

Government and Permissive Tax Exemptions

Overview

All property in the State of Nebraska is subject to property tax, unless an exemption is mandated or permitted by the Nebraska Constitution or by legislation. Government-owned property used for a public purpose is exempt. If the government-owned property is not used for public purpose, it may be considered taxable. Permissive exemptions are allowed for certain categories:

- ❖ Property owned by and used exclusively for agricultural and horticultural societies; and
- ❖ Property owned by educational, religious, charitable, or cemetery organizations, or any organization for the exclusive benefit of any such educational, religious, charitable, or cemetery purposes, and used exclusively for those purposes.

Permissive exemptions (exemption) require an application be filed by the party seeking an exemption that must show that the property is eligible for the exemption. To apply for an exemption, either the [Exemption Application, Form 451](#), or [Statement of Reaffirmation of Tax Exemption, Form 451A](#), (application), must be filed by December 31 for an exemption in the following year. Exemptions may be allowed based on the inherent nature of the property, the ownership of the property, the use of the property, or a combination of these factors. This guide will assist you in identifying the treatment of real property that may be exempt or potentially eligible to be exempt from property taxes.

This guidance document is advisory in nature but is binding on the Nebraska Department of Revenue (DOR) until amended. A guidance document does not include internal procedural documents that only affect the internal operations of DOR and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

This guidance document may change with updated information or added examples. DOR recommends you do not print this document. Instead, sign up for the [subscription service at revenue.nebraska.gov](#) to get updates on your topics of interest.

Terms

Exclusive Use. Exclusive use means the predominant or primary use of the property. Occasional or incidental use of the property for other purposes may not disqualify the property as long as the predominant or primary use of the property is for one or more exempt uses. The property may be used solely for educational, religious, charitable or cemetery uses to qualify for the exemption or a combination of educational, religious, charitable, or cemetery uses. Exemptions may be allowed to portions of a property that is used for exempt purposes.

Public Purpose. Public purpose means that the government-owned property is being used to provide public services with or without cost to the recipient or to perform responsibilities required by law. Examples of public purposes include but are not limited to: general operations of government, public education, public safety, transportation, public works, civil and criminal justice, public health and welfare, developments by a public housing agency, parks, culture, recreation, community development, and cemeteries. Public purpose does not include the leasing of property to a private party, unless the lease of the property is at fair market value for a public purpose. Leases of property by a public housing authority to low-income individuals as a place of residence are for the authority's public purpose.

Government-Owned Property

Property owned by the State or its governmental subdivisions that is used or being developed to be used for a public purpose is exempt from property tax. Property owned by the state or its governmental subdivisions that is not being used or being developed to be used for a public purpose is subject to property taxes.

The State or its governmental subdivisions do not need to file an application for property tax exemptions. However, they must report leased property to the county assessor by January 31 of each year. This is done either by providing the county assessor with a copy of a new lease, or a copy of a preexisting lease that has been materially changed since the previous year, and a list of previously reported leases that are still in effect.

The county assessor must determine whether the property is being used for a public purpose and if not, on or before March 1 of each year, send the governmental entity a notice of intent to tax. If the real property is leased and the governmental entity does not intend to pay the taxes for the lessee, the governmental entity must immediately forward the notice of intent to tax to the lessee.

If a governmental entity disagrees with the notice of intent to tax, a protest of the county assessor's determination may be filed with the county board of equalization (county board, also known as CBOE) on or before April 1. In the case of leased property, the lessee may also protest the taxability of the property. The county board must hear and decide the protest on or before May 1.

If the governmental entity or the lessee is dissatisfied with the decision of the county board, an appeal may be filed with the Nebraska Tax Equalization and Review Commission (Commission, also known as TERC) on or before June 1.

Assessment of Government Property

Taxable government-owned real property will be assessed like other taxable real property. The county assessor must issue a valuation notice for the property on or before June 1. The valuation notice will go to the governmental entity, and if the property is leased, to the lessee. The assessed value may be protested to the county board on or before June 30 in the same manner as other real property protests. If a protest is filed, the county board must hear and decide the protest on or before July 25, or August 10 if the county board adopted a resolution to extend the protest hearings. A valuation protest for governmentally owned property only addresses the value of the property and is not a mechanism for a second look at whether the property is exempt or subject to tax. If the governmental entity disagrees with the valuation decision of the county board, an appeal may be filed with the Commission on or before August 24, or September 10 if the county board adopted a resolution to extend the protest hearings.

Permissive Exemptions

To qualify for an exemption, the property must be owned by and used exclusively for agricultural and horticultural societies, or the property must:

- 1 Be owned by an educational, religious, charitable, or cemetery organization, or any organization for the exclusive benefit of any such educational, religious, charitable, or cemetery organization;
- 2 Be used exclusively for educational, religious, charitable, or cemetery purposes;
- 3 Not be used for financial gain or profit to either the owner or user;

- 4 Not be used for the sale of alcoholic beverages for more than 20 hours per week; and
- 5 Not be owned or used by an organization that discriminates in membership or employment based on race, color, or national origin.

Exemption Application and Statement of Reaffirmation Filing Process

An educational, religious, charitable, cemetery organization, or agricultural and horticultural society must file an application, with the county assessor where the property is located, on or before December 31 of the year preceding the year for which the exemption is sought. Application years are divisible by four (for example, 2020, 2024, 2028, etc.). All organizations and societies must file a Form 451 in each application year. The intervening years require completion of the Statement of Reaffirmation of Tax Exemption, Form 451A. For example, in December 2019, the Form 451 is filed to apply for an exemption in 2020. In each of the tax years 2021-2023, the Form 451A is filed to continue the exemption.

Exemptions granted to cemetery organizations will remain in effect without reapplication, unless disqualified by change in ownership or use. When December 31 falls on a Saturday, Sunday, or legal holiday, the application will be considered timely if filed on the next business day. If an application is sent to the county assessor through the U.S. mail, the application is considered filed on the date of the postmark. If an application is sent through the U.S. mail using either registered or certified mail, the date of registration or certification will be considered the postmark date.

Organizations or societies that missed the December 31 filing deadline may file Form 451 or Form 451A through June 30. The organization or society filing a late application must also file a written request with the county board for a waiver so that the county assessor may consider the application. Organizations filing late reaffirmation statements on or before June 30 will maintain the tax exempt status of the property and receive approval from the county board.

The county assessor must apply a penalty of 10% of the tax that would have been due had the property been fully taxed, or \$100, whichever is less, for each calendar month or fraction thereof for which the application missed the December 31 deadline. This penalty may not be waived or reduced by the county board. The table below gives examples of the penalty based on the month when the application is filed.

| Month Application is Filed | Penalty is the Lessor of | |
|----------------------------|--------------------------|-------|
| January | 10% of the tax; or | \$100 |
| February | 20% of the tax; or | \$200 |
| March | 30% of the tax; or | \$300 |
| April | 40% of the tax; or | \$400 |
| May | 50% of the tax; or | \$500 |
| June | 60% of the tax; or | \$600 |

Failure to file a completed Form 451 or Form 451A by June 30 is a waiver of the exemption for that assessment year.

Property Acquired or Converted to Exempt Use

If an exempt organization or society acquires or converts any taxable property to an exempt use after January 1 and before July 1 of any year, the organization or society may file a Form 451 or Form 451A by July 1 with the county assessor to qualify for an exemption for that assessment year. The application will be reviewed as any other application, except the review by the county board must be completed by August 15. Failure to file the Form 451 or Form 451A on or before July 1 disqualifies the property from receiving the exemption for that assessment year.

All property acquired or converted to exempt use after July 1 will not be eligible for an exemption for that year. However, the organization may file the Form 451 or Form 451A by December 31 for exemption in the next assessment year.

Property Transferred from an Exempt Entity to another Exempt Entity

If an exempt organization or society purchases property from another exempt entity, and the purchase is for:

- ❖ Property that was exempt from property taxes (between July 1 and the levy date); and
- ❖ Property that continues to qualify for exemption,

Then, the exempt organization or society purchasing the real property must file a Form 451 with the county assessor on or before November 15.

Levy dates are determined by each county board, but must be on or before October 15. The county board must review the application by December 15.

Property Transferred from an Exempt Entity to a Taxable Entity

When exempt property is transferred before the levy date to a taxable entity, it will become taxable for that year because there is taxable property upon which to levy tax.

When exempt property is transferred after the levy date to a taxable entity, it will remain tax exempt for that year because no levy had been made on the property.

Levy dates are determined by each county board, but must be on or before October 15.

Exemption Application and Statement of Reaffirmation Review Process

The county assessor examines all timely filed applications on or before March 1. The county assessor makes a recommendation to the county board as to the taxable status of the property.

Between February 1 and June 1, the county board is required to hold a hearing on all applications filed to determine whether to allow or deny the exemption. Notice of the hearing must be given to the applicant ten days prior to the hearing. **Applications not completed in full, including the estimated valuation, shall result in the denial of the requested application.**

Notice that a list of the applications from organizations seeking tax exemptions, and recommendations of the county assessor are made available in the county assessor's office, must be published in a newspaper of general circulation 10 days in advance of the county board considering the exemption. Within seven days after the county board's decision, the county clerk must send a notice to the applicant of the county board's action. Also within seven days of the county board's final decision on all real property exemptions, an electronic copy of the decisions must be forwarded to the Nebraska Department of Revenue (Department) for review. In the case of a late-filed application, if a waiver has been granted, the county board must hear and decide the application by August 15. The county board is not required to review Form 451As unless there is evidence to support the review.

Anytime during the year, the county assessor or the county board may review any exemption to determine if it should be continued. This review may be initiated even if the ownership or use of the property has not changed. After a hearing, if the property no longer qualifies for an exemption, the property will be placed on the tax list retroactive to January 1 of that year.

Appeal Process

Organizations or societies denied exempt status by the county board may appeal to the Commission. The appeal must be made within 30 days after the county board's decision. The Tax Commissioner may, at his or her discretion, intervene in any such appeal.

A county assessor may appeal the actions of the county board granting an exemption to the Commission. A county assessor appealing the action of a county board may request that the district court appoint an attorney to represent the county assessor in the appeal. The Tax Commissioner and the Property Tax Administrator may, at their discretion, intervene in any such appeal. The Commission has the power to review and reverse any decision of a county board regarding a tax exemption.

Publication of a List of Exempt Real Property

During the month of September of each year, the county board must publish a list of all real property exempt from property tax for the current tax year in a newspaper of general circulation in the county.

The list must contain the exemptions of property in the following categories:

- ❖ Agricultural and horticultural societies;
- ❖ Educational organizations;
- ❖ Religious organizations;
- ❖ Charitable organizations;
- ❖ Cemetery organizations; and
- ❖ Any organization for the exclusive benefit of an educational, religious, charitable, or cemetery organization.

An electronic copy of the list of real property exemptions, along with a copy of the proof of publication, must be forwarded to the Property Tax administrator on or before November 1 each year.

Resource List:

- ❖ [Form 451, Exemption Application](#)
- ❖ [Form 451A, Statement of Reaffirmation of Tax Exemption](#)
- ❖ [Nebraska Administrative Code 350, Chapter 15 – Property Owned by the State and Governmental Subdivisions Regulations, Nebraska Department of Revenue](#)
- ❖ [Nebraska Administrative Code 350, Chapter 40 – Property Tax Exemptions Regulations, Nebraska Department of Revenue](#)
- ❖ [Nebraska Revised Statutes, Chapter 77 Revenue and Taxation; PDF](#)

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