlton County Assessor's Office
paul.gassert@co.carlton.mn.us

Dear Mr. Gassert:

Thank you for submitting your question to the Property Tax Division regarding exempt property.

Scenario: The City of Moose Lake is in the process of acquiring title to several homes which were destroyed in the 2012 floods through a FEMA/DNR grant. The closing will provide payment in full for the taxes due in 2013, prorated by the involved parties.

Question: Would Moose Lake have to pay the property taxes due and payable in 2014, and the tax-exempt status would apply beginning with taxes payable in 2015?

Answer: Minnesota Statutes, section 272.02, subdivision 38, specifically clause (b) provides that "property subject to tax on January 2 **that is acquired before July 1** of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivisions 2 to 8 [emphasis added]."

Therefore, if a taxable property is **acquired** before July 1 of the year and is used for the exempt purposes, the property would be considered exempt for that entire assessment year. If the property is acquired after July 1, the property would be considered taxable for that entire assessment year. In the situation you have outlined, it appears as though the city would not acquire the property until after July 1, and so the city would be responsible for taxes payable in 2014. The property would likely be exempt for the January 2, 2014 assessment (taxes payable 2015).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
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MINNESOTA • REVENUE

August 13, 2013

Peggy Trebil
Goodhue County Assessor
peggy.trebil@co.goodhue.mn.us

Dear Ms. Trebil:

Thank you for submitting your question to the Property Tax Division regarding the taxation of personal property.

Scenario: Red Wing's Ole Miss Marina is owned and operated by the Red Wing Port Authority. It owns and operates a two-site 284 slip marina and boat storage facility located at Bay Point Park and Colville Park (using an Enterprise Fund). The real estate parcels are exempt but there is a personal property parcel (P55.999.0275) valued at \$561,300, which generates approximately \$20,000 in taxes.

Question: Is a personal property tax on these 284 slips and boat storage/rentals acceptable?

Answer: Yes, a personal property tax on the 284 slips and the boat storage/rental facility is acceptable. Based on the information provided in your question, it appears that the slips and boat storage/rental facility would be taxable as personal property per Minnesota Statute 272.01, subdivision 2, paragraph (c).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

August 14, 2013

Keith Albertsen
Douglas County Assessor
keitha@co.douglas.mn.us

Dear Mr. Albertsen:

Thank you for submitting your question to the Property Tax Division regarding exemption of properties owned by US Fish and Wildlife and farmed by private individuals.

Scenario:

Recently, you have discovered instances where US Fish & Wildlife has entered into agreements with local farmers to farm all or portions of the USFW's property. The purpose of these agreements is to prepare the property for a native prairie restoration or to reestablish a different type of vegetation, and to do that requires the land to be tilled, sprayed, and planted to crops (typically for 2 or 3 years) in order to break the plant cycle. The reason USFW does not till themselves is that they do not have the equipment to do so.

Question:

If USFW is having this property farmed in order to do site preparation for native prairie restoration or other vegetation more suitable to wildlife, should the temporary agreements with the farmer be considered taxable to the farmer, or is this just proper management of the site for USFW's stated purpose?

Answer:

As you know, exempt property owned by a governmental entity such as US Fish and Wildlife would become taxable to a lessee if it is leased for a period of one year or more, or if the property is leased to a private entity for business conducted for-profit (M.S. 272.01 and M.S. 273.19). However, in the case you have outlined, it is common for government organizations to have farmers till or mow their properties. For example, the Department of Natural Resources has "agricultural leases" and "cooperative farming agreements." Land owned by the DNR and farmed under a cooperative farming agreement is not taxable.

In the situation you have outlined, it sounds as though the use of the property is concurrent to the mission of US Fish and Wildlife. It is also similar to the agreements that the DNR enters into. It is our opinion that this use of the property is not a taxable use.

Please note that our opinion is advisory, and is based purely on the facts as provided. If any of the facts were to change, or if we have misinterpreted any information, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

August 26, 2013

Carl Bruzek
Pennington County Assessor's Office
crbruzek@co.pennington.mn.us

Dear Mr. Bruzek:

Thank you for submitting your question to the Property Tax Division regarding property tax exemption. You have provided the following:

Scenario:

The Thief River Falls Convention and Visitors Bureau leases office space from the Carnegie Library which is owned by the City of Thief River Falls. The Thief River Falls Convention and Visitors Bureau is a 501(c)(6) corporation that was formed to market the city of Thief River Falls for the purpose of increasing tourism. The organization's activities include the following (according to Form 1024):

- Marketing the community as a tourism destination, as a relocation site, and as a destination for Canadian travelers
- Providing educational assistance to employers and employees regarding customer service and assistance to travelers
- Assisting local adult and youth organizations within prescribed parameters to provide local events by providing advertising and marketing assistance
- Working with various community groups to provide knowledge and awareness of our area to the many interests of the tourism industry.

You also provided the following additional information on the organization:

- Revenues are a lodging tax collected by the city of Thief River Falls as well as grants from the Minnesota Office of Tourism.
- There are no salaries for its officers or directors.
- It is a non-membership corporation.
- If the organization was ever dissolved, remaining assets are to be distributed to an organization(s) which are organized and operated exclusively for charitable, education, religious, or scientific purposes.

You also included a copy of the organization's Articles of Incorporation.

Question:

Does the property being leased by the Thief River Falls Convention and Visitors Bureau qualify for property tax exemption?

Answer:

Upon review of the information provided, we are of the opinion that because the Thief River Falls Convention and Visitors Bureau is a 501(c)(6) corporation, the property is not eligible for property tax exemption. The Department of Revenue has issued opinions in cases such as this in the past and determined that in order to qualify for property tax exemption, at a minimum, the organization must be recognized as a 501(c)(3) non-profit organization as determined by the IRS.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

Property Tax Division
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MINNESOTA • REVENUE

February 18, 2014

Lloyd McCormick
Property Tax Compliance Supervisor
Lloyd.mccormick@state.mn.us

Dear Mr. McCormick:

Thank you for your question to the Property Tax Division regarding valuation methods. You have provided the following scenario and question.

Scenario: In Le Sueur County there are several plats where the developer did not build the roads in the plat according to township or county specifications. Normally, the roads are transferred to the township when completed, but in these instances the townships will not accept the roads. The roads service residential and or seasonal subdivisions and have no restrictions as to who can use them, and in some cases they are described as “dedicated to the public” in the plats.

Question: Le Sueur County would like to know if the roads are taxable and if so, what the appropriate classification is.

Answer: It is our opinion that the roads would be taxable to the developer, since the exempt entity (township) will not accept the transfer of the roads because they do not meet township or county specifications. Our recommendation for classification of the roads would be 4b(4) non-homestead unimproved residential property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

December 9, 2014

Cheryl Grover
Clearwater County Assessor's Office
cheryl.grover@co.clearwater.mn.us

Dear Ms. Grover,

Thank you for contacting the Property Tax Division regarding property tax exemption. You provided us with the following information.

Scenario:

- An office building sold on June 30, 2014 to Twenty First Century Tribal Services, LLC
- The LLC is providing State-issued public assistance and services to individuals and families
- The LLC files a Federal Form 990
- Twenty-first Century Tribal Services, LLC was organized as an LLC under the laws of the State of Minnesota
- Its sole member is White Earth Rediscovery Center, a 501 (c)(3) entity
- These type of entities are necessary because of a recent law change in how White Earth Tribe will be handling their public assistance

Question: Does this property ownership qualify for exemption since it is owned by an LLC?

Answer: Based on the information provided, it is our opinion that the property may to qualify for exemption. In order to qualify for exemption, a property must be **owned** by a qualifying exempt organization, **used** for exempt purposes, and the ownership must be **reasonably necessary** for the purposes of the organization. It appears that this property is owned by a qualifying **single-member** LLC which makes the ownership eligible for exemption under Minnesota Statutes, section 272.02, subdivision 35.

Please note that our opinion is purely advisory. Ultimately, the County Assessor is responsible for determining exemption, and your opinion is appealable by the property owner to Minnesota Tax Court and/or Minnesota Supreme Court. Additionally, if we have misinterpreted any of the information provided, or if any of the facts were to change, our opinion would be subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY
State Program Administrator Senior
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA • REVENUE

December 31, 2014

Betty Schultz
Cook County Assessor/Land Commissioner
411 W. 2nd Street
Grand Marais, MN 55604
betty.schultz@co.cook.mn.us

Dear Ms. Schultz:

Thank you for submitting your question to the Property Tax Division regarding the possible exemption of a building in your county.

Scenario: You described a property with the following characteristics:

- Land is owned by Tofte Township
- The buildings are owned by Birch Grove Village, a 501(c)(3) entity
- The buildings consist of six duplexes (twelve total units)
- The units will be available to rent to seniors (people ages 55+ in this case)
- The rental is not income-based, but a flat market rent that is expected to be \$950 per month, plus heat and electricity
- The buildings will begin being used in 2015
- The buildings will be financed with tax abatement bonds through the Iron Range Resources and Rehabilitation Board, and all of the income from rental will be used to pay back this debt

Question: Will they qualify for any property tax exemption, specifically as an institution of purely public charity or as a housing redevelopment authority property?

Answer: At this time, it is not clear that the property would qualify for any exemption.

1. Institution of Purely Public Charity: As you correctly stated, the property must be used for charitable purposes. This includes being supported by donations, gifts, and/or government grants, as well as providing something for free or at a reduced cost. It is not clear that any of their current arrangement would allow for exemption as an institution of purely public charity. Additionally, it is usually very difficult for residential-use properties to qualify as institutions of purely public charity.
2. Housing and Redevelopment Authority: While this property will be used for housing, it is not owned by an HRA. The buildings are owned by a private entity, and should be taxed to that private entity.

Under the current ownership and use, you are correct to have the real estate treated as taxable, class 3a commercial. When it is put to use, you may re-evaluate the classification to determine whether something else (e.g. 4a apartment) is more appropriate.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
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MINNESOTA • REVENUE

January 5, 2015

Douglas Walvatne
Otter Tail County Assessor
dwalvatn@ottertail.mn.us

Dear Mr. Walvatne:

Thank you for submitting your question to the Property Tax Division regarding exempt property. You have provided the following scenario and question.

Scenario: Your office received an exempt application from the Regents of the University of Minnesota. They were gifted an 80 acre tract in Ottertail County.

When filling out the exemption application, the following questions were asked:

- Why is ownership of this property necessary?
- What is the principal use of the ... property?

Both questions were answered in the same manner:

- “To provide the Board of Regents of the University of Minnesota with adequate facilities to carry out its proper function as part of the State of Minnesota educational system”.

Question 1: Does this property qualify for exemption because the exempt entity (Regents of the University Of Minnesota) now owns the property even if the entity has not established a use?

Answer 1: In situations where the land use is not obvious, but the land is not being used for a purpose which is deemed taxable; the assessor may request additional information considered necessary to arrive at a conclusion. It is important for the assessor to keep an open line of communication with the entity seeking exemption. However, in this situation, it may be beneficial to recognize the type of exempt entity applying for exemption, and use all relevant facts to base your decision.

Question 2: Would the Regents of the University of Minnesota still have to pay the 2015 tax due to the fact that they did not become owners until after the July 1st date?

Answer 2: Yes, they would pay 2015 taxes based on the 2014 assessment. Minnesota Statutes, section 272.02, subdivision 38, paragraph (b) states:

“Property, except property taxed as personal property under section 273.125, that is subject to tax on January 2 that is acquired before July 1 of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivisions 2 to 8 [emphasis added].”

Since this property was acquired after July 1st, the taxability would be based on the January 2nd assessment date for the entire year.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

600 N. Robert St., St. Paul, MN 55146
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MINNESOTA • REVENUE

March 2, 2015

Lorna Sandvik
Marshall City Assessor
lorna.sandvik@marshallmn.com

Dear Ms. Sandvik:

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question.

Scenario:

- Southwest Aviation, Inc. serves as the Fixed Base Operator (FBO) at your city airport.
- You are currently exempting three city-owned hangers that are leased to the FBO.
- The FBO is now leasing city-owned office space at the airport.
- The FBO will use the office space to conduct general FBO business, aerial spraying service business, and classroom pilot training.

Question:

Is the office space leased by the FBO eligible for property tax exemption?

Answer:

As long as the FBO's activities in the office space are "aviation services," the space may be exempt from property tax. Within [Minnesota Statute 272.01](#), subdivision 2, paragraph (b), clause (2) it is stated that airport property leased to a FBO that is used to provide aviation services to the airport or general public may be exempt.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

MINNESOTA • REVENUE

April 6, 2015

Dave Sipila
St. Louis County Assessor
sipilad@StLouisCountyMN.gov

Dear Mr. Sipila:

Thank you for submitting your question to the Property Tax Division regarding possible exemption for a proposed parking facility in Duluth.

Scenario:

- A private corporation owns land in downtown Duluth.
- They are building an office tower on their land.
- The City of Duluth will also construct a ramp on the corporation's property.
- The city received a grant from the State of Minnesota to fund the construction of the ramp.
- The city has entered into a 50-year lease agreement with the corporation at a nominal rent (\$10 for the term).

Question: Would the parking facility qualify for any sort of exemption, even though the land is owned by a private entity?

Answer: The parking ramp may be eligible for exemption. In order to be exempt, the property would need to be:

1. controlled by the city
2. leased for a *de minimis* amount
3. not a benefit to a private entity beyond the minimal benefit of the lease

In other words, as long as the revenue generated from the parking ramp goes to the city and does not benefit the private entity, it may be eligible for tax exemption.

As noted in Attorney General Opinion 59a-40 (Sept. 19, 1961), "The decisive test is whether or not the property is used so as to benefit the public as a whole as distinguished from property which is used to benefit private individuals."

In that opinion, the Attorney General considered the taxability of multiple lots that the City of Duluth was allowed to use pursuant to a 15-year, rent-free lease for a public purpose. The Attorney General advised that because the owner of the property did not derive any benefit from the lease, the property was exempt from tax.

When granting an exemption for this property, you should be mindful of the lease provision (Operation and Easement Agreement section 3.3(c)) directing the city to "engage a parking manager to manage the operations" of the parking ramp. Depending on the terms of the contract with a private parking manager - including if the management contract is more akin to a sublease than merely handling the daily operations of the ramp for the city - the ramp could lose the exemption if it is used for profit by a private entity.

As always, this opinion is based solely on the information as provided. We understand that the facility is still being constructed, and operations have not begun. If any of the facts of the situation change, our opinion may be subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6340
Email: proptax.questions@state.mn.us

MINNESOTA • REVENUE

August 28, 2015

Kathy Hillmer
Redwood County Assessor's Office
kathy_h@co.redwood.mn.us

Dear Ms. Hillmer,

Thank you for contacting the Property Tax Division regarding exemption. You provided us with the following information.

Scenario:

- A portion of a local airport owned by the City of Redwood Falls is being rented for office space to Airborne Data Systems
- A portion of a hanger is being used to house and maintain aircraft owned by Airborne Data Systems
- The business repairs aircraft for themselves and on occasion the general public
- They also install aerial cameras used in aircrafts
- Currently, the office space and portion of the hanger are classified as 3a commercial
- The City of Redwood Falls has a population of 5,254

Question: Is the office space and portion of the hanger eligible for property tax exemption?

Answer: The property may be eligible for exemption, as it appears that the property is used for an aviation-related business. As long as the business activities in the office space and hanger are aviation-related services, the space may be exempt from property tax. Within [Minnesota Statute 272.01](#), subdivision 2, paragraph (b), clause (2), it is stated that airport property leased to an entity that is used to provide aviation services to the airport or general public may be exempt.

In addition to the use of the property, statute also states that if the property is leased to a private entity for aviation-related purposes located on an airport owned or operated by a town or a city with a population under 50,000, it is exempt under section 272.01, even if that business is conducted for profit.

You can find more information regarding leased airplane hangars in the exempt module (Module 5) of the [Property Tax Administrator's Manual](#).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

September 16, 2016

Rachel Bartee
Becker County Assessor's Office
rdbarte@co.becker.mn.us

Dear Ms. Bartee,

Thank you for contacting the Property Tax Division regarding personal property on tribal lands. You provided us with the following information.

Scenario:

- In your county there is a mobile home located on tribal land
- The mobile home is owned by an individual
- There is a garage and a shed on the land as well

Question: Should the mobile home, garage and shed be taxed as personal property?

Answer: Assuming the owner of the mobile home is leasing the land from Indian Trust land, then the mobile home, garage and shed would be exempt. If the land is owned by an individual of the Indian Tribe, then our answer may change. Please be sure to verify who the owner of the land is prior to granting the exemption.

Indian lands should still be assessed and listed on the exempt property abstract. Indian lands are not handled differently than non-Indian lands in terms of the July 1 cutoff date for taxable/exempt status.

If you have any further questions, please contact our division at proptax.questions@state.mn.us

Sincerely,

Jessi Glancey
State Program Administrator Coordinator
Property Tax Division
Phone: 651-556-6091



September 30, 2016

Liz Lund
Roseau County Assessor
liz.lund@co.roseau.mn.us

Dear Ms. Lund,

Thank you for submitting your question to the Property Tax Division regarding Indian land exemption from property tax. You have provided the following scenario and question:

Scenario:

- A new casino was recently built in your county.
- It was built in a new location to replace a very old and small casino.

Question 1:

What type of ownership/name does the land need to be in to be exempt from property taxes?

Answer 1:

The land and casino structure owned by the federal government and located on the Indian reservation must be held in trust for an Indian Tribe to be exempt from property taxes.

Question 2:

Should there be a deed recorded to show that the United States deeded this land to the Native Americans and then when they put it in trust?

Answer 2:

To ensure the land is held in trust, you will want to review that information which you included with your question. The deed shows the land being deeded to the federal government and holding it in trust for the Indian Tribe.

Question 3:

Are there any requirements you need to check into concerning the funds used to build the casino or is it simply that the ownership name on the land itself meet certain requirements?

Answer 3:

No, the funds used to build the casino is not a factor when reviewing the property for property tax exemption. As long as the above mentioned requirements, the casino should be exempt from property taxes.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
Supervisor, Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

October 24, 2016

Bonnie Lay
Pope County Assessor's Office
proptax.questions@state.mn.us

Dear Ms. Lay,

Thank you for submitting your question to the Property Tax Division regarding Native Prairie Exemption.

Scenario:

- Your office received an application for Native Prairie Exemption June 2, 2016.
- Your office was informed on September 15, 2016 of the acreage that the Native Prairie Exemption will apply to.

Question:

Will the change in classification be for assessment year 2016, payable in 2017, or for assessment year 2017 payable in 2018?

Answer: Approved exemption for this property should be applied for the 2017 assessment year, payable in 2018. Applications for exemption are due to the county assessor where the property is located on or before February 1 of the assessment year in which the exemption is first sought. In the scenario presented the property owner missed the application deadline on February 1st therefor the exemption should be applied the following assessment year.

Minnesota Statutes, section 272.02, subdivision 38, does state "property subject to tax on January 2 **that is acquired before July 1** of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivision 2 to 8 [emphasis added]." However, in the scenario outlined the property was not "acquired" after the assessment date, rather they owned the property for several years and was put to a taxable use until application for exemption so the acquisition qualifying date is moot and the property should remain taxable for the 2016 assessment year.

For more information about native prairie land exemptions please see Minnesota Statute, section 272.02, subdivision 12.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Kristine Moody

State Program Administrator

Property Tax Division

Phone: 651-556-6091

Email: proptax.questions@state.mn.us



February 27, 2017

Jeff Johnson
Stearns County Assessor's Office
Jeff.Johnson@co.stearns.mn.us

Dear Mr. Johnson,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question.

Scenario:

- Stearns County Pioneer Club is classified as an exempt property in Stearns County.
- The Stearns County Pioneer Club consists of 20 acres, structures and equipment.
- The organization is now considering purchasing land adjacent to the property that includes structures.
- Structures on the potential property are to be used for a repair shop, storage, agriculture, camping and parking.
- The newly acquired property may have a new organization for its establishment and new board members to run it independently.
- The new property would similarly be used to support local and regional agricultural history.
- Revenue-producing or commercial purposes would only total four days a year.

Question: Would it still be proper to extend the exemption to a completely different entity which would operate similarly or in a supportive capacity to the existing agricultural historical organization?

Answer: Yes, assuming that the newly established organization fulfills all the requirements to establish exemption. With virtually any type of exempt property, the qualifying parcel must be owned by an exempt institution, used for exempt purposes, and the ownership must be reasonably necessary to further the mission of the exempt organization.

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

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

As you are aware, taxation is the rule and exemption is the exception. It should be noted that this letter represents an opinion, only the County Assessor has the authority to grant exemption status.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Kristine Moody

State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6098

October 13, 2017

Kelly Schroeder, SAMA
Pine County Assessor's Office
Kelly.Schroeder@co.pine.mn.us

Dear Ms. Schroeder,

Thank you for submitting your question to the Property Tax Division regarding Minnesota Statute 272.02 subdivision 49 *agricultural historical society property* and how it relates to the exempt/taxable status for county fairgrounds. You have provided the following scenario and question:

Scenario:

- Per 272.02 Subd. 49 exempt agricultural historical society properties must be:
 - Under 20 acres,
 - not used for revenue producing activity for more than 10 days in each calendar year; and
 - not used for residential purposes on either a temporary or permanent basis.

Question:

Several county fairground properties offer camping onsite (temporary residential purposes), are over 20 acres, are used for revenue producing activity more than 10 days per calendar year, and lease storage space in fairground buildings in the winter for boats and campers. Do these activities make a county fairground at least partially taxable? Are there are other statutes that would apply?

Answer:

The ownership of any fairground property will determine exemption status. Many fairgrounds are owned by the county and held for a public purpose. It is also common that fairground properties are owned by county agricultural societies which are separate and distinct from agricultural historical societies. Minnesota Statute 272.02 subdivision 49 relates exclusively to property held by a qualified 501(c)(3) agricultural historical society. The [Property Tax Administrators manual](#) gives an example of an agricultural historical society property which has been granted exemption under this statute as a threshing society.

Chapter 38 *County Agricultural Societies, Fairs, Extension Service* outlines the role, duties and powers of county agricultural societies. Section 38.01 states in part *"An agricultural society. . . may purchase and hold, lease and control any real or personal property deemed to promote the objects of the society, and may rent, lease, sell, exchange, and convey the same. Any income from the rental or lease of the property may be used for any or all of the following purposes: (1) Acquisition of additional real property; (2) Construction of additional buildings; or (3) Maintenance and care of the society's property [emphasis added]."* Agricultural societies are strictly limited to one society per county due to the unique authorities they are granted.

As you know, taxation is the rule and exemption is the exception. If a property is owned by an agricultural historical society the burden is on the society to demonstrate that it meets the requirements of Minnesota Statute 272.02 subdivision 49.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information and Education Section

Property Tax Division

Information & Education

Phone: 651-556-6091

March 20, 2019

David Sipila
St. Louis County Assessor's Office
sipilad@stlouiscountymn.gov

Dear Mr. Sipila,

Thank you for submitting your question to the Property Tax Division regarding parks dedicated through the plat process. You have provided the following scenario and question:

Scenario:

- Several parcels on existing plats are dedicated to the public as parks.
- The county attorney has stated that “dedicated” is not the legal equivalent to “donated.”
- The county auditor has assigned ownership of these parcels to the owner of the land at the time the plat was dedicated.

Question: Are parcels dedicated to the public through a plat and used for park purposes exempt even if they are recorded as being owned by the landowner who originally created the plat?

Answer: Typically, there must be a concurrence of ownership, use, and necessity of ownership for a property to qualify for exemption. However, in this case we refer to Attorney General Opinion No. 299 from 1940. In that case, a private owner leasing land to a government agency was considered exempt if the government was granted exclusive use of the land and it was used for a public purpose. If the city has been granted exclusive use of the land for a public purpose, in the situation of a dedication and the associated perpetual trust for public purpose use, it would appear this represents a higher threshold than the lease referred to in the Attorney General Opinion. Therefore it is our opinion that the property would remain exempt after the county auditor assigns ownership to a private party.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

July 5, 2019

Douglas Bruns
Renville County Assessor's Office
dougbr@renvillecountymn.com

Dear Mr. Bruns,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- An airport is owned by a municipality with a population under 50,000.
- The airport has 10 hangers being leased to both individuals and for-profit entities.
- The city is leasing six of those hangers to local pilots for storage of their private airplanes.
- Four hangers are leased to the Fixed Base Operator (FBO):
 - One is used for airplane maintenance/repair by the FBO.
 - Three are used by a subsidiary of the FBO for storage of crop dusting planes and equipment.
 - One is under a lease-purchase agreement with the city.

Question: Are the leased hangers exempt?

Answer: From the information provided it appears the six hangers the city is leasing to individuals would be exempt. Under certain conditions, Minnesota Statutes, section 272.01 exempts leased hangers located at an airport owned by a local municipality with a population under 50,000. Hangers that are leased to private individuals for the storage of private non-commercial aircraft would qualify for exemption.

For purposes of exemption, hangers leased to for-profit entities must be engaged in "aviation-related business." Statute specifies that the lessee must be providing aviation goods, services, or facilities to the airport or general public. Based on this, it appears the hangers being leased to the FBO and providing airline mechanic and repair services, and to provide crop dusting services, would qualify for exemption provided that those services are available to the public. When the hangar under the lease-purchase agreement is transferred to the FBO as the owner, that hangar would then become taxable.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

September 3, 2021

Julie,

Thank you for contacting the Property Tax Division regarding exemption. You provided us with the follow scenario and question:

Scenario:

- A 501(c)(3) licensed child care entity leases dedicated space in a currently exempt church property.
- The child care entity meets the requirements of Minnesota Statute 272.02, Subdivision 103.

Question: Would the space leased in the otherwise exempt church property be exempt under subdivision 103?

Answer: Yes. M.S. 272.02, subd. 103 states that the property must be owned and operated by a qualifying nonprofit organization to qualify for property tax exemption. Because both the church and the child care are exempt 501(c)(3) entities, the property meets these requirements; statute does not require the same exempt entity to both own and operate the facility. Assuming the child care facility meets the other requirements of M.S. 272.02, subd. 103, the leased space would qualify for exemption. The child care entity would need to complete a general exemption application and reapply every three years.

Question: Would the space leased by the child care facility be exempt if it was not a qualifying 501(c)(3) entity?

Answer: No. Statute requires that the property is owned **and operated** by a qualifying entity exempt under section 501(c)(3) of the Internal Revenue Code. If the child care facility was not a 501(c)(3), the property would not qualify for exemption at it would not be operated by a federally exempt entity.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

November 5, 2021

Rachel,

Thank you for contacting the Property Tax Division regarding property tax exemption. You provided us with the follow scenario and question.

Scenario:

- On June 30, 2021, a Historical Society purchased a property for staff housing and storage.
- The deed was recorded on July 1, 2021.
- The Historical Society is a 501(c)(3) organization.
- An application for exemption was received on July 27, 2021.
- The organization claims the housing is vital to operate the GunFlint Trail Historical Society. (GTHS) Museum, Nature Center, Waterfront Exhibit Building, trails and education programs for children and adults.

Question: Can property owned by a 501(c)(3) organization used for housing be exempt from property taxes?

Answer: From the information provided, the property purchased for housing may qualify for property tax exemption. This would depend on its intended use and whether it is reasonably necessary for the exempt entity to own the property to carry out its intended mission. Ownership, use, and necessity of ownership are the three key elements in determining property tax exemption. When making this determination, the assessor should consider the length of time the property is occupied and if the residents of the housing are paying an at market rental fee. If the cabin is occupied during seasonal operation, it may indicate a greater necessity of use than if the tenant stayed year-round. If an at market rental fee is charged to individuals occupying the property, then the necessity of use may be less certain.

Without a specific subdivision of 272.02 that would automatically qualify this property for property tax exemption, the most probable way for this entity to qualify for exemption is under Minnesota Statute 272.02, subdivision 7 as an Institution of Purely Public Charity (IPPC). To qualify under subdivision 7 the organization must meet the three key elements outlined above, have a 501(c)(3) tax-exempt status and meet all six statutory requirements outlined in Minnesota Statute 272.02, subdivision 7. Having a 501(c)(3) status does not automatically qualify an organization for Minnesota property tax exemption as the additional requirements in statute must also be met.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922



March 17, 2022

Dear Bob,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- A property was purchased in June 2019 by an exempt 501c(3) entity that qualifies for exemption as an institution of purely public charity
- The entity applied for and received exemption for the 2019 assessment based on the described intended use of the property
- The property consists of two separate buildings
- Upon re-application in 2022, it was determined that one of the buildings was not being used for an exempt purpose
- This building had been vacant and renovations started late 2021
- The renovations are expected to be done in March 2022, after which the entity will lease the space for the busy season (about six months) before using the space for an exempt use
- The assessor has made the building taxable for the 2022 assessment due to it not being used for an exempt purpose

Question: Should the property be exempt for the 2022 assessment year?

Answer: No, based on the information provided, the second structure is vacant and not being used for an exempt purpose. To qualify for property tax exemption, a property must be owned by an exempt entity, used by that entity for an exempt purpose, and there must be a necessity for that entity to own the property. The use requirement of the second structure is not currently being met, as the structure has been vacant since it was acquired, and the organization plans to lease the space.

Once the property is being used by the entity for an exempt purpose, the entity may re-apply for exemption. The assessor would then evaluate if the property meets the requirements for exemption.

Question: Can a property be exempt for part of the year and taxable for the rest of the year?

Answer: No, there is no mechanism in statute for a property to be exempt for a partial year. Property, or parts thereof, are determined to be fully exempt or fully taxable for the assessment year.

Ultimately it is the assessor's responsibility to make the final determination on whether a property qualifies for property tax exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

February 8, 2023

Bob,

Thank you for contacting the Property Tax Division regarding exemption for affordable housing. You provided us with the follow scenario and question.

Scenario:

- The county received an application for exemption from a 501(c)(3) non-profit organization for a single-family residence.
- The organization's mission is to create affordable housing by purchasing vacant land and unlivable vacant homes to build and or renovate affordable single-family units.
- The exempt application indicates that the property acquired will be used as a rent-controlled property (stated rent as \$500 per month).
- The organization has demonstrated to the county that they are accomplishing their mission of creating affordable housing units.
- The organization's mission is in-line with County Board of Commissioners affordable housing objectives within the community.
- The county has not established if the organization has received federal assistance under the Housing Act of 1937.
- The organization is not a local Housing and Redevelopment Authority (HRA) and the property is not owned by an HRA.
- The assessor has not received certification from the Minnesota Housing Finance Agency (MHFA) that the property has qualified as low-income housing under MN Statute 273.128.

Question: If the Minnesota Housing Finance Agency (MHFA) certified the property as qualifying as a low-income housing, would the property qualify for exemption?

Answer: From the information provided, it does not appear this property would qualify for exemption under the requirements in 272.02. There is nothing in statute that provides an exemption to a property solely certified by MHFA as a low-income housing. It is not clear if the property meets the specific six requirements needed to qualify for exemption as an institution of purely public charity under 272.02, subdivision 7. More information is needed from the organization for the assessor to make a factual determination.

If the property is certified by MHFA as a low-income rental housing it may qualify for the 4d low-income housing classification, however, it is not clear from the submitted documentation that the property meets these requirements. We agree with your recommendation that the property owner reach out to MFHA to see if they would be certified as low-income rental property.

Low-income rental property owners must first qualify as low-income housing and apply with the MHFA by March 31 of the current assessment year. [Minnesota Statute 273.128](#) provides the requirements for properties to certify as low-income rental property. They must meet any of the following requirements:

- Project Based Section 8,
- Low Income Housing Tax Credits,
- Rental Assistance units financed through Rural Housing Service of USDA,
- Rent and income restrictions at or below 60% Area Median Income placed on units by state, federal, or local unit of government as evidenced by a document recorded against the property.

By June 1 of each assessment year, the MHFA must certify to the county the specific properties that qualify as low-income properties and report the number of units in each building that qualify.

At that time, assessors must use the information provided by MHFA to appropriately classify **each qualifying unit** as 4d as soon as possible. If only a portion of the units located in a building qualify for the 4d classification, then only that number of qualifying units should be classified as 4d.

If assessors do not receive the information they need to appropriately classify each qualifying low-income unit, then assessors cannot classify the units as 4d.

For more information go to the [Minnesota Housing](#) website.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

February 22, 2023

Dear Julie,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- A pawn shop was purchased on June 30, 2022, by an exempt entity
- The entity purchased the space to operate as a day center for those experiencing homelessness
- The property owner asserts that remodeling work began on the day of closing, though a permit was not issued until July 19.
- The entity applied for property tax exemption on October 28, 2022, and the application was approved for assessment year 2023 as an institution of purely public charity (IPPC).

Question: Should the property have been exempt for the 2022 assessment year?

Answer: Yes. Minnesota statute 272.02, subdivision 38 (b) states that “*Property...that is subject to tax on January 2 that **is acquired before July 1** of the year is exempt for that assessment year if the property **is to be used** for an exempt purpose under subdivisions 2 to 8” (emphasis added). In this circumstance, the property was acquired before July 1, which meets the first part of the requirement; there is no language that mandates that conversion to an exempt use also begin before July 1. The future use requirement is also met given that the property owner applied for and qualified as exempt as an institution of purely public charity (exempt under M.S. 272.02 subdivision 7) during that same assessment year.*

Because taxes have already been extended for the 2023 payable year, it is no longer possible to exempt the property for assessment year 2022. The county board could remedy the situation by granting an abatement if the county abatement policy allows for it; [M.S. 375.192](#) allows the board to abate the current year’s taxes which have been erroneously or unjustly paid for virtually any reason that the board deems just and equitable.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922



August 23, 2023

Dear Jean,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- An anaerobic digester facility was recently completed.
- The facility contains a tank that contains and stirs the manure as well as multiple other buildings containing equipment that collect the gasses as part of the process.

Question 1: Is the tank area of the digester taxable?

Answer: When considering whether or not a property is exempt, it is important to remember that taxation is the rule and exemption is the exception. When dealing with manure facilities, [Minnesota Statutes 272.02 subdivision 28](#) states that: *“Manure pits and appurtenances, which may include slatted floors and pipes, installed or operated in accordance with a permit, order, or certificate of compliance issued by the Minnesota Pollution Control Agency (MPCA) are exempt.”* The property owner would need to apply for exemption and provide documentation from the MPCA showing that they meet the above criteria in order for any portion of the property to be exempt. Other real property not used as a manure pit and appurtenances would otherwise be taxable, as the conversion of manure to methane using anaerobic digestion, which is then used to produce electricity, is not an exempt purpose as listed in Minnesota Statute 272.02.

Question 2: If the system becomes larger and offers services to other farmers to collect manure, would the classification be commercial?

Answer: Regardless of any exempt determination prior to the expanded use, agricultural purposes are defined in part as *“...the storage of machinery or equipment used in support of agricultural production **by the same farm entity**”* (emphasis added). Therefore, if a separate farm entity began using the anaerobic digester facility, it would likely be classified as commercial.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

August 31, 2023

Dear Sherry,

Thank you for contacting the Property Tax Division regarding exemption. You provided us with the follow scenario and question.

Scenario 1:

- A parcel was donated to the United States Fish and Wildlife Service by a nonprofit.
- The transaction occurred on July 25, 2023 and the warranty deed was filed on August 1, 2023.

Question: Will this parcel be exempt for taxes payable year 2024, or do the provisions of [Minnesota Statute 272.68](#) requiring the state to pay all taxes on the property apply in this situation?

Answer: Property owned by the federal government is immune from taxation, therefore the provisions of M.S. 272.68 would not apply. The state (or political subdivision) has no power to divest a federally held title as a means of enforcing taxes. Any property taxes based upon the assessment of the property prior to its acquisition by the federal government are uncollectable during the time it owns the exempted property.

Scenario 2:

- A portion of a parcel owned by the United States is being farmed.
- A portion of a parcel owned by the State of Minnesota and is being farmed.

Question Two: Should these parcels continue to be fully exempt?

Answer: Generally, the otherwise exempt property is taxable under [M.S. 272.01](#) if the property is used by a private entity for profit, or under [M.S. 273.19](#) if the property is held under a lease for a term of at least one year (can be on a for profit or non-profit basis). In both cases, property that is exempt because it is owned by the federal, state or local government but is used for non-exempt purpose by a lessee, is taxable to the person who leases the property just as if they actually owned it. It would be appropriate to set up a personal property tax record for the portion being actively farmed. The remainder would continue to qualify for exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.
Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

January 15, 2009

Gail Bondhus, Cottonwood County Assessor
Courthouse
900 3rd Avenue
Windom, Minnesota 56101

Dear Gale,

Thank you for your questions regarding the new exemption for monosloped roofs over feedlots and manure storage areas that prevent runoff. This legislation was enacted during the 2008 session and is found in Minnesota Statutes, section 272.02, subdivision 87. The department disseminated a bulletin regarding these provisions on August 20, 2008. Your questions, as well as some others which have been shared with the department, will be answered below.

Question 1

Must a feedlot or manure storage area be permitted or registered in order to qualify?

Answer No. The legislation does not require a permit or registration. The bulletin suggested that such permitting or registration would indicate the monosloped roof would qualify if it was being used for a feedlot or manure storage area, but any monosloped roof over a feedlot or manure storage area that prevents runoff would also potentially qualify. The lack of a permit or registration does not automatically disqualify the monosloped roof from this property tax exemption.

Question 2

Must a feedlot or manure storage area be actually used accordingly in order to qualify?

Answer Yes. The legislation states the monosloped roof must prevent runoff in order to qualify for the property tax exemption. If the monosloped roof is not sheltering the feedlot or manure storage area from creating runoff from those uses, it would not qualify for this exemption under this legislation.

Question 3

Can assessors require property owners to complete an application in order to receive the property tax exemption?

Answer The legislation does not specifically require an application, but accurate recordkeeping is important, especially when considering exemptions. Counties may choose to use the *Certification Form* (attached separately) or another similar form and keep that on file to manage this exemption. The certification is double-sided and each side can be used independently. If you choose to have the property owner certify their monosloped roof, have them complete the front. The reverse is a field visit form you may also choose to use.

Question 4

Can this exemption be administered the same way as the exemption for the manure pits/floors/walls in hog and cattle barns?

Answer While this legislation serves a very similar purpose to that of M.S. 272.02, subdivision 10 (exempting property that prevents pollution control) and M.S. 272.02, subdivision 28 (exempting permitted manure pits), it is separate legislation that actually expands what property is eligible for property tax exemption. Both of those subdivisions require Minnesota Pollution Control Agency approval, but this legislation does not. You may choose to use similar administrative procedures, but the legislative requirements are different.

(Continued...)

Gail Bondhus, Cottonwood County Assessor
January 15, 2009
Page 2

Question 5

What percentage of value should be exempted for the supporting wall structure along with the monosloped roof when the walls are enclosed?

Answer Remember this legislation only applies to monosloped roofs and their supporting structures when located over feedlots or manure storage areas. In this example, it appears the structure is actually a shed or building (because it has enclosed walls) that happens to have a monosloped roof. The intent of this legislation was not to extend an exemption in these cases.

The previously-released bulletin mentioned that any sidewalls or other improvements would remain taxable. To clarify this language, some of these monosloped roof structures have solar face panels or knee-height sidewalls that essentially do not provide any pollution control function. These are the improvements that could still carry a taxable value while allowing the roof to be exempt.

Question 6

What are some examples of the “supporting structure” that would qualify for exemption along with the monosloped roof?

Answer The legislation simply states the monosloped roof is exempt from property taxes, but the roof requires supporting structures to elevate it to prevent runoff. Therefore, it is our opinion that the supporting structure to elevate the roof is also exempt. This would include any vertical support columns, as well as the roof substructure and support components (trusses, beams and rafters, etc.).

Question 7

If the use associated with an exempted monosloped roof changes, when should it become taxable again?

Answer Property is valued and classified according to its use on the assessment date (January 2) of each year. However, for exempt property, M.S. 272.02, subdivision 38, states that any property that loses its exemption prior to July 1 will be placed on the current assessment roles for that year. In regards to the monosloped roof exemption, if the use no longer prevents runoff over a feedlot or manure storage area as of July 1, the roof should be placed on the assessment roles.

Question 8

How would a change in ownership affect the monosloped roof exemption?

Answer This legislation has specific construction, site, and use requirements in order to qualify for property tax exemption. It is not dependent on any ownership requirements; as long as the monosloped roof is over a feedlot or manure storage area and it prevents runoff, it is exempt from property taxation.

If you have any further questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

MICHAEL STALBERGER, State Program Administrator
Information and Education Section
Property Tax Division



Nursing Homes

February 17, 2010

Joyce Schmidt
Pipestone County Assessor
Courthouse
416 S Hiawatha
PO Box 458
Pipestone, MN 56164-1566

Joyce.schmidt@co.pipestone.mn.us

Dear Ms. Schmidt:

Thank you for your question concerning the exemption for qualifying nursing homes and boarding care facilities. You have asked if the exemption can be applied to assisted living facilities and congregate care facilities.

The exemption is only for nursing homes licensed under section 144A.02 or boarding care homes certified as nursing facilities under title 19 of the Social Security Act. Assisted living facilities and congregate care homes do not qualify for this exemption. The most probable potential for exemption of an assisted living facility or congregate care facility would be to qualify as an institution of purely public charity. The facility must meet certain requirements, as provided in Minnesota Statutes, section 272.02, subdivision 7, and complete the appropriate application to the county assessor in order to qualify for exemption as an institution of purely public charity.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

April 29, 2010

Glen Purdie

GPurdie@co.steele.mn.us

Dear Mr. Purdie:

Thank you for your question concerning the exemption for nursing homes and boarding care homes (Minnesota Statute 272.02, subdivision 90). You have asked for information about what qualifies a property as a nursing home licensed under section 144A.02 or a boarding care home certified as a nursing facility under Title 19 of the Social Security Act.

The following definitions are provided in Minnesota Statute or federal law (Title 19 of the Social Security Act):

Nursing Home

“...nursing home means a facility, or that part of a facility that provides nursing care to five or more persons. Nursing care means health evaluation and treatment of persons who are not in need of an acute care facility (such as a hospital), but who require supervision by a licensed nurse on a continuing (i.e., inpatient) basis. Nursing home does not include a hospital, clinic, doctor’s office, diagnostic or treatment center, or facilities licensed to provide residential or residential and habilitation services. No facility may operate as a nursing home unless it is licensed to do so by the commissioner of health.” [Emphasis added.] (Minnesota Statute 144A.01, subdivisions 5 and 6; and 144A.02)

A nursing home should be able to provide you with documentation showing that they are licensed by the Commissioner of Health as a nursing home.

Boarding Care Home

“...boarding care facility means a certified boarding care home licensed under Minn. Stat. §§ 144.50 to 144.56 maintained to provide boarding and institutional medical care to five or more human beings if the facility is not a hospital, nursing home, clinic, doctor’s office, intermediate care facility, or a facility providing merely residential services.” [Emphasis added.] (Minnesota Statutes 144.50; 144A.161, subdivision 1; and 245A.03, subdivision 2)

Also, regarding boarding care homes, section 1919 of Title 19 of the Social Security Act defines a "nursing facility" as a facility that must provide skilled nursing care, rehab services, or health-related care on a regular basis; must have a transfer agreement with hospitals; meet general standards on quality of life for residents; maintain resident rights (freedom from restraints, etc.); and must be licensed under state/local law. To qualify for this exemption a boarding care home should be able to provide you with documentation showing that they are certified as a nursing facility.

You also provided us with two applications of properties that are under a Group Exemption Ruling of entities exempted from federal income tax pursuant to section 501(c)(3). You have asked if these properties can qualify for the nursing home/boarding care home exemption.

We are of the opinion that the group exemption ruling on these properties is sufficient to meet the 501(c)(3) requirement in law. However, it is unclear if these properties qualify as either nursing homes licensed under section 144A.02 or boarding care homes certified as a nursing facilities under Title 19 of the Social Security Act. We recommend that you request that these organizations provide you with documentation proving that they are either licensed nursing homes or that they are certified as nursing facilities. If sufficient documentation is not provided the exemptions should not be granted.

If the facilities do not qualify under this exemption the only other possible exemption would be to qualify as purely public charities. The requirements to qualify as a purely public charity are outlined in Minnesota Statute 272.02, subdivision 7.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

August 10, 2010

Richard Peterson
Mower County Assessor
201 First Street NE
Austin MN 55912

richardp@co.mower.mn.us

Dear Mr. Peterson,

Thank you for your recent question to the Property Tax Division regarding the taxability of nursing homes. There are two nursing home properties in Mower County that you have brought forth for our review: One is owned by the City of Adams, the other by the City of LeRoy Economic Development Authority (EDA). You have provided a nursing home application for the property owned by the City of Adams, but not for the City of LeRoy EDA. We will not be able to make a determination on the nursing home owned by the LeRoy EDA; however if you receive an application for exemption for that property, we will be able to assist you in making a determination on the taxability of that home at that time.

As for the nursing home property owned by the City of Adams, the eligibility for exemption falls not under Minnesota Statutes, section 272.02, but under Minnesota Statutes, sections 447.41 and 447.47. Section 447.41 allows "...a city or town or any combination of them acting jointly... [to] establish and operate a nursing home for the aged." Section 447.47 allows the city to lease a nursing home facility "to be run by a nonprofit or public corporation as a community hospital or nursing home. The facilities must be open to all residents of the community on equal terms." The term of a lease may not exceed 30 years; and a lease agreement must "require the lessee to pay a net rental not less than the amount required to pay the principal and interest when due on all revenue bonds issued by the county, city or hospital district to acquire, improve, and refinance the leased facilities, and to maintain the agreed revenue bond reserve." The lease agreement must not grant the lessee an option to purchase the nursing home for less than the amount of the bonds issued (plus interest). If the facilities are leased for use by persons in private medical, dental, or a similar private business, personal property taxes would be assessed to the individual leasing the property.

These statutes do not pertain to property owned by an EDA, however. It is for that reason that the nursing home owned by the City of LeRoy EDA would need to supply an application for exemption.

We recommend reviewing the lease agreement for the property owned by the City of Adams to ensure that it meets the requirements of Minnesota Statutes, section 447.47 prior to granting exemption. If you have any further questions, or would like our assistance in review, please let us know via email at proptax.questions@state.mn.us.

Very sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA • REVENUE

July 13, 2012

Keith Albertsen
Douglas County Assessor
keith.albertsen@mail.co.douglas.mn.us

Dear Mr. Albertsen:

Thank you for your recent question to the Property Tax Division regarding potential exemptions for properties in your county. You have several nursing home properties with multiple uses, including senior apartments, assisted living units, and dementia units. Currently, you are exempting the nursing home portions but taxing the other portions. You have asked for a definition of “boarding care home” and how it differs from an assisted living facility. You also asked when an assisted living facility is exempt and when it is taxable.

An exemption for nursing homes and “boarding care home[s] certified as a nursing facility under title 19 of the Social Security Act” is found in Minnesota Statutes, section 272.02, subdivision 90. Because assisted living facilities are not nursing homes or facilities described in this subdivision, they may not be exempt under those provisions. Assisted living facilities or other similar facilities may be exempt as institutions of purely public charity under Minnesota Statutes, section 272.02, subdivision 7. Generally, assisted living facilities have been determined to be taxable except in a few cases where they qualified as institutions of purely public charity. In other words, nursing homes and boarding care homes certified as nursing facilities that meet the requirements of M.S. 272.02, subdivision 90 are eligible for exemption. Any other assisted living, senior living, or non-qualifying facility must meet the requirements for a different exemption.

In a 2008 survey, it was determined that most assessors were exempting the nursing home portion of multiple-use facilities while taxing the assisted living portion of those facilities. It appears that your practices are in line with typical practices.

Guidelines for exemption are outlined in the Property Tax Administrator’s Manual, *Module 5 – Exempt Property*. The Property Tax Administrator’s Manual may be found on the Department of Revenue website. If you have additional questions, you may contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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December 5, 2013

Lori Schwendemann
Lac qui Parle County Assessor
Lori.schwendemann@lqpc.com

Dear Ms. Schwendemann:

Thank you for your question to the Property Tax Division concerning the taxation of an assisted living facility owned by a hospital district.

Scenario:

- In Lac qui Parle County, there is an assisted living facility owned by Johnson Memorial Health Services of the Dawson Area Hospital District.
- The hospital district is not a 501(c)(3) organization.
- After reviewing a letter written by the Department of Revenue dated April 17, 2012 you have asked for our opinion on the following statement:
“Typically, property tax exemptions that are granted for hospital districts that operate under Minnesota Statutes, chapter 447 are applicable to hospital property, nursing home property, and disabled care or elderly care facilities that are related to the hospitals or nursing homes.”

Question: Does the statement above apply and qualify the assisted living facility for exemption?

Answer: In order to qualify for exemption, a property must be owned by a qualifying exempt organization, used for exempt purposes, and the ownership must be reasonably necessary for the purposes of the organization. When looking into exemption eligibility as hospital property, this assisted living facility did not clearly meet the “reasonable necessity” test based on our opinion.

We also looked into the exemption for nursing homes and “boarding care home[s] certified as a nursing facility under title 19 of the Social Security Act” that is found in Minnesota Statutes, section 272.02, subdivision 90. Since assisted living facilities are not nursing homes or facilities described in this subdivision, they may not be exempt under those provisions. Generally, assisted living facilities have been determined to be taxable except in a few cases where they qualified as institutions of purely public charity under section 272.02, subdivision 7.

Based on the information provided, the assisted living facility does not clearly qualify for exemption as hospital property under Minnesota Statutes, section 272.02, subdivision 4, or a nursing home under 272.02, subdivision 90. The assisted living facility is not an institution of purely public charity; therefore, exemption as a charitable institution under Minnesota Statutes, section 272.02, subdivision 7 is not applicable.

Please note that our opinion is purely advisory. Ultimately, the County Assessor is responsible for determining exemption, and your opinion is appealable by the property owner to Minnesota Tax Court and/or Minnesota Supreme Court. Additionally, if we have misinterpreted any of the

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information provided, or if any of the facts were to change, our opinion would be subject to change as well. If you have additional questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

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March 14, 2016

Michael L. Trettel
Morrison County Assessor's Office
MichaelT@co.morrison.mn.us

Dear Mr. Trettel:

Thank you for submitting your question to the Property Tax Division regarding a possible exemption. You have outlined the scenario and questions below.

Scenario:

- Horizon Health set up a Common Interest Community (CIC) property in 2007.
- One parcel contains a building that houses an office on the lower level and a nursing home/assisted living facility on the upper level.
- The CIC also has one parcel of excess land (Outlot A).
- A third parcel contains the common elements (the common element value is prorated to the other parcels).
- The property owners have applied for exemption.

Question 1: Can a CIC property qualify for tax exemption?

Answer 1: There is nothing about the CIC that would prevent it from qualifying for property tax exemption. For example, if a qualifying non-profit nursing home operated as a CIC but met all the requirements for exemption as a nursing home, the fact that it had common interest elements would not preclude it from being property tax exempt.

Question 2: If the CIC qualifies for exemption, do all parcels qualify, or only the parcels with used improvements?

Answer 2: Any property used for qualifying exempt purposes would qualify for the exemption. It may be necessary to determine whether the use of the unimproved property coincided with the mission of the organization and was reasonably necessary for the organization.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6091
Email: proptax.questions@state.mn.us

June 14, 2019

Brian Folden
Wadena County Assessor's Office
Brian.Folden@co.wadena.mn.us

Dear Mr. Folden,

Thank you for submitting your question to the Property Tax Division regarding the classification of a nursing home. You have provided the following scenario and question:

Scenario:

- An exempted nursing home sold in November 2017.
- The new ownership does not qualify for exempt status.
- Classification was changed to commercial for taxes payable 2019.

Question: What is the correct classification of a nursing home that does not qualify for exemption?

Answer: According to the information provided, it appears that the facility provides long-term housing (over 30 days) to the residents occupying the units. Therefore the classification in this scenario appears to be 4a – Residential non-homestead 4+ units. If the facility is providing other services not related to a nursing home, those uses would need to be viewed separately and classified accordingly.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091



Personal Property

July 28, 2005

Glen Purdie
Steele County Assessor
Administrative Center
630 Florence Avenue
P.O. Box 890
Owatonna, Minnesota 55060

Dear Glen:

Thank you for your question regarding LP storage tanks. You asked if 18,000 gallon LP storage tanks, sitting on concrete cradles, owned and used by a propane retailer are taxable.

The answer is yes. Since the adoption of Minnesota Statutes, Section 272.03, Subd. 1, paragraph c (i) in 1973, several cases have been decided by the Minnesota Supreme Court interpreting the statute. The Supreme Court has considered the shelter test in determining whether the property is taxable or exempt. If the property performs a containment and shelter function--a function similar to that performed by buildings--it does not fall within the category of tools, implements, machinery, and equipment, and is considered taxable as real property.

Therefore, the 18,000 gallon LP storage tanks are taxable as real property.

If you have further questions, please contact our division.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114
Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

January 6, 2006

Bruce Nielsen
Lincoln County Assessor
Courthouse
319 N. Rebecca
P.O. Box 119
Ivanhoe, Minnesota 56142

Dear Bruce:

In our letter to you dated December 16, 2005, we responded to your question regarding exempt property. In your situation, you indicated that U.S. Fish and Wildlife recently purchased 1014.2 acres in your county. The date of the deed is June 28, 2005. However, according to the agent for the seller, the CRP payment for 140 of the acres and the rent on the 304 acres of tillable land goes to the seller in both 2005 and 2006. You also stated that the U.S. Fish and Wildlife Department does not take possession of the property until December 31, 2006. You asked if this property should be exempt or taxable since the seller is receiving the income for two more years (2005 and 2006).

Our original response stated since 304 acres of the property continued to be farmed, that portion of the property should be taxable as personal property to the seller who is acting as the landlord for both the 2005 and 2006 assessments. Our original opinion remains unchanged for this part of our answer.

However, after conferring with our legal staff, it is our understanding that the 140 acres in CRP should also be taxable as personal property to the seller for both the 2005 and 2006 assessments since the property is generating income for the seller, and the U. S. Fish and Wildlife does not take possession until December 31, 2006.

Therefore, the 304 acres of farmland and the 140 acres in CRP should be taxable as personal property to the seller for both the 2005 and 2006 assessments. The remainder of the property should be exempt.

We apologize for any inconvenience our original letter may have caused you.

If you have further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

March 4, 2008

Pat Erickson, City Assessor
333 6th Street SW
P.O. Box 755
Willmar, MN 56201

Dear Ms. Erickson:

Thank you for your question concerning the taxation of a temporary office trailer. You have presented us with the following scenario:

A company has moved into a temporary office trailer that they rent on a month to month basis until they can build a permanent office addition (sometime this year). The trailer is finished as an office, with heat and lights, but no plumbing. It is connected to the main office building by a temporary link. The trailer is 24' by 70', is on wheels, and was transported via public highways. The current skirt on the trailer does not allow you to confirm if the trailer is licensed or not.

You have asked if the trailer should be taxed as real estate.

It is our opinion that the temporary office trailer should not be taxable for the 2008 assessment. We assume that the office trailer has not occupied the property for an extended period of time and that it is only meant to occupy the property on a temporary basis (the addition is planned to be finished sometime in 2008). In addition, the trailer is still sitting on wheels and is not connected to any type of plumbing.

If the trailer is still located on the property and being used on January 2 of 2009, the issue should be explored further.

Please be aware that this opinion is based solely on the information provided. If any of the facts were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information and Education Section
Property Tax Division

August 12, 2008

A. Keith Albertsen
Douglas County Assessor
Courthouse
305 8th Avenue West
Alexandria, Minnesota 56308

Dear Mr. Albertsen:

Thank you for your question concerning the taxation of “portable storage units” that are normally rented to paying customers for temporary periods of time. You have inquired as to how these storage units should be taxed and to whom.

The assessment of “portable storage units” is made difficult because, although they *do* provide a containment and shelter function, they are not permanently affixed to the property. In our opinion, the taxation of “portable storage units” is going to depend on a number of different factors and, ultimately, must rely on the professional judgment of the assessor. Assessors should consider the intentional and actual use of the unit, the duration of time the unit is located on the property, the ownership of the unit, and other case specific factors (such as local zoning) when making a judgment on whether a “portable storage unit” should be taxable.

If a unit is rented for a reasonably temporary period of time, it should not be taxed as real estate. If you notice that the unit has been located on the property for an extended period of time (e.g. more than a year) it should be taxed as real estate. Also, if the property owner actually owns the unit or intends to hold the unit for an extended period of time, it should most likely be taxed as real estate. However, we are of the opinion that a “portable storage unit” dealer, who owns the units and rents them out to paying customers, should not have their units taxed as real estate, but rather personal property.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA • REVENUE

June 11, 2013

Ryan DeCook
Dodge County Assessor's Office
ryan.decook@co.dodge.mn.us

Dear Mr. DeCook:

Thank you for submitting your question to the Property Tax Division regarding a property in your county. You have assessed a cabin on a parcel, but the owner contends that it is "personal property" because it is moveable, and therefore should not be subject to taxation.

"Personal Property" can be defined by exception: anything that is not real property is personal property. The main characteristic of personal property is that it is moveable. If it is moveable without causing damage to itself or the real estate, it is considered to be personal property. For example, hot tubs located on a slab outside of a house or small metal sheds that are easily dismantled and moved are considered personal property.

Although not the same, similar types of properties include manufactured homes and modular homes. These structures are also technically moveable, but are subject to property taxes. Similar characteristics include that they are not *easily* moveable, and that they require special permitting in order to be moved. Additionally, we can refer to the description of a minor, ancillary, nonresidential structure – the presence of which does not change the classification of a rural vacant land property.

The Department of Revenue has defined "minor, ancillary structures" as sheds or other primitive structures, the aggregate size of which are less than 300 square feet that add minimal value and are not used residentially. If any structure or group of structures totals 300 or more square feet, or if any structure is used residentially on more than an occasional basis, or if there is an improved building site that provides water, sewer, or electrical hook ups for residential purposes, the property must be split classed according to the appropriate use or uses of the property. Some indications that the structure is not a minor, ancillary structure would be the fact that it is designed for residential occupancy and includes kitchen facilities, separate bedroom areas, or gas service.

Based on the photograph you have provided, it would appear that the property in question meets the definition of real estate. The structure does not appear to be one that can be easily moved without first being dismantled (or could not be easily moved as-is without causing damage to the structure). The cabin also appears to be more than minor and ancillary in nature, and clearly appears to have a residential purpose and function.

Based on the information you have provided, it would be our opinion that this cabin is taxable real estate. Please note that our opinion is based solely on the facts as provided. If any of the facts were to change, our opinion is subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

November 26, 2013

Gary Grossinger
Stearns County Assessor's Office
Gary.grossinger@co.stearns.mn.us

Dear Mr. Grossinger:

Thank you for submitting your follow up question to a letter we sent on November 25, 2013 regarding cell phone tower structures. You have provided the following:

Minnesota statutes 272.03, subdivision 1, paragraph (c) only states: "tools, implements, machinery and equipment", it does not state that the structures housing these items are exempt. Your county has been taxing these structures for years and you would like clarification.

Answer:

Minnesota statutes 272.03, subdivision 1, paragraph (c) allows for the exemption of cell tower structures as personal equipment property:

"Real property does not include tools, implements, machinery, and equipment attached to or installed in real property for use in the business or production activity conducted thereon, regardless of size, weight or method of attachment, and mine shafts, tunnels, and other underground openings used to extract ores and minerals taxed under chapter 298 together with steel, concrete, and other materials used to support such openings."

This statute explains that only the equipment is exempt, however any structure that houses such equipment is taxable. In other words, the actual improvement of the equipment itself is exempt as equipment; the structure that the exempt equipment is located on may be taxable. Therefore, your county may continue to tax these structures.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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March 22, 2016

Peggy Trebil
Goodhue County Assessor
Peggy.Trebil@co.goodhue.mn.us

Dear Ms. Trebil:

Thank you for submitting your question to the Property Tax Division regarding personal property tax. You have provided the following scenario and question:

Scenario:

- The City of Red Wing has 12 acres of public land which contains grass/rye vegetation.
- The city will be entering into a “Service Contract” with a private contractor, where the city will pay an annual stipend of \$1.00 to the contractor.
- The contractor will mow this 12 acres at a minimum of twice during the growing season and the contractor will keep the harvested grass/hay bales for his/her own use.
- The contractor may exclusively keep the grass/hay agricultural crops produced on the parcels for personal use which may not be sold.
- The city states this is not a lease arrangement and that no profit is being made. Therefore, it should not be subject to a personal property tax.

Question: Is a personal property tax appropriate?

Answer: No; a service agreement has been created which does not appear to conflict with Minnesota Statute 272.01, subdivision 2. According to the agreement, the contractor can only use the parcels exclusively for the production of grass/hay. The contractor is the sole owner of the crops; however, the contractor cannot receive any money for the crops without breaching the contract.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

May 20, 2004

Michelle Cote
Polk County Assessor's Office
Courthouse
612 N. Broadway
Suite 201
Crookston, Minnesota 56716-1452

Dear Michelle:

Thank you for your e-mail regarding property that is owned by the Humane Society of Polk County. In your e-mail you outlined the following situation. The Humane Society of Polk County owns a building that was built specifically for them. The lower level is used for the care and housing of animals. The upper level was, until recently, used for bingo, which was their largest source of funds. In late 2003, their gambling license was suspended by the State for two years. They now use the upper level for the care and storage of animals. For the 2004 assessment you have given them exemption from property tax on the entire building. In previous years the lower level of the property was exempt and the upper level was taxable and classified as commercial property. You have asked us if that was correct.

In our opinion, the portion of the property used for bingo was correctly classified as commercial property, and you were correct in considering that portion of the property to be taxable.

If you have any further questions, please contact me.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109
Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

July 28, 2016

Angela Burrichter
Wabasha County Assessor's Office
aburrichter@co.wabasha.mn.us

Dear Ms. Burrichter:

Thank you for submitting your question to the Property Tax Division regarding property exemption. You have provided the following scenario and question:

Scenario:

- A construction company owns a commercial building.
- The food shelf rents part of the building.

Question:

Can the portion being rented by the food shelf receive a property tax exemption?

Answer:

No, since the construction company owns the building, it would not qualify for exemption even if a not-for-profit organization rents the building. Property being rented by a not-for-profit organization is not treated any differently than if a for-profit entity rented the building. Ownership, use, and necessity of ownership are the three key elements in determining exemption. Absence of any of the three elements would likely disqualify a property from exemption unless specifically allowed by law. There is not a specific statute for this property to receive exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
Supervisor, Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

March 26, 2020

Tom Houselog
Rock County Assessor
tom.houselog@co.rock.mn.us

Dear Mr. Houselog,

Thank you for submitting your question to the Property Tax Division regarding the taxation of feeding bins and tanks. You have provided the following scenario and question:

Scenario:

- Property A has bulk feeding bins/tanks
- These feeding bins may or may not be bolted into a concrete foundation and are of varying size
- The feeding bins run feed for cattle and/or hogs from outside of the building into feed buildings
- Property B has freestanding grain storage bins
- These grain bins are not anchored to the ground and are portable

Question: Should these bins and tanks be assessed as real property?

Answer: When determining whether property should be assessed as real property or personal property (and therefore exempt), there are several factors that need to be taken into consideration. Minnesota Statutes 272.03, subdivision 1 describes some differences between real property and personal property. Paragraph (b) defines a building or structure (real property) as the building itself, in addition to all improvements or fixtures that are integrated into the building “and which cannot be removed without substantial damage to itself or the building or structure”. Paragraph (c)(i) distinguishes personal property as “tools, implements, machinery and equipment” that are attached to or installed in real property, with some exceptions.

However, objects that otherwise would be assessed as personal property are subject to the “shelter test” as described in the enclosed Department of Revenue memo from July 2014. Under the shelter test, the exterior shell of a structure is considered taxable real estate (even if it has special functions distinct from that of a building) if it:

- a) constitutes **walls, ceilings, roofs, or floors**, or
- b) has **structural, insulation, or temperature control functions**, or
- c) **provides protection from elements**.

If the object meets any of the above criteria, then it would be assessed as real property, as it is performing a function ordinarily performed by taxable structures as determined by *Crown CoCo, Inc. v. Commissioner of Revenue* (Minn. 1983).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6922



Public Property Used for Public Purposes

January 23, 2006

Michelle Cote
Polk County Assessor's Office
Courthouse
612 N. Broadway
Suite 201
Crookston, Minnesota 56716-1452

Dear Michelle:

Thank you for your question on exempt property. You have outlined the following situation. In 2003, the city of Crookston was in the process of working on a flood control project. The owners of a nearby house believed they should be part of a buyout because the flood control project adversely affected their property by coming within three feet of the corner of the home. The issue went to court and the city was ordered to purchase the house due to the negative impact of the flood control project. The sale was finalized in October 2004. The city then immediately listed the property for sale with a local realtor. To date, the property has not sold and is still listed for sale. The city has applied for exemption for the 2005 assessment. You have asked if you were correct in denying the application for exemption from property tax.

Minnesota Statute 272.02, subdivision 8 exempts "*all public property exclusively used for any public purpose*" from property tax. Based on the information provided, the property has not been exclusively used for a public purpose since the city was ordered to purchase it. Rather, it is being listed for sale to the general public. Therefore, in our opinion, the property should remain taxable.

If you have further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109
Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

MINNESOTA ▪ REVENUE

September 20, 2010

Dave Sipila
St. Louis County Assessor
sipilad@co.st-louis.mn.us

Dear Mr. Sipila,

Thank you for your recent question. You have asked if tax exempt property listed under Minnesota Statutes, section 273.19, subdivision 1 includes properties owned by cities or counties, which are not specifically listed.

M.S. 273.19, subdivision 1 covers “property owned by the United States, the state, a school, or any religious, scientific, or benevolent society or institution, incorporated or unincorporated, or any corporation whose property is not taxed in the same manner as other property.” Although cities and counties are not specifically listed in this reference, they are considered political subdivisions of the state, and therefore covered by this subdivision. A similar reference is found in M.S. 272.0213, which lists more succinctly property “owned by a county, city, town, the state, or the federal governments.”

If you have any further questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division



April 23, 2014

Michael Wacker
Pope County Assessor
michael.wacker@co.pope.mn.us

Dear Mr. Wacker:

Thank you for submitting your question to the Property Tax Division regarding the taxability of a city owned/operated recreational vehicle (R/V) park and two marinas.

Scenario 1: In Pope County, there are three cities that own, operate and manage R/V parks. The cities are charging market rates for annual, monthly, weekly, and daily rates. Sites are open to the general public on a first-come, first-served basis. Sites are not available to non-paying parties and do not have a reduced rate for inability to pay. In each case the R/V parks are contiguous to city parks.

Question 1: Should the city-owned R/V park be taxable or exempt?

Answer 1: Minnesota Statutes, section 471.191, subdivision 1, states that a city may acquire and maintain recreational facilities, including: “outdoor or indoor swimming pools, skating rinks and arenas, athletic fields, golf courses, marinas, concert halls, museums, and facilities for other kinds of athletic or cultural participation, contests, conventions, conferences, and exhibitions, together with related automobile parking facilities.” Subdivision 4 further explains that all property used by a city “for the purposes authorized and contemplated in this section shall be deemed and are declared to be public property exclusively used for a public purpose and as such exempt from taxation.” A city is not required to operate the above-listed facilities itself, and may utilize an outside entity (including a private individual, association, or corporation) to operate the facilities.

The city-owned R/V parks (and city-owned campgrounds in general) are not clearly among the types of recreational facilities identified by the legislature as being public property used for a public purpose. Accordingly, the R/V parks are not exempt from tax.

Scenario 2: Two of the cities also have marinas. One is owned and operated by the city contiguous to the R/V park. The marina has annual, monthly, weekly, and daily rates available. The rates are different for the members of the R/V Park at approximately 15% less than the general public rates. A public boat landing is available for no fee. Marina sites are not available to non-paying parties and don't have a reduced rate for inability to pay.

Question 2: Should this city-owned marina be taxable or exempt?

Answer 2: The marina operated by the city falls squarely within Minnesota Statutes, 471.191, and therefore is exempt. The statute specifically identifies marinas as a recreational facility that is public property used for a public purpose.

Property Tax Division
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St. Paul, MN 55146

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Scenario 3: The second marina is not contiguous to the R/V park and is leased to an individual who leases slips on an annual basis with the possibility of maintenance fees. This marina is gated and no public access is included in the lease. The public access is within 100' of the marina but is not part of the lease. Marina sites are not available to non-paying parties and do not have a reduced rate for inability to pay.

Question 3: Should this leased marina be exempt or taxable?

Answer 3: Public property that is leased to a private individual is taxable to the lessee under Minnesota Statutes, section 273.19. Because this marina is leased on an annual basis, it is taxable to the lessee.

Please note that this opinion is based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

Property Tax Division
600 North Robert Street
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MINNESOTA • REVENUE

June 17, 2014

Lori Schwendemann
Lac qui Parle County Assessor
lori.schwendemann@lqpc.com

Dear Ms. Schwendemann:

Thank you for submitting your question to the Property Tax Division regarding exempt property.

Scenario: In February 2014, the City of Boyd purchased a restaurant in Boyd in order to keep a restaurant operating in the small city. Currently the restaurant is closed and being remodeled. The city will be operating the restaurant and the employees will be city employees.

Question: Is the city-owned and operated restaurant taxable or exempt for property tax purposes?

Answer: There is not an exemption within Minnesota Statutes that clearly applies to city owned and operated restaurant property. The property use as described is not an economic development purpose. If the property were to be exempt, it would need to qualify under M.S. 272.02, subdivision 8 as property exclusively used for a public purpose. In our opinion, operating a restaurant for profit is not an exempt public purpose.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA • REVENUE

October 17, 2014

Jeff Johnson
Stearns County Assessor's Office
Jeff.Johnson@co.stearns.mn.us

Dear Mr. Johnson,

Thank you for contacting the Property Tax Division regarding tax forfeited land. You provided us with the following scenarios/questions.

Scenario 1:

- Is tax-forfeited property subject to taxation if the County enters into a lease with an area farmer to have the grass mowed or cut which he takes for his own use?

Answer: Yes, tax-forfeited property is subject to taxation if it is leased to a private entity for business conducted for profit. For example, if property is leased to a farmer for personal use/financial gain the property would likely become taxable. The tax would be *in personam*, i.e. to the lessee, and not to the owner (Minnesota Statute 272.01, subdivision 2).

Scenario 2:

- Is tax-forfeited property subject to taxation if the County enters into a use agreement with an area farmer that allows him to mow or cut the grass for his own use? There is no exchange of money but the farmer is taking the grass and keeping the vegetation down for taxing jurisdictions where this property is located.

Answer: If a use agreement is created, and the use is not conflicting with the government entity, then it's possible that it can remain exempt.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any additional questions or concerns please feel free to contact our division at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY, State Program Administrator Senior
Information and Education Section
Property Tax Division

Property Tax Division
600 North Robert Street
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St. Paul, MN 55101

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MINNESOTA • REVENUE

October 31, 2014

Marian Paulson, SAMA
Kittson County Assessor
mpaulson@co.kittson.mn.us

Dear Ms. Paulson:

Thank you for submitting your question to the Property Tax Division regarding the taxability of county-owned property.

Scenario: Several parcels of county-owned property were put up for sale because they were no longer being used for county purposes. While many parcels sold, some did not.

Question: Should these parcels be taxable for the 2014 or 2015 assessment?

Answer: The parcels do not need to be taxable for the 2014 assessment, as they were exempt as of January 2 and the use did not change prior to July 1, 2014.

For 2015, the deciding factor would be whether or not there is a use that would make it ineligible for exemption (e.g. being leased to a private entity, or being made available to a private use for business conducted for profit, etc.). In those cases, the property would be taxable to the person leasing or using the property. As it stands, the county is immune from taxation. If the county is simply holding the land, that is not a clear reason to make the property taxable for the January 2, 2015 assessment.

Please note that this opinion is based solely on the facts as provided. If any of the facts were to change, our opinion would be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

Property Tax Division
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March 10, 2015

Lori Schwendemann
Lac qui Parle County Assessor's Office
lori.schwendemann@lqpc.com

Dear Ms. Schwendemann,

Thank you for contacting the Property Tax Division regarding exemption. You provided us with the following information.

Scenario:

- The Lac qui Parle Agricultural Society (fair board) recently purchased a property that is a little over one acre and is contiguous to the fairgrounds.
- The property has a dwelling and the former owner can live in the house rent-free as long as he wants to.
- The fair board has indicated that they will use a small portion of the property for the rodeo that is held during the fair and maybe overflow parking during the fair which is for 4 days.
- The assessor's office believes this property should remain taxable due to the use of the property.

Question: Should this property be taxable or exempt?

Answer: According to the information you provided, it appears that the property is being primarily used for residential purposes and should remain as taxable. The property should be taxed to the resident as a personal property assessment on the house and land. You can find more information regarding this in [Minnesota Statute 273.19](#).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA • REVENUE

June 29, 2015

Steve Carlson
Becker County Assessor
sccarls@co.becker.mn.us

Dear Mr. Carlson:

Thank you for submitting your question to the Property Tax Division regarding the taxability of city-owned property in your county. You have provided the following scenario and question.

Scenario:

- The City of Detroit Lakes owns property that is used by the city as a municipal public recreation area known as “Detroit Mountain”.
- The property is being leased to a non-profit organization, the City of Detroit Mountain Recreation Area, Inc. (DMRA).
- The property is used as a public ski area, hiking, and bicycling facility.
- The city has granted DMRA the right to operate an equipment rental concession, a food concession, and a beer and wine concession within the areas of the lodge.
- All revenues generated by the bar and cafeteria are used to offset the operational costs of the park.

Question 1:

Does the property owned by City of Detroit Lakes and managed by DMRA qualify for exemption?

Answer 1:

Yes, the property owned by the City of Detroit Lakes may be exempt from taxation so long as it is used for public purposes. Minnesota Statutes 272.02, subdivision 62, provides that all property that a city acquires and uses pursuant to Minnesota Statute 471.191, subdivision 4, is exempt. A city can own land, buildings, and other recreational facilities, and that property may be deemed to be “public property exclusively used for a public purpose.”

Question 2:

Does the concession area within the lodge need to be taxed to the lessee?

Answer 2:

If the county determines that the lodge amenities are similar to food service space in an arena, golf course, or convention space, the ski lodge and concession areas may be exempt as well. A public skiing facility is similar to a skating rink and golf course, as it provides the public with recreational opportunities, and would therefore be exempt from property tax as well under the above-referenced statutes. The county should consider whether the bar and cafeteria of the ski lodge are amenities that are related to the operation of the ski park. In the materials submitted by the city to the county, the revenues from the bar and cafeteria are applied to the operational expenses of the ski park. Additionally, the ski park may not be able to attract skiers if it does not

offer these amenities, especially if these types of features are commonplace at other skiing facilities.

Please note that this opinion is based solely on the facts provided. If any of the facts change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us



July 1, 2015

Carice Golberg-Cummins
Hubbard County Land Records – Assessing
cgolberg@co.hubbard.mn.us

Dear Ms. Goldberg-Cummins:

Thank you for submitting your question to the Property Tax Division regarding exempt property. You have provided the following scenario and question

Scenario:

- A town board within Hubbard County has asked if a private property owner can be taxed (personal property tax) for using an undeveloped portion of a platted township road.
- The property in question is a platted street that goes to the water's edge.
- The road was never actually built to the water's edge, but it was reserved for such a purpose when platted in 1927.
- The township accepted the road in its entirety, including the undeveloped portion platted to the lake.
- This adjacent property owner contends the best place to place their dock to access the lake is on this adjacent platted road area and has approached the town board seeking permission to place the dock there or acquire the property.
- The town board would prefer not to lease the property or initiate the legal proceedings necessary to formally vacate the road since there are several dozen in the township.

Question: The town board would like to know if simply allowing the property owner to use the publicly-owned platted street as proposed would result in the property owner paying personal property tax on that portion of the property as if they owned it because it would prevent the public from using the property.

Answer: If the jurisdiction allows a person who does not own or lease the publicly-owned property there would not be any personal property tax imposed. However, if the person was to place his or her dock on the public land, the owner of the dock would not have exclusive rights to the publicly-owned property in order to remain exempt. The general public would have to have the same access rights to the property and therefore the dock.

If the property was leased, or the individual given exclusive use of the property, then a personal property tax may be imposed.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us



November 16, 2015

Carl Bruzek
Pennington County Deputy Assessor
crbruzek@co.pennington.mn.us

Dear Mr. Bruzek:

Thank you for submitting your question to the Property Tax Division regarding exemption for city-owned property.

Scenario:

- On January 23, 2014, The City of Goodridge bought a property which contained a restaurant.
- From that date until December 31, 2014, the city operated the restaurant.
- The property wasn't leased out to any other party.
- All employees were employed by the City of Goodridge, and any revenue from that restaurant went to the city.
- Even though the city owned and used the property as of July 1, 2014, your county felt that the use of the property as a restaurant didn't meet the requirements to be exempt.
- The classification of this property for the 2014 assessment was commercial.

Question: Was this the correct classification for the 2014 assessment, or should it have been classified as exempt?

Answer: You were correct to have the property assessed as taxable commercial property. While it was owned and operated by a city, a restaurant does not constitute a public purpose use of the property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6340
Email: proptax.questions@state.mn.us

June 9, 2016

Steve Carlson
Becker County Assessor
sccarls@co.becker.mn.us

Dear Mr. Carlson:

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question.

Scenario:

- The City of Detroit Lakes owns a country club with a bar and restaurant.
- They have rewritten the lease to be very similar to the Detroit Mountain ease as possible.
- The Detroit Mountain is a public recreation area which the Department recently issued an opinion that the concession area may be exempt.
- The city feels the properties are very similar with very similar uses.

Question:

Should the bar and restaurant of the country club qualify for exemption?

Answer:

As long as the county determines the lease agreements are very similar in nature, the bar and restaurant portions of the country club may qualify for exemption. Our opinion we gave on Detroit Mountain recreational area, was based on a couple factors. These factors are that the county should consider whether the bar and restaurant of the country club are amenities that are related to the operation of the golf course and ensure the revenues from the bar and restaurant are applied to the operational expenses of the country club.

Please note that this opinion is based solely on the facts provided. If any of the facts change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
Supervisor, Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

July 1, 2016

Michael Wacker
Pope County Assessor
Michael.wacker@co.pope.mn.us

Dear Mr. Wacker,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have submitted the following scenario and question:

Scenario:

- A city owns the property, but leases it to an individual who operates a marina.
- The property is currently taxable due to this lease.

Question: If the lease was changed to a license, would the taxability change?

Answer: No. Exemption is granted based upon ownership, use for an exempt purpose, and necessity of ownership to accomplish the stated purpose of the exempt organization. When a property owned by a city is no longer being used by the city and instead is being used by a private person or entity, nearly always the exemption eligibility is lost.

In this situation, whether it is a lease or a license, the property is still being used by a business for profit.. When a publicly owned property is being used under a lease or a license by a private person or entity for their own private purposes, the property is not exempt under Minnesota Statutes, section 273.19. As subdivision 1(a) states: *“For purposes of this section, a lease includes any agreement except a cooperative farming agreement pursuant to section 97A.135, subdivision 3, or a lease executed pursuant to section 272.68, subdivision 4, permitting a nonexempt person or entity to use the property, regardless of whether the agreement is characterized as a lease.”*

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz
Senior State Program Administrator
Information & Education Section
Property Tax Division
Phone: 651-556-4861
Email: proptax.questions@state.mn.us

July 25, 2016

Kelly Schroeder
Assessor, Pine County
Kelly.Schroeder@co.pine.mn.us

Dear Ms. Schroeder:

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- There are 22 homes that are located on the property of a federal prison in your county.
- These homes are rented out to employees of the federal prison.
- Staff can choose to live in one of these homes and pay market rents.
- Thus far the homes have been exempt on the false presumption that staff were required to live there.

Question: Are these homes exempt?

Answer: No these homes are not exempt. In Minnesota, taxation is the norm and exemption is the exception. When reviewing exempt property you must look at the three key components of exemption, ownership, use and necessity of use. Property that is owned by the government, whether it is by a city, a county, the state, or the federal government, may qualify for exemption.

Multiple qualifiers exist within Minnesota Statute 272.02 that specify certain situations where exemption may occur. As per Minnesota Statute 272.02, subd.8, “public property exclusively used for any public purpose is exempt.” However, renting out housing to employees who choose to reside there and pay a market rent is not a public purpose.

It is the department’s opinion that properties owned by a government entity but are rented out to occupants that choose to live there do not qualify for exemption and should be subject to taxation.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz
Senior State Program Administrator
Information & Education Section
Property Tax Division
Phone: 651-556-4861
Email: proptax.questions@state.mn.us

August 18, 2016

Liz Lund
Roseau County Assessor
Liz.lund@co.roseau.mn.us

Dear Ms. Lund:

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- The DNR owns a residence in a state park within Roseau County that is used for a park ranger.
- The residence is sometimes vacant and sometimes occupied.
- It is not essential for the DNR that an employee reside in this home within the park.
- Rent is paid by an employee to live in this home.

Question: Is this property exempt?

Answer: No. In Minnesota, taxation is the norm and exemption is the exception. When reviewing for exemption, we look at the three key components of exemption: ownership, use, and necessity of use. Property that is owned by the government, whether it is by a city, a county, or the state, may qualify for exemption.

Multiple qualifiers exist within Minnesota Statute 272.02 that specify certain situations where exemption may occur. As per Minnesota Statute 272.02, sub.8 “public property exclusively used for any public purpose is exempt.” However, in your situation, the property is not used for a public purpose.

Even when it is occupied by a public employee, it is not essential to the public or the DNR that the employee actually reside in that house. Having an employee choose to reside in this house does not cause the property to qualify for exemption. Therefore, it is the department’s opinion that this property does not qualify for exemption, regardless of whether it is occupied or not.

Please note that our opinion is based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. Ultimately the final decision should be determined by the county assessor.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz
Senior State Program Administrator
Information & Education Section
Property Tax Division
Phone: 651-556-4861
Email: proptax.questions@state.mn.us

September 1, 2016

Jason McCaslin
Jackson County Assessor
Jason.mccaslin@co.jackson.mn.us

Dear Mr. McCaslin:

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- There is a non-profit corporation, set up under Minnesota Statute 317A, in your county that has several cities as board members.
- This corporation exists to provide TV, internet, and phone services in the area.
- The IRS considers this corporation to be exempt from federal income tax and considers it to be an “affiliate of government units”.
- The corporation is considering whether to purchase property in Jackson County and wants to know if the property would be considered exempt or taxable.

Question: Would this property qualify for property tax exemption?

Answer: As you know, the decision to grant an exemption is ultimately up to the county assessor, however, you have asked our opinion. According to the information you provided, it appears that this property may qualify for property tax exemption. Since the board of the nonprofit corporation is comprised of only cities that are parties to the joint powers agreement, and the joint powers board was created for the purpose of providing a public service, the property is “public property” for purposes of the property tax exemption provided in Minnesota Statute 272.02, subdivision 8.

The nonprofit, created by the joint powers board, was specifically created to provide broadband communications service for the citizens of member cities. The cities could have pursued providing this service independently, and any property they acquired for this purpose would be exempt. The cities instead, opted to work collectively to provide this public service through a nonprofit. The nonprofit should retain the public nature of the cities that are parties to the board. Therefore, the property acquired by the nonprofit should be considered public property, and it should be exempt so long as it is used for the above-describe public purpose.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Coordinator
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

March 8, 2017

Patrick Todd
City of Minneapolis Assessor's Office
patrick.todd@minneapolismn.gov

Dear Mr. Todd,

Thank you for submitting your question to the Property Tax Division regarding tax exemption. You have provided the following scenario and question:

Scenario:

- There is a parking ramp located in Minneapolis.
- The parking ramp is owned by a for profit entity.
- The entity leases part of the parking ramp to the city of Minneapolis.
- The city then sub-leases a portion of the ramp they lease from the entity to a separate for profit entity.
- The parking stalls are not operated for essential public or governmental purposes.
- MN Statute 459.14 Subd. 8. states: any real or personal property owned, leased, maintained, or operated as a municipal parking facility under this section is owned, leased, maintained, or operated for essential public and governmental purposes, and is exempt from all ad valorem taxes levied by the state or a political subdivision of the state.

Question: What is the departments interpretation of MN Statute 459.14, subdivision 8? Does the portion of the parking ramp leased to the city qualify for exemption?

Answer: The portion of the parking ramp that is being used by the city should be considered exempt property. The portion of the property that is being used by the private entity should be taxable to the lessee.

First, before addressing the sublease of parking space to the private company, it is proper to first consider whether the lease by the city qualifies the ramp for an exemption. Under MN Statute sec. 459.14, subd. 8, property that is "leased, maintained, or operated as a municipal parking facility...is exempt from all ad valorem taxes." While chapter 459 does not define "municipal," the common usage of the term refers to something related to a city or other local unit of government. The city presumably leased the ramp from the owner for purposes of a city (i.e., municipal) parking ramp. By operation of sec. 459.14, subd. 8, such a lease is presumed to be an "essential public and governmental purpose" that does not require further analysis. Because the city of Minneapolis is leasing the parking ramp for use as a city parking ramp, it is exempt under sec. 459.14, subd. 8.

Next, with respect to the portion of the ramp subleased to a private company, the ramp is taxable. Where property that is otherwise tax-exempt is leased for a period of at least a year (and here the lease has been in effect for at least ten years), the property is taxable, see MN Statute 273.19, subd. 1. Therefore, the portion of the property leased to the private entity should be taxable.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jessi Glancey

State Program Administrator Coordinator
Property Tax Division, Information and Education
Phone: 651-556-6091

May 8, 2017

Dan Whitman
Martin County Assessor
Dan.Whitman@co.martin.mn.us

Dear Mr. Whitman,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- Fairmont School District sold a piece of property classified as agricultural to the Fairmont EDA (Economic Development Administration) for \$1 on 10/17/2016.
- The school district retains a lien on the property for \$200,000, at no interest, which shall be satisfied at the rate of \$10,000 per lot when sold.
- The EDA platted the parcel into 20 lots and accepted a bid to improve the property with \$750,000 of infrastructure including streets and sewers.
- The EDA has marketed the lots for sale and has received permission to sell the lots with the first closings in May of 2017.

Question:

Does this property qualify for exemption under Minnesota Statute 272.02 subdivision 39?

Answer:

Because the property has been platted into 20 lots and assuming they each received their own parcel number, each parcel should be looked at individually when referring to the exemption requirements in subdivision 39 rather than the entire property as a whole. You are correct that the property meets the exemption requirements in Minnesota Statute 272.02, subdivision 39, however once the property (parcel) is sold and used for a taxable purpose it begins to be taxed. Also, if the EDA were to lease or rent the property (or a portion) to a taxable entity, the property may become taxable.

If there was an instance where more than one-half of the improvements on the parcel becomes available for a taxable use, the property would also no longer qualify for exemption.

Please note that this opinion is based solely on the information provided. If any of the facts were to change, our opinion would be subject to change as well. Additionally, an exemption for economic development does require that all criteria for exemption eligibility continue to be met.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
Supervisor
Property Tax Division
Information & Education
Phone: 651-556-6091

October 2, 2017

Glen Petersen
Petersen Law Office, PLLC
glenpetersen@frontier.com

Dear Mr. Petersen,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- The City of Tyler owns a local golf course.
- The Tyler Golf Club, a 501(c)(3) nonprofit corporation, operates the golf course by way of a yearly lease.
- The city is now considering application for exemption of the golf course as a purely public charity under Minnesota Statute 272.02 subd. 7 or subd. 8.

Question: Can the golf course be exempted from property tax under Minnesota Statute 272.02 subd. 7?

Answer: For all entities seeking property tax exemption, taxation is the rule and exemption is the exception. In addition, any type of exempt property must be owned by an exempt entity, used for exempt purposes, and the ownership must be reasonably necessary to further the mission of the exempt entity. This three-prong test must be kept in mind at all times when determining exemption. In order for the Tyler Golf Club to qualify as an institution of purely public charity, six requirements must be met according to [Minnesota Statute 272.02, subdivision 7](#):

- **Requirement 1:** The stated purpose of the undertaking of the organization is to be helpful to others without immediate expectation of material reward. Meeting this requirements is determined by 501 (C)(3) determination letter.
- **Requirement 2:** The institution must be supported by material donation, gifts, or government grants for services to the public in whole or in part.
- **Requirement 3:** A material number of the recipients of the charity must receive benefits or services at reduced or no cost, or the organization must provide services to the public that alleviate burdens or responsibilities that would otherwise be borne by the government.
- **Requirement 4:** That the income received, including material gifts and donation, must not produce a profit to the institution which is distributed to private interests. Meeting this requirement is determined by 501 (C)(3) determination letter.
- **Requirement 5:** That the beneficiaries of the charity must be unrestricted. If the beneficiaries are restricted, the class of persons to whom the charity is made available must be one having a reasonable relationship to the charitable objectives.
- **Requirement 6:** That dividends, in form or in substance, or assets upon dissolution are not available to private interest. Meeting this requirement is determined by 501 (C)(3) determination letter.

In order for an organization to qualify as an institution of purely public charity, it must first be exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. Qualifying organizations must meet all six requirements of an institution of purely public charity, unless there is a “reasonable justification” for failing to meet requirements 2, 3, and/or 5. Assessors may request additional information from the applicants in order to prove that “reasonable justification” for failing to meet a requirement is met. As always, the onus is on the taxpayer to prove eligibility for exemption.

Question: Can the golf course be exempted from property tax under Minnesota Statute 272.02 subd. 8?

Answer: Similar to Minnesota Statute 272.02 subd. 7, all property is presumed to be taxable unless a qualifying exemption can be applied. Ordinarily, property owned by a unit of government would be exempt if it is used for public purposes. Although the course is utilized by the public for recreational purposes, there is no indication that it only serves a public purpose. Unlike a community park that is open to everyone, fees and dues associated with the use of the golf course would be indications that it has limited public purposes.

Please note that our opinion is purely advisory in nature and as always, the responsibility is on the taxpayer to prove eligibility for exemption. Ultimately, it is the assessor's decision whether or not to exempt a property. Application must be made to the county assessor and all documents required by the assessor must be provided. Additionally, the assessor may request further review by an advisory review panel. Information on how to apply for a review is outlined in the Property Tax Administrator's Manual, Module 5 – Exempt Property. If the property owner disagrees with the assessor's determination, the property owner may appeal to Minnesota Tax Court.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Property Tax Division
Information & Education
Phone: 651-556-6091

October 2, 2017

Kim Jensen
Hennepin County Assessor's Office
Kimberly.Jensen@hennepin.us

Dear Ms. Jensen,

Thank you for submitting your question to the Property Tax Division regarding payment in lieu of taxes (PILT). You have provided the following question:

Question: When a city leases a property they own for a short period of time, is the 30% PILT tax calculation based on a reasonable net or gross amount?

Answer: [Minnesota Statute 272.68 subdivision 3](#) states that an authority "shall charge a reasonable rental" that is then "distributed in the same manner as property taxes 30 percent of the rental received, or such percentage as maybe otherwise provided by law." Although statute does not specifically mention how the rent PILT calculation should be based, other than it should be reasonable, the phrase "rental received" would indicate that the tax calculation is based on all rent received. It doesn't matter whether or not the short term lease is net or gross, in both cases it is put down as rent received. The fact that the authority will bear the expenses for a gross rent situation is why in that case the rent is typically higher, but it is still considered rent.

Please be aware that this opinion is based solely on the information provided. Without an actual scenario to apply the above statute to, it is difficult for us to give a detailed response.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Property Tax Division
Information & Education
Phone: 651-556-6091

December 28, 2017

John Conway
Winona County Assessor's Office
jconway@co.winona.mn.us

Dear Mr. Conway,

Thank you for submitting your question to the Property Tax Division regarding exempt property. You have provided the following scenario and question:

Scenario:

- A city in Winona County owns a recreational center that once contained a basketball court and doubled as a voting center.
- The city has since leased the center to two individuals who turned it into an indoor/outdoor skateboard park with a retail shop.
- The two year lease agreement required a onetime donation of \$4,000 to the city and is up for renewal every two years (no annual or monthly rental payment).

Question: Would the city owned property be exempt under [Minnesota Statute 471.191](#)?

Answer: Although Minnesota Statute 471.191 does not specifically list skateboard parks as qualifying recreational facilities, statute allows for a broad interpretation of what qualifies as a recreational facility. If it is determined the city owned property currently utilized as a skateboard park is open to the public and serves a public purpose, it may qualify for exemption. Even though the skateboard park is leased to individuals conducting a for-profit business, the property still qualifies for exemption, as the statute allows for such a lease, so long as the lease is for a term of less than 3 years.

The mission of the Property Tax Division and of assessors is to work to ensure that like properties are classed similarly from one jurisdiction/county to another. This is equally true for taxable and exempt properties. To promote this mission, we recommend that you review how other municipally owned properties are classified by the county, obtain advice from your Property Tax Compliance Officer, and contact the county attorney's office for their opinion if questions remain.

This opinion is based solely on the information provided. If any of the facts of the situation change, our opinion is subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

January 16, 2018

Peggy Trebil
Goodhue County Assessor's Office
peggy.trebil@co.goodhue.mn.us

Dear Ms. Trebil,

Thank you for submitting your question to the Property Tax Division regarding exempt property. You have provided the following scenario and question:

Scenario:

- The City of Red Wing owns a municipal golf course.
- In 2013 the City of Red Wing entered into a golf course management agreement with a non-profit corporation (501c3).
- The non-profit corporation operates the municipal golf course, books wedding parties, hires staff, and pays the real estate taxes.
- The non-profit board members do not receive a salary and do not pay any lease amount to the city.
- The clubhouse and one acre are currently classified as commercial property.

Question: Should the clubhouse and one acre qualify for exemption?

Answer: It is our opinion that the clubhouse and one acre should qualify for exemption. A city can own land, buildings, and other recreational facilities, and that property may be deemed to be "public property exclusively used for a public purpose" in accordance with state statutes. Minnesota Statutes 272.02, subdivision 62, provides that all property that a city acquires and uses pursuant to Minnesota Statute 471.191, subdivision 4, is exempt. The clubhouse located on the city-owned golf course and managed by a non-profit corporation (501c3) may qualify for tax exemption as long as it is primarily used for a public purpose. If at any point the non-golf activities were to become the primary use of the clubhouse, the assessor would need to reevaluate the classification of the property.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

November 15, 2018

Connie Erickson
Yellow Medicine County Assessor's Office
connie.erickson@co.ym.mn.gov

Dear Ms. Erickson,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- A residential property was sold at a sheriff's sale on April 12, 2018.
- The redemption period expired on October 12, 2018 and the sale was recorded.
- The deed lists the owner as "United States of America, acting through Rural Housing Service, United States Department of Agriculture.

Question:

Is this property taxable or exempt for the 2019 assessment year?

Answer:

Property owned by the United States is "immune" from property taxes. Given that the Rural Housing Service is a program through the Department of Agriculture, which is a federal entity, the property in question is owned by the United States. In this case, the property would be exempt for the 2019 assessment year, and would remain exempt until such time as the property is sold.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

July 20, 2020

Bruce Nielsen
Lincoln County Assessor's Office
BNielsen@co.lincoln.mn.us

Dear Mr. Nielsen,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- The City of Tyler has entered into a management agreement with The Tyler Golf Club, a 501(c)(3) nonprofit corporation, to manage all aspects of a city-owned golf course
- The Tyler Golf Club will keep all revenues from all activities relating to the golf course and facilities, and the city will pay The Tyler Golf Club \$10,000 per year for the management services.
- The facilities covered by this management agreement consist of an 18-hole golf course, driving range, practice greens, clubhouse, pro shop, food/beverage area, golf carts and storage sheds, parking lot and other related amenities.

Question: What part, if any, of the property would be taxable with this agreement?

Answer: City-owned land, buildings, and other recreational facilities may be deemed exempt as "public property exclusively used for a public purpose" in accordance with state statutes. Minnesota Statutes 272.02, subdivision 62, states that all property that a city acquires and uses pursuant to Minnesota Statute 471.191, subdivision 4, is exempt. The facilities located on the city-owned property and managed by a non-profit corporation may qualify for tax exemption if it is primarily used for a public purpose. If at any point the non-golf activities were to become the primary use of the clubhouse or any of the other facilities listed, the assessor would need to evaluate that use to ensure it still meets the requirement of being a public purpose.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6922

September 4, 2020

David Sipila
St. Louis County Assessor's Office
sipilad@stlouiscountymn.gov

Dear Mr. Sipila,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- A city has owned a parcel of land for 20 years
- On the parcel the city constructed a building that was leased to a private business
- The property was assessed as a personal property account to the business
- On July 31, 2020, the lease was terminated, and the business moved out of the building
- For the 2020 assessment the building is assessed as taxable on a personal property account to the lessee
- The city is not currently using the vacated building for any city-related purposes
- The exemption for Economic Development property does not apply as the property has been owned by the city for over 15 years.

Question 1: If the city is unable to immediately find another tenant for the building, and it is sitting vacant, at what point does the property become taxable? If the city is actively seeking a new tenant are they allowed a reasonable period of time to do so without the property becoming taxable?

Answer: When considering whether or not a property is exempt, it is important to remember that taxation is the rule and exemption is the exception. The property is not serving a public use by sitting vacant, which means it does not qualify under 272.02 subdivision 8. The property also has exceeded any potential statutory exemption for economic development property found in 272.02, subdivision 39, and additionally would not qualify due to the improvements built on the property after its purchase that were leased to a private entity.

The date the lease was terminated, or the timeframe required to find a new tenant, has no impact in determining the exempt status of the property because the use (or lack of) does not qualify the property for exemption. The only other exceptions found in statute which would allow this parcel to potentially be exempt in the next assessment year would be if the property had been purchased or held for housing purposes, or met the conditions described in section M.S. 469.174, subdivision 10 as a redevelopment district. Neither of these appear to be the case. Therefore, the property would become taxable to the city in the next assessment year.

Question 2: If the city is able to rent only a portion of the building, does the unused portion of the building become taxable to the city?

Answer: Assuming there is no public use of the portion of the building that is not leased, it would be taxable. If there is a public use for part of the property, then only the portion leased would be assessed as a personal property account to the business. The portion used by the city for a public purpose would be exempt.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

April 7, 2021

Mark Buysse
Lyon County Assessor's Office
markbuysse@co.lyon.mn.us

Dear Mr. Buysse,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario 1:

- The DNR owns a building within a state park
- The building had been used previously as residence housing for park employees
- The residence has been described by the DNR as an upper residence, an earth shelter building (located between the shop area and the park office)
- The building has been vacant since 2017
- Ownership is "DNR – Field Office"
- The residence is located on a separate parcel, but is land-locked with the state park

Question: Does this building qualify for exemption since it is owned by the DNR, vacant, and ultimately used as part of the state park?

Answer: Minnesota Statutes 272.011 states that property owned by the state and is "regularly used as living accommodations" is taxable. Given that the property has not been used for residential purposes since 2017 and there are no current plans to use the property as a residential structure, our opinion would be that it is not being used regularly and would therefore be exempt as property owned by a state entity.

Scenario 2:

- A building located within a state park was previously used as a residence
- The building has not been used as a residence since approximately 2005
- The building has been recently renovated and is now being rented to the public for short-term residential use

Question: This building had been previously exempt based on its ownership, use and necessity of ownership. However, with the renovation and current use, should the building remain exempt or become taxable?

Answer: Minnesota Statute 272.02, subdivision 8 allows all property used for public purposes to qualify for exemption. Therefore, assuming the structure is being rented to the public on a short-term basis, it would meet the requirements of subdivision 8 and qualify for exemption. If, however, the structure was

being used for long-term residential purposes or by someone other than the general public, then the exempt status would need to be reviewed.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

May 20, 2021

Jason McCaslin
Fillmore County Assessor's Office
jmccaslin@co.fillmore.mn.us

Dear Mr. McCaslin,

Thank you for submitting your question to the Property Tax Division regarding property tax exemption. You have provided the following scenario and question:

Scenario:

- A parcel of privately-owned land contains a city-owned water tower
- The water tower is currently serving the city
- There is no lease or easement covering the area of land upon which the water tower is located
- The landowner receives no compensation from the city for use of the land

Question: Is a public water tower located on private property exempt?

Answer: No, the land and the structure do not qualify for exemption. We look to Minnesota Statutes 272.03, Subdivision 1 which defines real property for the purpose of taxation to include: **“the land itself**, rails, ties, and other track materials annexed to the land, and all buildings, structures, and **improvements or other fixtures on it**, bridges of bridge companies, and all rights and privileges belonging or appertaining to the land, and all mines, iron ore and taconite minerals not otherwise exempt, quarries, fossils, and trees on or under it.”

Therefore, the land and the structure should not be separated on privately-owned property and the land and the structure would be taxable to the landowner.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6922

November 1, 2021

Dear Troy,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- A railroad owns a 1.1-acre parcel.
- The parcel is leased to the city of Sandstone for use as a city park which includes a skateboard park as well as a hockey rink and warming house.
- The city pays annual rent to the railroad for the lease that increases annually.
- The city has made improvements to the property which are currently assessed as personal property and are exempt.

Question: Should the land itself be exempt?

Answer: Yes. While normally ownership by an exempt entity is a requirement for property to receive exemption, [Minnesota Statutes 471.191](#) allows exceptions for land leased to a city and used for recreational activities such as swimming pools, skating rinks, athletic fields, etc. M.S. 471.191, Subd. 4 states *“Any and all properties acquired and used, whether under lease or otherwise, by a city for the purposes authorized and contemplated in this section shall be deemed and are declared to be public property exclusively used for a public purpose and as such exempt from taxation, so long as and to the extent that such property is devoted to said purposes”*. If the assessor has determined that the city’s use of the land is devoted to a public purpose under this statute, the land may be exempt.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

January 10, 2023

Dear Mark,

Thank you for submitting your question to the Property Tax Division regarding property tax exemption. You have provided the following scenario and question:

Scenario:

- A city owns an exempt property with three structures
- One of the structures was leased to a for-profit business in January 2022, resulting in the structure being taxable

Question 1: Because the city owns the property, can the assessor's office classify and value the structure as 3a commercial?

Answer: Yes. [Minnesota Statute 272.01, subdivision 2](#) details the provisions of how exempt property that is leased to taxable entities should be treated. Paragraph (a) states that exempt property leased to a for-profit business must be taxed in the same amount and to the same extent as if the lessee was the owner of the property. Therefore, there is no restriction on classifying the property as commercial.

Question 2: Should the taxable structure be treated as real property or personal property?

Answer: M.S. 272.01, subdivision 2 paragraph (d) states that the tax on real property owned by the federal government, state, or political subdivision that is leased and becomes taxable “must be assessed and collected as a personal property assessment.” Therefore, when exempt property is leased out to a non-exempt entity, a personal property account should be created for the lessee.

It is important to note that these personal property accounts should be assessed on January 2 of the assessment year for taxes payable **the following year**. While personal property accounts for manufactured homes and other personal property taxable under [M.S. 273.125](#) are assessed and paid in the same year, this is unique to those types of personal property. Personal property that is taxed outside of that statute are not assessed and taxed in the same year.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922



School Property/Educational Institutions

August 8, 2003

Brad Averbeck
Brad.Averbeck@state.mn.us

Dear Brad:

Your e-mail has been forwarded to me for reply. Our opinions on the four questions you submitted is are follows:

Question #1: The School District owns a parcel of land that was used for a bus stop. Since the beginning of this summer break, it has not been used as a bus stop. On June 23 it went up for sale, listed through a realtor. When or should the property lose its exemption?

Opinion #1: In general, the purpose of exemption is to foster some public purpose. Ownership, use and necessity of ownership are key elements in determining exemption.

Minnesota Statute 272.02, subdivision 38, paragraph (a) states in part that: *“Any property exempt from taxation on January 2 of any year which, due to sale or other reason, loses its exemption prior to July 1 of any year, shall be placed on the current assessment rolls for that year. The valuation shall be determined with respect to its value on January 2 of such year*

The July 1 date would rule in this situation. If an exempt purchaser did acquire the property before July 1, the property would be added to the 2003 assessment rolls, for the taxes payable in 2004. The purchaser must intend to utilize the property to foster some public purpose for it to remain as exempt property, and make application for exemption.

Simply because the school district listed the property for sale in June, does not warrant pulling the exemption for the 2003 assessment. The school district may intend to utilize the property as a bus stop once school begins again in the fall.

Question #2: A property owner purchased the lot next to his homestead. His mother will be putting her mobile home on this lot. The county questions if they can extend the homestead from the son's property over to the recently purchased lot? I told them that the mother could apply for a homestead on the manufactured home itself as personal property. The son could apply for a relative homestead on the lot. Is this correct?

Opinion #2: Assuming the property is residential, you are partially correct. The mother does qualify for residential homestead on the manufactured home that she owns, provided she meets the ownership and occupancy requirements. The manufactured home should be assessed as personal property to the mother.

(Continued...)

The son's extra lot would be eligible for residential homestead in his name since it is contiguous to his property.

Question #3: Becker County is still wondering if they can create their own Green Acres application since the one they are currently using is outdated.

Opinion #3: We are in the process of revising the Green Acres application. Enclosed is a copy of the form as a "work in progress". Any comments you or your counties may have on the form would be greatly appreciated. In the interim, until the final draft is prescribed by the Commissioner of Revenue, you may use this as an example to draft your own form.

Question #4: Becker County is wondering if MAAO and the State Board of Assessors have officially adopted USPAP?

Opinion #4: This question was forwarded to Deb Volkert. She provided you with an answer by telephone on Thursday, August 7, 2003. The answer is, no. The State Board of Assessors has not officially adopted USPAP requirements for appraisals.

If you have further questions, please contact me again.

Sincerely,

RHONDA M. THIELEN, Appraiser
Information and Education Section
Property Tax Division

March 28, 2005

Dale F. Smith
Courthouse
301 Walnut Street
P.O. Box 440
Carlton, MN 55718

Dear Dale:

Thank you for your e-mail regarding property that is owned by a school and its status as exempt property. You have stated that the school district purchased approximately 200 acres as a site for a new school. The site is currently used for their bus garage and a partially developed athletic field. The new school will be constructed after a referendum is passed. To date, two referendums have failed. It has come to your attention that part of the district's plan includes a 60-acre portion of the 200 acres to be used for residential and/or commercial development. This part of the plan has been discussed at school board meetings, but the property has not been marketed nor is there a "for sale" sign on the property. You have asked if that, alone, should cause the school to lose its exemption on those 60 acres of the property.

In our opinion, the property should remain exempt as it is. We have always maintained that churches, schools, etc. who purchase land for expansion should be given time to achieve that expansion without fear of losing their exempt status. Since the district is using the land for a bus garage and an athletic field during the time they try to raise the funds necessary to construct the school, we would recommend that you continue the exemption. However, once there is a change in use such as platting or construction or if the school begins to market the property for sale we recommend that you remove the exemption at that time since that would indicate that the property is no longer being used for school purposes.

If you have further questions, please contact our division.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

December 18, 2008

Bob Hansen
Hubbard County Assessor
Courthouse
3rd & Court Street
Park Rapids, Minnesota 56470

Dear Bob:

Thank you for your question regarding the Park Rapids School of Cosmetology. It has been assigned to me for reply. You outlined the following situation: the Park Rapids School of Cosmetology is owned by a private individual who currently rents the space where the school operates. You have asked if they would qualify for exemption from property tax under Minnesota Statutes section 273.02, subdivision 5 which provides that academies, colleges, universities and seminaries of learning are exempt from property tax.

As you are aware, property must have a concurrence of ownership, use and necessity of ownership to meet the requirements for exemption from property tax. In this case, the owner of the Park Rapids School of Cosmetology currently leases the space in which they operate but is considering purchasing the property. Ordinarily we do not issue opinions that are hypothetical in nature. However, we will make an exception in this case.

To be exempt as an academy, college, university or seminary of learning, the facility must provide a curriculum that mirrors that of public education. After reviewing the information submitted, it is our opinion that the Park Rapids School would not be exempt from property tax because it is a trade school. This opinion is supported by a 1940 Attorney General opinion which stated that “a beauty and hairdressing school is not exempt from taxation as an academy, college, university, or seminary of learning.”

If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section

MINNESOTA ▪ REVENUE

June 29, 2011

Chuck Pelzer, County Assessor
Todd County Assessor's Office
chuck.pelzer@co.todd.mn.us

Dear Mr. Pelzer,

Thank you for your recent email to the Property Tax Division. You have asked about the taxability of Amish schools in your county. In Todd County, these schoolhouses are sometimes built on agricultural parcels that are owned by individuals. The County provides conditional use permits for the schoolhouses to be built, and the schoolhouses are used by Amish families only. Sometimes, the schoolhouse itself is deeded to an entity such as an "Amish Parochial School."

To be exempt as an educational institution, the program offered by an Amish school must mirror that of a public educational institution. The Minnesota Supreme Court case *State v. Northwestern Preparatory School* (1957, 249 Minn. 552, 83 N.W.2d 242) required that seminaries of learning provide some substantial part of the educational training which otherwise would be furnished by the various publicly-supported schools, academies, colleges, and seminaries of learning, and which thereby lessen the tax burden imposed upon our citizens as result of our public education system.

The following three guidelines were established in that case:

1. The institution must be truly of an "educational" nature.
2. The institution must provide at least part of the educational training that would otherwise have to be provided by publicly-supported institutions.
3. The public schools do, or would, give credit for educational credits earned at the institution.

Therefore, it must be determined whether the school provides education which mirrors the public schools that would otherwise be offered to its students (the curriculum must parallel that of a public education institution) and meet the guidelines above.

Regardless of whether the school is taxable or exempt, it would not be classified and assessed with the agricultural land that is owned by an individual if the schoolhouse itself is deeded to a different entity. The schoolhouse property would not be included in the real estate that is owned in fee by the owner of the agricultural land. If the same owner has fee simple interest in the agricultural land and the school building, the portion of the land used with the school building would be assessed separately from the agricultural land (that is, the building would not be class 2a and therefore would not receive a 0.50% class rate).

If you have any further questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

April 10, 2012

Marci Moreland
County Assessor
Carlton County
Marci.Moreland@co.carlton.mn.us

Dear Ms. Moreland,

Thank you for your recent question to the Property Tax Division regarding a property in your county. Northeast Service Cooperative has claimed that their property should be exempt from taxation. They claim to be “school district” property, and have an assigned ISD #927. A building in Barnum City is used for their purpose, which is to provide broadband communications to schools. You have asked for our guidance and advice related to this property.

Based on the information provided, it is possible that the property is exempt from property taxes under Minnesota Statutes, section 123A.21 (service cooperatives). The general policy rationale of a service cooperative (SC) is that the SC is an extension, or “division” of the constituent school districts, created to provide services - in this case mainly computing and telecommunications - to those districts with some added “economies of scale,” and eliminating the need for every district to replicate the same capabilities (i.e., redundancies). M.S. 123A.21, subdivision 9 provides that “Any property acquired by the SC board is public property to be used for essential public and governmental purposes which shall be exempt from all taxes and special assessments levied by a city, county, state, or political subdivision thereof.” While some of this particular SC’s activities border on private enterprise (i.e., services to the public for a fee), we could not find a substantial reason to question this exemption.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division



February 4, 2013

Paul Knutson
Rice County Assessor's Office
pknutson@co.rice.mn.us

Dear Mr. Knutson:

Thank you for your question submitted to the Property Tax Division regarding leased exempt land in your county. You have provided the following:

The Minnesota Academies in Faribault (Minnesota School for the Deaf and Minnesota School for the Blind) have leased out farmland for years and Rice County has taxed the farmland and sent personal property tax statements to the lessee for as many years. A new farmer is now leasing the farmland and states that he should not pay taxes as the property is statutorily exempt. The lessee cites Minnesota Statutes 272.01, Subdivision 3, para. 3 as the authority. Does this statute exempt the farmland even though it continues to be rented to a private individual?

Minnesota Statutes 272.01, subdivision 3 states the following, which the taxpayer is citing as the authority:

*"Subd. 3. **Exceptions.** The provisions of subdivision 2 shall not apply to:
(c) Property presently owned by any educational institution chartered by the territorial legislature..."*

To answer your question, I consulted with legal to ensure a more accurate interpretation of the statute.

While the taxpayer is interpreting this statute to mean that all land owned by an educational institution can be leased and still be considered exempt, that is not what this statute is referring to. This statute is referring to an institution that got its charter (its authority to exist) from the territorial legislature, not to the present day charter schools authorized in Minnesota Statutes 124D.10 which have been in existence only since 1991.

The Minnesota territorial legislature met nine times between 1849 and 1857; and passed hundreds of separate laws. At this time, there were no laws that provided a way for people to form a corporation, religious society, school, or non-profit. If there was an organization or individual that wanted to start a school, they had to get an individualized "charter" for that entity. This charter would list the organizers, state the entity's purpose, and enumerate what it could do.

In a 1903 decision, the Minnesota Supreme Court stated that:

"During territorial days, several educational institutions were incorporated by special acts of the legislature, in which provision was made exempting from taxation all property owned by them, both real and personal, among which were Pillsbury Academy, Hamline University, and St. John's Seminary, and those institutions are today enjoying the benefits so extended to them." Rice County v. Bishop Seabury Mission.

Reviewing the laws passed by the territorial legislatures from 1849 through 1857, there were 37 different school charters found, but none for a Faribault School for the Blind or Deaf. Therefore, this statute does not apply to the scenario you have presented.

Property Tax Division
600 North Robert Street
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St. Paul, MN 55146

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Whenever property that is exempt from property tax is leased, the exemption is put at risk because the property is not being used for the purpose for which the exemption was originally granted. Remember, the exemption was granted based on ownership, use (by the owner) for an exempt purpose, and necessity of ownership to accomplish the stated purpose of the exempt organization. Generally, the property is taxable under section 272.01 if the property is used by a private entity for profit.

In other words, you would correctly tax the portion of the property that is used by a for-profit business (e.g. farming). The tax would be *in personam*, i.e. to the lessee, and not to the owner.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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August 27, 2013

Steve Chmielewski, AMA
Stearns County Senior Appraiser
steve.chmielewski@co.stearns.mn.us

Dear Mr. Chmielewski:

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question.

Scenario:

St. John's University in Collegeville Township recently purchased a residential property. This property will become the home of the University's president. In your opinion, this meets the definition of property "owned, leased or used by any public elementary or secondary school district for a home, residence or lodging house for any teacher, instructor, or administrator" as described in Minnesota Statutes, section 272.02, subdivision 36 and therefore qualifies for exemption. However, the lower level of the residence will be used for traditional functions of a college president's house, e.g. entertaining guests.

Question:

Does this property owned by the college, used partially for the president's residence and partially for functions related to the duties of the president, qualify for property tax exemption?

Answer:

Minnesota Statutes, section 272.02, subdivision 36 does not apply in this situation because that subdivision only applies to elementary or secondary schools, not post-secondary schools such as the University. However, Minnesota Statutes, section 272.02, subdivision 5 exempts property held by colleges and universities that is reasonably necessary to accomplish the educational purposes of the college or university. Residences acquired for presidents and professors were found exempt as reasonably necessary to a college in *State v. Carleton College*, 1923 (191 N.W. 400, 403). Additionally, *Concordia College Corp. v. State*, 1963 (120 N.W.2d 601, 607-08) outlined a number of factors to consider to determine whether such a property may be reasonably necessary for the educational institution:

- *Express intent* of the use of property/stated purpose of residence.
- *History* of acquisition and use of property; i.e., whether property has been continually used as a university residence.
- *Necessity* - whether residence helps secure a new president.
- *Rental arrangement* - whether university charges above or below market rent.
- *Use* of the real estate - whether used solely as residence or also for receptions and meetings.
- *Location* relative to campus.
- *Housing availability* - whether there is other suitable housing on or near campus.
- *Occupant's duties* - whether occupant's presence on or near campus is required or preferred.

If the university is housing the president on or near campus in a residence continually used for such purposes, if the residence is used by the president to host meetings and receptions, if the university charges market or below market rent, and if the university prefers that the president be near campus, then the property is exempt.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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Updated 3/15/2024 - See Disclaimer on Front Cover

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June 27, 2014

Pam Friesen
Nobles County Assessor
pfriesen@co.nobles.mn.us

Dear Ms. Friesen:

Thank you for submitting your question to the Property Tax Division regarding exempt property.

Scenario: You received a call from a developer that is helping a 3rd party for-profit entity lease land from Minnesota West Community and Technical College to put up student housing. The developer was told by the previous assessor that everything could be exempt if the rents were paid to the school and then the school would pay the 3rd party entity. You told the gentleman that if the 3rd party entity would own the buildings and if they are NOT a “not for profit organization” that you believe that everything would be taxable including the land that would be leased to the entity from the school. He requested that you check to see if there is any way the land or buildings would be exempt or if there is a special exemption for student housing.

Question: Could this property be exempt under current law? If not, can a “special exemption” be made to cover this property or similar scenario?

Answer: It is unclear under which provision of Minnesota Statute the 3rd party entity believes the property may be eligible for exemption. To qualify for exemption as an institution of purely public charity, for example, the organization must be a 501(c)(3) non-profit organization, the property must be used for exempt purposes by that organization, and the ownership of the property must be reasonably necessary in order for the organization to achieve its goals. As you have stated, the 3rd party entity is not a 501(c)(3) non-profit organization, so it would not qualify for an exemption as an institution of purely public charity.

As we understand it, the student housing is not owned by, nor leased to, the school. The buildings will be owned by the 3rd party entity and operated for profit. Based upon this understanding, this use does not appear to be an exempt use. We are not aware of any exemption eligibility for student housing owned by a for-profit entity. Additionally, the land would be taxable to the lessee.

Please note that this opinion is based solely on the facts as provided. If any of the facts were misinterpreted or change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information and Education Section
Property Tax Division

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Updated 3/15/2024 - See Disclaimer on Front Cover

March 9, 2016

Peggy Trebil
Goodhue County Assessor
Peggy.Trebil@co.goodhue.mn.us

Dear Ms. Trebil:

Thank you for submitting your question to the Property Tax Division regarding exempt property. You have provided the following scenario and question.

Scenario:

- The Red Wing School District is considering building a “School Bus Garage” on school-owned property.
- The school district may contract with an outside service to manage/drive/maintain the buses.

Question:

Would the bus garage qualify for exemption?

Answer:

Yes, if the bus garage is owned by the school and the buses are used exclusively for school purposes, such as providing required transportation, then the garage may be exempt. We are under the assumption that if the buses themselves are owned by the contracted provider, they will only be used for the school’s transportation and not for a different use that may jeopardize the exemption.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

March 27, 2018

Cheryl Wall
Wilkin County Assessor's Office
CWall@co.wilkin.mn.us

Dear Ms. Wall,

Thank you for submitting your question to the Property Tax Division regarding exemption of property leased by a school. You have provided the following scenario and question:

Scenario:

- An entity is planning to build a recreation and event center in Wilkin County.
- The county determined that the classification would be commercial.
- In September 2017, the entity applied for exemption as an Institution of Purely Public Charity.
- Wilkin County submitted a determination letter to the entity denying exemption as an IPPC.
- Recently the entity submitted an application for general exemption under Minnesota Statute 272.02, Subdivision 42.
- They also provided an unsigned lease with a local school.

Question: Does the property qualify for exemption as an institution of purely public charity?

Answer: We do not offer advice on hypothetical scenarios because exemption is granted on the current ownership, use and necessity of ownership, therefore determining exemption as an institution of purely public charity is difficult if the use of the property is not evident. As you stated to the property owner, due to a lack of required information to determine exemption, it is not possible for us to make a recommendation to the county regarding exemption qualification at this time.

When the property has a use, it should be reviewed for ownership, use, and necessity of ownership to determine the appropriateness of exemption as an institution of purely public charity.

Question: Would the property qualify for general exemption if the school were to sign a lease agreement with the entity?

Answer: As stated earlier, we do not typically offer advice on hypothetical scenarios, however based on the detailed information provided to us for this scenario, we have provided the following opinion. The property would most likely not qualify for general exemption in this scenario. Statute is clear that property leased to a school district may be exempt *if* it meets the following requirements:

1. Lease must be for a minimum of 12 consecutive months.
2. Terms of the lease must require the school district to pay a nominal fee.

3. The school district must use the property to provide education to children grades kindergarten through 12th; special education, adult basic education, preschool and early childhood family education; or community education programs.
4. The lease must provide that the school district has exclusive use of the property during the time of the lease period.

Based on the information given, the entity does not appear to meet all of the requirements listed above. To be eligible for exemption under MN Statute 272.02, subd. 42, the school must lease the property for a fee, for the expressed and exclusive use of education for a time of no less than 12 months.

It is important to note that if any of the hypothetical factors were to change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6091

October 31, 2019

Chase Peloquin
Chisago County Assessor's Office
chase.peloquin@chisagocounty.us

Dear Mr. Peloquin,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- A for-profit gymnastics organization (LLC) has entered into a rental agreement with a school district for use of its facilities and equipment
- The school district's students and gymnastic team use the same facilities and equipment
- Some of the equipment is owned by the LLC and some by the school district
- The rental period is from July 1, 2019 to June 30, 2020
- The rent paid to the school district is \$600/month
- The LLC holds classes, open-gym time, and private lessons in the facilities
- When the school holds other activities in the facility, equipment is moved

Question: Should the facility portion of the school building be subject to property taxation due to the rental to a for-profit entity?

Answer: The rental agreement does not appear to grant **exclusive** use of the facilities to the LLC. Since the facilities and equipment continue to be used primarily by students and the gymnastic teams, the original exempt use does not appear to be impacted. Unlike a lease, the rental agreement does not convey an interest in the property, just a right related to the property, similar to a concession. In this context, the right would be the privilege of using the facilities for purposes of after-school gymnastic classes. Assuming the rights acquired by the LLC do not exclude the owner (the school district) from continuing to use the property for its primary use, i.e. for the students of the school district and other school-related activities, in our opinion the exemption would not be impacted by this rental agreement.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

December 04, 2019

Jill Murray
Norman County Assessor's Office
jill.murray@co.norman.mn.us

Dear Ms. Murray,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- A school district owns 37 acres of land
- 18 acres are tillable and 19 acres are woods
- The land is not currently leased to any person or entity
- A school program allowing use of the land for agricultural purposes by students ended in 2018
- The land has not been farmed in over one year

Question: Is this parcel eligible for exemption as school property?

Answer: From the information provided, this parcel may be exempt as school property dependent on its planned intended use and whether it is reasonably necessary for the school to own the property to carry out the school's educational purpose. Ownership, use, and necessity of ownership are the three key elements in determining property tax exemption.

In the absence of a clear current use, the question of necessity of ownership and planned future use would be the determining factors. We would recommend working with the school district to determine the planned intended use of the property, and if the use is an exempt use, the county may grant exemption and allow a reasonable amount of time for those plans to occur. It would be up to the county to set a reasonable timeframe for the district to implement the planned exempt use.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6091

January 28, 2020

Bill Effertz
Steele County Assessor
William.Effertz@co.steele.mn.us

Dear Mr. Effertz,

Thank you for submitting your question to the Property Tax Division regarding leasing exempt land. You have provided the following scenario and question:

Scenario:

- A school district purchased 87.5 acres in December 2019 for the construction of a new high school
- Construction will not begin until late 2020
- The school district leased the land to a farmer from January 1, 2020 to November 1, 2020
- The current use of the property is agricultural
- The lease agreement is for \$1, and the farmer is responsible for all farming expenses and insurance, while the school district is responsible for any real estate taxes

Question 1: Is the property taxable for the 2020 assessment?

Answer: Yes. Minnesota Statutes 272.01, subdivision 2 states that when exempt property is leased to an individual or entity using the property for a for-profit business, the property should be taxable (with limited exceptions). The rent that is paid to the school is irrelevant in this situation; the amount of rent would only be relevant if the school was leasing the property **from** an otherwise taxable entity. Therefore the property would be taxable for the 2020 assessment.

Question 2: Would the taxes be prorated based upon the duration of the lease?

Answer: No. Property taxes may not be prorated based on the months that a property is taxable or exempt. Minnesota Statutes 272.02 subdivision 38 (b) allows property that is taxable on January 2 and switches to certain exempt uses before July 1 to become exempt for that assessment year. However, because the lease is until November 1, 2020, the taxable status cannot be changed to exempt until January 2, 2021.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6922

April 15, 2020

Valerie Ruesch
Nobles County Assessor's Office
vruesch@co.nobles.mn.us

Dear Ms. Ruesch,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and questions:

Scenario:

- A parcel is owned by the state of Minnesota
- The parcel is the site of an exempt community college
- An entity has built student housing on the parcel and owns the structures

Question: Are the structures taxable, and if so, what is the correct classification?

Answer: According to the information provided, the student housing is not owned by, nor leased to, the school. Minnesota statutes do not provide an exemption for student housing owned by a for-profit entity, therefore the buildings owned by a for-profit entity and operated for profit would be taxable.

The classification of these housing units would depend on the use and is not impacted by the final determination of exemption. In this case, there are two classifications that the structures could qualify for either 4c(4) Post-Secondary Student Housing or 4a Residential Non-Homestead 4+ units. The assessor will need to review the requirements for these classifications and classify the structures accordingly.

Question: If the structures are taxable, when should the structures be added to the tax rolls?

Answer: If the assessor determines that the structures do not qualify for exemption and are taxable prior to July 1, 2020, then the structures can be added to the tax rolls for the 2020 assessment.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division
Phone: 651-556-6922



Seminaries of Learning

August 11, 2023

Dear Julie,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- An LLC owns a parcel improved with two childcare centers.
- The LLC leases the property to another LLC that owns and operates the childcare centers.
- The childcare centers meet the education standards to qualify for exemption as seminaries of learning.
- A letter accompanying the exemption application states that the property-owning LLC and the childcare-owning LLC are related entities and share the same underlying ownership.
- The application includes lease information but does not include any documentation on ownership structures.

Question: Do these childcare centers qualify for exemption as seminaries of learning?

Answer: A seminary of learning that applies for property tax exemption for property it does not own may qualify but only if the seminary of learning controls all aspects of the entity that owns the property, and the property owner exists solely for the benefit of the seminary of learning. Based on the information provided, your office has not been provided with sufficient documentation to demonstrate the applicant meets this requirement.

We would recommend you have the applicant provide entity formation documents and legal arrangements between the seminary of learning and the property owner that demonstrate the seminary of learning controls all aspects of the ownership entity. This could include the election of the property owner's board members and officers; audit, approve, and control the property owner's budget and expenditures; or provide finances to the property owner. More detail on this is provided in the [Property Tax Administrator's Manual, Module 5 – Exemption](#).

A determination on the factor that the property owner exists solely for the benefit of the seminary of learning would include determining if the ownership entity owns any other property used by an entity other than the seminary of learning; do any other entities utilize or lease any part of the property for which exemption is sought; does the property owner profit from the seminary of learning's use, or the use of any other entity; does the property owner offer services to any other entity other than the seminary of learning.

These documents and the information related to the above questions will need to show that the substance of the arrangement between the seminary of learning and the property's owner is such that the property's owner has no purpose or existence apart from providing services to the seminary of learning. If that is demonstrated, then the property may be eligible for exemption as a seminary of learning.

This opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. Ultimately it is the assessor's responsibility to make the final determination on whether a property qualifies for property tax exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922

August 11, 2023

Dear Julie,

Thank you for submitting your question to the Property Tax Division regarding exemption. You have provided the following scenario and question:

Scenario:

- An LLP owns two parcels improved with childcare centers.
- The LLP leases the property to the entity that owns and operates the childcare centers.
- The childcare centers meet the education standards to qualify for exemption as seminaries of learning.
- A letter accompanying the exemption application states that the property-owning LLP and the childcare-owning entity should be aggregated as the sole and exclusive purpose of the LLP is to own real property for the benefit of the owner of the childcare center.
- The application included a copy of the partnership agreement as well as a copy of the lease agreement.

Question: Do these childcare centers qualify for exemption as seminaries of learning?

Answer: Based on the information provided, it appears this property may qualify for exemption as a seminary of learning. In this situation, they must demonstrate to the satisfaction of the assessor that the owner exists solely for the benefit of the seminary of learning and has no purpose apart from that relationship. If the county feels that it has sufficient documentation that show that is the case, then it would be appropriate to grant exemption. The [Property Tax Administrator's Manual Module 5](#) on exemption goes into more detail on the types of questions that must be answered to demonstrate this type of specific relationship.

This opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. Ultimately it is the assessor's responsibility to make the final determination on whether a property qualifies for property tax exemption.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6922



Tax Increment Financing (TIF)

March 14, 2016 *Edited 7/27/2017*

Connie Erickson
Yellow Medicine County Assessor
Connie.Erickson@co.ym.mn.gov

Dear Ms. Erickson:

Thank you for submitting your question to the Property Tax Division regarding Tax Increment Financing (TIF) and minimum assessment agreements. You have provided the following scenario and questions.

Scenario:

- 4-5 minimum assessment agreements were given to you in January 2016.
- The agreements were drawn up in October and December of 2014.
- You never signed off on the minimum assessment agreements.

Question 1: If an assessor doesn't sign off on a minimum assessment agreement, is the agreement still be valid?

Answer 1: We are of the opinion it is clearly stated in statute (469.177, subd.8) that a minimum assessment agreement requires the assessor's certification. Without a certification, it is not a valid minimum assessment agreement.

Question 2: If the minimum assessment agreement is not valid, is the TIF agreement itself still valid?

Answer 2: The TIF agreement itself would need to be reviewed to determine whether/how it requires the minimum assessment agreement to be valid. It would be beneficial to check with your County Attorney regarding the TIF agreement.

Question 3: If the TIF agreement remains valid, what should happen if the property becomes exempt and no longer has a taxable market value?

Answer 3: We recommend reviewing the TIF agreement to see if there is language related to tax exemption, such as an exemption clause, and how exemption might alter the agreement.

Question 4: If the values are exempted, how should they be reported to the Department of Revenue?

Answer 4: All active TIF districts should be reported on the abstract even if the value is exempt. This is stated in the [2016 TIF Supplement Instructions](#) to the Abstract of Tax Lists.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

April 14, 2016

Connie Erickson
Yellow Medicine County Assessor
Connie.Erickson@co.ym.mn.gov

Dear Ms. Erickson:

Thank you for submitting your follow up questions to a letter dated March 14, 2016 from the Property Tax Division regarding Tax Increment Financing (TIF) and minimum assessment agreements. You have provided the following scenario and questions:

Scenario:

- Multiple TIF agreements are finalized in your county and the minimum assessment agreements were acknowledged between October and December 2014.
- The minimum assessment agreements were presented to the County Assessor in mid-January 2016.
- An assessor certification of the market value was not presented to the County Assessor, therefore, the County Assessor never reviewed or signed off on the market value.
- The minimum assessment agreements were not recorded.
- The TIF Agreement does not have an exemption clause, such as: If the property or portion of the property become "exempt" through statute, the property owner will not contest the lost amount of "taxable" value and the minimum assessment amount will remain in place.

Question 1:

With the TIF project in place, could the authority present the County Assessor an assessor certification for review and approval?

Answer 1:

Yes, Minnesota Statute 469.177 subdivision 8 states that the county “*may* enter into a written assessment agreement” with the owner of the TIF district [emphasis added]. Per statute the assessment agreement is not required for a TIF district, however, we suggest you look at the TIF agreement itself to see if it is dependent on a minimum assessment agreement approved by the County Assessor.

Question 2:

If the County Assessor signs off on the assessor certification and the authority records the minimum assessment agreement, could the dollars be captured due to the signing of the assessor certification?

Answer 2:

Minnesota Statute 469.177 also states that the minimum assessment established by an assessment agreement may be changed in later years. So that means if the change is recorded and fully implemented before July 1st of an assessment year, the market value must be used for that year’s assessment. If the agreement is executed after July 1st of the assessment year, the value should be used in the following assessment year.

We strongly recommend that you direct your question to your County Attorney’s office to discuss your questions over how your office is to apply this statute in the situation you have outlined.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us



Wetlands

February 14, 2008 *Edited 7/27/2017*

Tina Diedrich-Von Eschen, AMA
Senior Appraiser
Stearns County Assessor's Office
Administration Center Room 37
St. Cloud MN 56303

Dear Ms. Diedrich-Von Eschen,

Thank you for your question regarding wetland delineation and exemption status.

In order for property to be exempt from property tax, per Minnesota Statute 272.02, subdivision 11, part (i), land must be a type 3, 4, or 5 wetland per 103G.005, subdivision 15a. Land may also qualify under part (ii) if it is:

"...mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice."

Upon reviewing all documentation provided, we agree with your conclusion that the 7 acres of the parcel that are classified as type 5 open-water wetland are exempt from property tax. We further concur that the remaining acreage in question is ineligible for exempt status.

The two portions of the property classified as "Type-2/6, wet meadow/ shrub swamp" and "Type-6, shrub swamp" are ineligible for exemption based on Minnesota Statute 272.02, subdivision 11, which states that "Wetlands...do not include woody swamps containing shrubs or trees." Further, the parcels of land that were not approved for exemption do not appear to constitute being "mostly under water" per said Statute part (ii), thereby making them not acceptable for exemption. The same two parcels are additionally disqualified for exemption based on section 103G.005, subdivision 15a stating that "'Public waters wetlands' means all types 3, 4, and 5 wetlands." As stated, these two parcels are not types 3, 4, or 5.

If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

Andrea Fish, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

February 8, 2011

Russ Nygren
Morrison County Assessor's Office
Russn@co.morrison.mn.us

Dear Mr. Nygren:

Thank you for your question concerning the assessment of wetland property. You have provided us with the following question:

How do you assess a 40-acre parcel which has 7 acres under water, and the water is determined to be public water. Should those 7 acres be exempt?

If the wetlands are considered "Public Waters Wetlands" as described in Minnesota Statutes, section 103G.005, subdivision 15a, the seven acres of wetland property may be considered exempt. "Public water wetlands" include wetland types 3, 4, and 5 as classified by the U.S. Fish and Wildlife Service. These types of wetlands are usually completely covered in water and are specifically stated in 272.02, subdivision 11 as being exempt. The MN DNR should have an inventory of wetlands that are classified as wetland types 3, 4, and 5 that you can reference to help determine how to assess the seven acres of wetland property. In order to be exempt the wetlands must be ten or more acres in size in unincorporated areas or 2-1/2 or more acres in size in incorporated areas.

If you determine that the wetland property does not qualify for exemption, the property would most likely be considered class 2b rural vacant land as "waste" and valued accordingly.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

March 30, 2011

Keith Albertsen
Douglas County Assessor's Office
keith.albertsen@mail.co.douglas.mn.us

Dear Mr. Albertsen:

Thank you for your question concerning the adoption of a Wetland Preservation Area (WPA) in Douglas County. You have provided us with the following questions concerning the adoption of the Wetland Preservation Area:

Would exemption start as of the date of acceptance of the restrictive covenant by the county, or the recording of the restrictive covenant?

Exemption begins on the January 2 following the date the county notifies the landowner of the acceptance of the application for designation as a WPA. For example, if a WPA restrictive covenant is recorded on May 15, 2011 the property would become exempt on January 2, 2012 for taxes payable year 2013.

When would it have to be done in 2011 to be exempt for taxes payable in 2012?

Only certain properties are able to become exempt after January 2nd of the assessment year (Minnesota Statute 272.02, subdivision 38), and wetland preservation area property is not one of them. Therefore, only WPA properties that are exempt by January 2nd of the assessment year are exempt for that assessment year. For example, WPA's must have been exempt by January 2, 2011 in order to qualify to be exempt for the 2011 assessment year, taxes payable in 2012.

Would a separate exemption application be required?

Yes, the property owner must provide a completed application for exemption to the county assessor's office.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

May 9, 2011

Kim Karch
Otter Tail County Assessor's Department
KKarch@co.ottertail.mn.us

Dear Ms. Karch:

Thank you for your inquiry concerning exempt wetlands. A property owner has appealed a 2011 assessment. The appellant believes that the property should be considered exempt wetlands, but the property is not listed on the wetlands inventory map as exempt wetlands or protected water. However, the owner has provided a letter from the U.S. Fish and Wildlife Service stating that there are 18 acres of type 4 wetlands on the property. You have asked for our advice on how to handle this situation.

In order to qualify for property tax exemption, the property must meet one of the following requirements:

1. Be a type 3, 4, or 5 wetland as defined in the U.S. Fish and Wildlife Service Circular number 39 (1971 edition);
2. Be located within a wetland preservation area; or
3. Meet the requirements spelled out in Minnesota Statutes, Section 272.02, subdivision 11, clause (ii) of the statutory definition of land eligible for the exemption, which is as follows:

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

We advise that you contact the Minnesota Department of Natural Resources or the Otter Tail County Soil and Water Conservation District and inquire as to whether the property in question is listed on any wetland inventories as being qualifying exempt wetlands. If the wetlands are not listed on the wetland inventories as being exempt, then we do not recommend granting exemption from property taxes. The property owner may appeal via Minnesota Tax Court by April 30, 2012. Local and County Boards of Appeal and Equalization may not grant exemptions from property tax.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section

May 17, 2011

Lee Brekke
Wadena County Assessor
Lee.Brekke@co.wadena.mn.us

Dear Mr. Brekke:

Thank you for your questions concerning exempt wetlands. You have provided us with information and maps concerning Knob Hill property located in Wadena County. The members of Knob Hill believe this property should be exempt under Minnesota Statute 272.02, subdivision 11, clause (i), which describes wetland types 3,4, and 5 that are identified on the United States Fish and Wildlife Service Circular No. 39 (1971 edition) as being exempt.

However, you have stated in your letter to us that the properties in question are not listed on the public waters inventory maps as being exempt wetlands. Based on that information, in our opinion, these properties are not exempt from property tax under Minnesota Statute 272.02, subdivision 11, clause (i). There are two other provisions for potential exemption under this subdivision. Land in a wetland preservation area as defined in statute or land which is mostly under water and preserved in its natural condition even though drainage of it would be legal, feasible, and economically practical may be exempt as wetlands. It is up to the assessor to make the exemption determination under these two alternate provisions.

The Knob Hill members have also asked if the public waters inventory maps have been updated and if not, why haven't they.

The public waters inventory maps have been updated or revised several times since the 1971 edition. In fact, the Department of Natural Resources is currently in the process of converting the original paper maps into updated GIS-based maps. This information can be found on the Department of Natural Resources website at:
http://www.dnr.state.mn.us/waters/watermgmt_section/pwi/maps.html.

If more detailed information concerning how the public waters inventory maps are updated and/or revised is required, we suggest that the Knob Hill members contact the Minnesota Department of Natural Resources directly.

If you have any other questions or concerns, please contact us at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section

October 24, 2011

Russ Nygren
Morrison County Assessor
Russn@morrison.mn.us

Dear Mr. Nygren:

Thank you for your inquiry concerning exempt wetlands. You have questioned how another county is administering the exemption for wetlands as provided by Minnesota Statute 272.02, subdivision 11. The county in question will only grant exemption for property that is listed on the public waters inventory maps provided by the Minnesota Department of Natural Resources as class 3, 4, or 5 wetlands. You believe that there are some wetlands that are not listed on the DNR's public waters inventory maps that should be exempted and have asked us to provide clarification.

In order to qualify for property tax exemption, the property must meet one of the following requirements:

1. Be a type 3, 4, or 5 wetland as defined in the U.S. Fish and Wildlife Service Circular number 39 (1971 edition);
2. Be located within a wetland preservation area; or
3. Meet the requirements of Minnesota Statutes, section 272.02, subdivision 11, clause (ii):
"...land which is mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice..."Wetlands" under clauses (i) and (ii) include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands, but do not include woody swamps containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms."

To qualify for exemption under item 1 above, the law clearly requires that the wetlands be type 3, 4, or 5 wetlands using the Circular 39 method. However, the public waters inventory maps have been updated or revised several times since the 1971 edition. An additional method (Cowardin Method, 1979) has been developed and used to determine if wetlands qualify for exemption. Additionally, the DNR is currently in the process of converting the original paper maps into updated GIS-based maps. This information can be found on the Department of Natural Resources (DNR) website at: http://www.dnr.state.mn.us/waters/watermgmt_section/pwi/maps.html.

Using these methods, the DNR, along with the soil and water conservation district for each county, works to identify exempt wetlands on the public waters inventory maps. In order to be exempt from taxation, wetlands must be listed on the public waters inventor maps as exempt type, 3, 4, or 5 wetlands and marked with a "W" on the map.

If the wetlands are not listed as exempt wetlands on the public waters inventory map used by a county, we advise assessors to contact the Minnesota Department of Natural Resources or the County Water Conservation District and inquire as to whether the property in question is listed on any wetland inventories as being qualifying exempt wetlands. If the wetlands are not listed on the wetland inventories as being exempt, then we do not recommend granting exemption from property taxes. The property owner may appeal via Minnesota Tax Court.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section

March 9, 2018

Joe Mathews
Hennepin County Assessor's Office
joseph.mathews@hennepin.us

Dear Mr. Mathews,

Thank you for submitting your question to the Property Tax Division regarding exempt wetlands. You have asked us to provide guidance on public water wetlands (types 3, 4, and 5), contiguous acreage, and contiguous ownership.

There has been confusion regarding contiguous as it relates to a land feature or use, and contiguous as it relates to a parcel's relationship to another parcel. Statute defines *public water wetlands* in terms of minimum acreage requirements and not with regard to a wetland's location on a single parcel or on parcels under common ownership. This is a unique area of property tax law where contiguous ownership is not viewed in the same manner as it would be for other property tax related statutes. The determination of a public water wetland must be completed before property tax statutes apply, and therefore administration of this exemption becomes a two-step process.

You are questioning whether a public water wetland would be exempt if portions of the wetland cross multiple parcel lines whereby each parcel fails to have the required minimum acreage. It is our opinion that the wetland should be determined if it meets the requirements as a wetland in Minnesota Statute 272.02, subdivision 11 before taking into consideration the parcel lines and ownership of the parcel. If a wetland is determined to be a public water wetland (types 3, 4, or 5, and meeting the statutory size requirements) then the area of the qualifying wetland on each parcel could be exempt.

It is important to note that any new wetland that qualifies for exemption must have an application on file before the exemption can be granted as stated in our January 2, 2018 Application/Reapplication for Property Tax Exemption memo. If a wetland crosses multiple parcel lines, each parcel owner would need to apply for exemption for that portion of the wetland to be exempt.

Conversely, this statutory definition would not allow non-contiguous wetland areas on a single parcel to be combined in order to qualify as a public water wetland. The department's position is that statutory language referencing a minimum size requirement refers to a contiguous land mass.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

May 9, 2018

David Sipila
St. Louis County Assessor
sipilad@stlouiscountymn.gov

Dear Mr. Sipila,

Thank you for submitting your question to the Property Tax Division regarding exempt wetlands. You have provided the following scenario and question:

Scenario:

- A property owner has provided a GIS map identifying a wetland area of his parcel.
- The wetland area is not listed on the public water wetland inventory published by the Minnesota Department of Natural Resources.

Question 1:

Does the identification of wetland areas on a GIS map constitute a listing, or basis for exemption, under Minnesota Statute 272.02 Subdivision 11?

Answer:

It remains our guidance that if a wetland is not listed as an exempt wetland on the public waters inventory we would not recommend granting exemption. We have in the past advised property owners and assessors to contact the Department of Natural Resources to inquire if the particular wetland is listed on any wetland inventory. From the information you have provided it appears the property owner has been in contact with the Department of Natural Resources and has provided you with a GIS map showing a type 5 wetland on the parcel.

Ultimately, the decision to grant exemption is up to the assessor. If you believe this wetland should qualify for exemption, we would recommend requiring written documentation from the DNR that confirms it meets the definition as a public water wetland according to M.S. 103G.005, subdivision 15a and would qualify for inclusion in the public waters inventory.

Question 2:

Do the size requirements for public water wetlands found in M.S. 103G.005 Subd. 15a relate to the size of the wetland in total or the size of the wetland located on each parcel?

Answer:

It is our opinion that the wetland should be determined if it meets the statutory requirements as a public water wetland before taking into consideration the parcel lines and ownership of the parcel. If a wetland is determined to be a public water wetland (types 3, 4, or 5, and meeting the statutory size requirements) then the area of the qualifying wetland on each parcel could be exempt.

It is important to note that any new wetland that qualifies for exemption must have an application on file before the exemption can be granted as stated in our January 2, 2018 Application/Reapplication for Property Tax

Exemption memo. If a wetland crosses multiple parcel lines, each parcel owner would need to apply for exemption for that portion of the wetland to be exempt.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section

Property Tax Division

Phone: 651-556-6091



Wind Energy Conversion Systems

November 13, 2008

Peggy Trebil
Goodhue County Assessor
509 West 5th Street Room 208
Red Wing, Minnesota 55066

Dear Ms. Trebil,

Thank you for your recent question concerning the valuation and classification of wind energy conversion systems. You have asked if the statute concerning taxation of wind energy conversion systems applies to larger “wind farms,” such as a 69-turbine wind farm proposed in your county or if it applies only to the occasional small wind turbine.

Minnesota Statutes, section 272.02, subdivision 22 reads:

“All real and personal property of a wind energy conversion system as defined in section [272.029, subdivision 2](#), is exempt from property tax except that the land on which the property is located remains taxable. If approved by the county where the property is located, the value of the land on which the wind energy conversion system is located shall be valued in the same manner as similar land that has not been improved with a wind energy conversion system. The land shall be classified based on the most probable use of the property if it were not improved with a wind energy conversion system.”

As you are aware, the actual wind turbines are exempt from property tax. However,, the land surrounding a large “wind farm” is taxable and would be classified according to its use (2a agricultural productive property, 2b rural vacant land, etc.). If the county approves, you may value the land in the same manner as similar land that is not improved with a wind turbine or other wind energy conversion system.

You have stated that it seemed likely that such a property would be valued and classified as 3a commercial property. The classification of the land **must** be based on the use of the property if it were not improved with wind turbines. If the surrounding land is tilled, the property classification would be 2a. However, the valuation of a “wind farm” would be more dependent upon your county (note that statute gives counties a choice to value the land similarly to other land with the same classification that is not improved with the turbines). In other words, if the wind turbines are located on land classified as 2a productive land, that land would continue to be classified as class 2a productive land. In addition, if the county board approves, the land may continue to be valued as class 2a productive property. If they do not approve, the land should be valued as commercial property.

If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

December 18, 2008

Steve Hurni
Department of Revenue Regional Representative
15085 Edgewood Road
Little Falls, MN 56345

Dear Mr. Hurni,

Thank you for your recent question. You have outlined the following scenario: A school district owns land in the city of Willmar that is exempt as school property. The school district will lease the land to the city so that the city may build a wind tower. You have asked if the land remains exempt.

As you are aware, the wind tower itself is exempted from property tax. Therefore, we are left to determine the tax status of the land. Ordinarily, whenever exempt property is leased, the exemption is put at risk. However, in this case, the property in question is leased from one exempt entity (the school district) to another exempt entity (the city). In this situation, it is our opinion that the land would remain exempt, because it is being used by the city to generate energy for public use.

In this specific case, it is our opinion that the land used as a site for the wind tower should remain exempt from property tax.

If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division