

VERMONT PROPERTY TAX PUBLIC, PIOUS OR CHARITABLE EXEMPTION

Statutory Authority

Vermont law provides certain exemptions from property taxation in Title 32, Chapter 125 of the Vermont Statutes Annotated. Tax exemption statutes must be strictly construed against the party claiming the exemption. The most-often cited exemption is for property granted, sequestered or used for public, pious or charitable uses as set forth in 32 V.S.A. § 3802(4).

Primary Use

The analysis for determining whether property is exempt under Section 3802(4) as a public, pious or charitable use begins with an identification of the primary use of the property. *American Museum of Fly Fishing, Inc. v. Town of Manchester*, 151 Vt. 103, 110 (1989) (finding that “the crucial factor is the primary use to which the property is put”). Primary use refers to the “direct and immediate use” of the property as distinguished from a “remote” or “incidental” use. *Gifford Hospital v. Town of Randolph*, 119 Vt. 66, 72 (1955).

Public, Pious and Charitable Use Test

There are certain conditions, all of which must exist, in order for the public, pious or charitable use exemption under Section 3802(4) to apply:

- (1) the property must be dedicated unconditionally to public use;
- (2) the primary use must directly benefit an indefinite class of persons who are part of the public, and must also confer a benefit on society as a result of the benefit conferred on the persons directly served; and
- (3) the property must be owned and operated on a not-for-profit basis.

American Museum of Fly Fishing, 151 Vt. at 110.

Exemption Limitations

Even if the above conditions are met, Section 3832 of Title 32 limits exemption from taxation for certain uses of property including:

- **Health and Recreational Uses** – Property that is used primarily for health or recreational purposes is not exempt unless it has been so voted by the legal voters of a town. 32 V.S.A. § 3832(7); see, e.g., *Central Vermont Hospital v. Town of Berlin*, 164 Vt. 456 (1995); *Middlebury College v. Town of Hancock*, 147 Vt. 259 (1986); *In re Aloha Found., Inc.*, 134 Vt. 239, 240 (1976).

- **Religious Society Property** – Property owned or kept by a religious society is only exempt as a pious use if it is used as a church edifice, a parsonage, the outbuildings of the church edifice or parsonage, a building used as a convent, school, orphanage, home or hospital, land adjacent to any of the buildings named in this subsection, kept and used as a parking lot not used to produce income, lawn, playground or garden and the so-called glebe lands. 32 V.S.A. § 3832(2); *see, e.g., Our Lady of Ephesus House v. Town of Jamaica*, 178 Vt. 35, 41 (2005); *In re Abbey Church*, 145 Vt. 227 (1984). Note that Section 3802(4) of Title 32 also exempts “real property owned by churches or church societies or conferences and used as parsonages and personal property therein used by ministers engaged in full time work in the care of the churches of their fellowship within the state.” 32 V.S.A. § 3802(4).

Who Decides Whether the Property is Exempt?

Listers make the initial determination of whether a parcel is eligible for exemption from taxation. This document is designed to help the property owner gather the information and documents necessary to present to the local listers. An appeal from the listers’ decision is to the superior court. The superior court’s decision may ultimately be appealed to the Vermont Supreme Court. As noted above, the Vermont Supreme Court has held that “[a]n exemption will be strictly construed against the party claiming it, and any doubts as to its application will be interpreted against the exemption. Exemption statutes must be construed reasonably, and not in a manner that defeats the purposes of the statute.” *American Museum of Fly Fishing*, 151 Vt. at 108. It is therefore very important that the property owner provide clear and detailed information regarding the property and its uses.

The following pages request information regarding the ownership and use of the property for which an exemption is being sought. Attach additional pages as necessary to fully respond to each question.

Incomplete information will result in the exemption being denied.

PROPERTY OWNER

Owner of Record:

Mailing Address:

Daytime Phone #:

E-mail Address:

If property owner is being represented by an attorney or agent, please complete the following:

Attorney/Agent Name:

Mailing Address:

Daytime Phone #:

E-mail Address:

******* REQUIRED ATTACHMENTS*******

If the applicant is an organization, attach at a minimum:

- (1) Organizational documents (for corporation–Articles of Incorporation & Bylaws; for LLC–Certificate of Formation and Operating Agreement; for partnership–partnership agreement);
- (2) Organization’s mission statement;
- (3) IRS tax-exempt determination letter, if applicable;
- (4) Deed to property (describing unconditional dedication to public/pious/charitable use and any restrictions on use, etc.); and
- (5) Any other relevant documents.

PROPERTY DESCRIPTION

Property Located in Town/City of:

SPAN (school property account number):

Location (street or road, etc):

Parcel Size (acres or square footage):

Describe all buildings on the parcel:

Listed Value of Property (assuming no exemption): \$

PROPERTY USE

The mission of the organization owning the property would best be described as supporting/benefiting (circle one):

1. Animal Welfare
2. Art
3. Children/Youth
4. Church
5. Conservation/Environment
6. Elder Services
7. Employment and Training
8. Health
9. Health and Health Care Advocacy
10. Higher Education
11. Housing
12. Land Conservation
13. Legal Services
14. Men
15. Mental Health and/or Substance Abuse
16. Museums
17. Recreation
18. Science and Research
19. Women
20. Other (please specify) _____

Describe in detail the organization's mission.

Provide a complete and detailed description of the **primary** use of the property.

Describe the portion of the property involved in the above **primary** use (*e.g.*, square footage used, proportion of users, hours of building time, etc.). Attach a diagram if there are multiple uses of a parcel or building(s).

Describe any secondary or incidental uses of the property.

Describe the portion of the property involved in secondary and/or incidental uses.

Is the property unconditionally and irrevocably dedicated to a public, pious or charitable use?
Yes___ No___

If yes, explain in detail and provide supporting documentation (*e.g.*, deed, Articles of Incorporation, etc.).

Is the property owned and operated by the same entity? Yes___ No___

If no, provide a detailed description of the operator and its relationship to the owner. Do the entities share a single mission? Provide supporting documentation.

WHO BENEFITS

What persons or group of people directly benefit from the primary use of this property?

Is the property open to the general public? Yes___ No___

Are there any restrictions on who may use the property? Yes___ No___

If yes, describe any restrictions on use.

Are there any restrictions on when the property can be used? Yes___ No___

If yes, describe any restrictions.

Is an application, pre-approval or membership required prior to use? Yes___ No___

If yes, describe in detail any requirements and the organization's decision-making criteria in approving users.

Is society as a whole benefited as a result of the benefits conferred on the above persons or group? Yes___ No___

If yes, how does society as a whole benefit as a result of the benefit conferred on the persons directly served?

FEES AND USE CHARGES

Is the property described above owned and operated on a not-for-profit basis? Yes___ No___

Is any of the property subject to a lease, rental or management agreement? Yes___ No___

If yes, attach a copy of all lease, rental and/or management agreements.

Other than lease or rental charges, are any fees, admission or membership charges levied for the use of this property? Yes___ No___

If yes, provide details.

I hereby declare the foregoing to be true and accurate, and request that ALL / A PORTION (cross out term that does not apply) of the property described above be exempt from property taxation under 32 V.S.A. § 3802(4).

Date: _____

Signature

Name (please print or type)