

Revenue Dept.

Property Tax

Chapter 14: Property Tax Exemption Standards

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CHAPTER 14

PROPERTY TAX EXEMPTION STANDARDS

Section 1. Authority.

These rules are promulgated by the Department of Revenue (Department) under the authority of W.S. 39-11-102(b) and W.S. 16-3-103.

Section 2. Purpose

These rules are intended to supplement W.S. 39-11-105 by implementing standards to provide a reference to accepted definitions, procedures and criteria for the exemption from assessment of taxation of real and personal property.

Section 3. Considerations.

(a) For county assessed property, county assessors are responsible for making the initial determination of exemption and are the custodian of any application requesting exemption.

(i) For publicly owned property the assessor begins with the legal presumption the property is exempt.

(ii) For all other property, both real and personal, the exemption process begins with the legal presumption the property is assessable utilizing the established principle that taxation is the rule, and exemptions are not presumed.

(b) For Department assessed property, the Property Tax Division Administrator is responsible for making the initial determination of exemption and is the custodian of any application requesting exemption.

(i) For all property, both real and personal, the exemption process begins with the legal presumption the property is assessable utilizing the established principle that taxation is the rule, and exemptions are not presumed.

(c) Three considerations are typically involved in determining whether a property should be exempt:

(i) Ownership of the property;

(ii) Use of the property; and

(iii) Type of property.

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(d) In accordance with W.S. 39-13-102(q)(i-v) exemption applications and information are confidential. Taxpayer return information shall include, but not be limited to all statements, reports summaries, and all other data and documents under audit or provided by the taxpayer in accordance with law.

Section 4. Burden of proof.

(a) Except for publicly-owned property, the burden is on the owner to prove the property meets exemption requirements. An affidavit or similar form is recommended to establish basic facts on ownership, use and type of property.

(b) For publicly owned property, the burden is on the taxing authority to establish taxability.

Section 5. Publicly owned property - W.S. 39-11-105(a)(i)-(vi).

(a) Publicly owned property is not, per se, exempt from taxation. The property is exempt only "when used primarily for a governmental purpose."

(b) The phrase "governmental purpose" cannot be precisely defined. The following considerations should be evaluated:

(i) If a service or function is obligatory (one the governmental entity must perform as a legal duty imposed by statute), the function is governmental and the associated property is exempt.

(ii) If a service is rendered gratuitously, supported by taxes, and for the public welfare or enjoyment generally, the property associated with providing such service is exempt.

(iii) Property owned by a governmental entity acting in its proprietary capacity is not exempt, (e.g. where a city enters the field of private competitive business for profit or into activities which may be and frequently are carried on through private enterprises).

(iv) Governmental property subject to the payment of service (user) fees is not exempt unless the specific use is provided by statute (e.g., public sewer and water services).

(A) Municipally-owned electric utility plants are proprietary functions supported by service fees. The function is not specifically recognized a exempt by statute.

(B) Limited property associated with a municipally-owned utility

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used to light streets, direct traffic and light city offices, is exempt as a service for the public welfare generally. Such property of the municipal plants is exempt.

- (v) Vacant land is not recognized as a governmental purpose, except where statutory authority exists requiring the entity to acquire and hold lands for future governmental use.

(c) All real and personal property located within a development area under the direction of a municipality or downtown development authority is subject to ad valorem taxes unless otherwise exempt by specific provision of law. W.S. 15-9-222.

(d) Real or personal property within a project owned and leased by a municipality or county under authorization of the "Industrial Development Projects Act" (W.S. 15-1-701 et seq.) is either taxable or exempt pursuant to specific provisions in W.S. 15-1-708.

(e) Property owned or foreclosed by the State Loan and Investment Board may be exempt. Under W.S. 11-34-126, all real estate and other property owned by the State Loan and Investment Board is exempt. The State Loan and Investment Board is deemed the owner of any property from the date it is bid in at the foreclosure sale. No exemption is allowed however if redemption of the property is made, or the State Loan and Investment Board does not become "owner" before the fourth Monday in June of the current tax year.

(f) Property which, by reason of bond default or conveyance, comes under ownership of the State for purposes of mine reclamation is exempt.

(g) Rights of way or easements reserved to the federal government in patents which are dedicated to a public use, are exempt and not assessable against the owner in fee.

(h) Property of the American Red Cross, as an instrumentality of the federal government, is exempt if used primarily for governmental purposes.

Section 6. Indian property - W.S. 39-11-105(a)(i) and 39-11-103.

Real property owned by the United States in trust for the benefit of an individual Indian is exempt, whether the property is located on or off-reservation.

Section 7. Church property - W.S. 39-11-105(a)(vii).

(a) The word "exclusively" shall not be construed so narrowly and literally that it defeats the purpose of the exemption. Any use, however, other than one qualifying as religious worship under the statute must be de minimis (truly minor). As an example, the receipt of pay for temporary use of church property, when not

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needed or desired for religious services, is minor and will not affect the exemption.

(b) The real property exemption for religious worship, church schools and church parsonages, includes land around such institutions reasonably necessary for convenient ingress and egress, light, air, or appropriate ornament. However, lots adjacent to a church building which are not reasonably needed for the convenient enjoyment of the building as a church are not exempt.

(c) Property used for religious worship together with other multiple uses including educational, commercial, social or charitable, is not exempt. (Kings Ranch, #85-4)

(d) A "church school" is one operated under the auspices or control of a local church, religious congregation, or denomination established to promote and promulgate the commonly held religious doctrines of the group, though it may also include basic academic subjects in its curriculum.

(e) The assessor may consider evidence of sales/use tax exemption as a qualified religious organization granted by the State pursuant to W.S. 39-105(a)(iv)(B).

Section 8. Fire engines, stations and fire extinguishing equipment - W.S. 39-11- 105(a)(x).

(a) "Fire engines or stations" mean dedicated equipment and land and improvements similar to that owned by governmental entities as fire engines or fire stations used exclusively to support firefighting activities. The fundamental basis for the exemption is the benefit conferred upon the public by privately-owned fire engines and fire stations, and the consequent relief, to some extent, of the burden upon the state to use its facilities and equipment to support firefighting activities.

(b) "Equipment used to extinguish fires" means equipment functionally capable of extinguishing fires, which is primarily and typically used for fire suppression. The phrase does not include equipment used to protect the health or safety of employees in fire situations nor equipment used to detect the presence of fire.

(c) A partial exemption for a fire station may only be given where a distinct, identifiable portion of the property is used for qualified purposes.

(d) Notification

(i) Annually, on or before October 15th, fire extinguishing exemption application forms and instructions shall be made available for review by taxpayers and/or agents at the Department's website located at <http://revenue.wyo.gov>.

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(ii) Annually, on or before October 15th, the County Assessor shall provide standard exemption application forms and instructions to taxpayers who have made a request for said forms or has filed fire extinguishing exemption forms during the previous assessment year.

(e) Annually, on or before February 15th of each year, excluding holidays and weekends, all taxpayers and/or agents shall submit completed applications requesting property tax exemption for fire extinguishing property on the application form noted in this Section to the County Assessor for property assessed pursuant to W.S. 39-13-103(b) and the Department for property assessed pursuant to W.S. 39-13-102(m). Any application which is found to be incomplete or submitted after the deadline shall be denied in its entirety

(f) The County Assessor or the Department of Revenue may contract with independent appraisers to determine the value of the fire extinguishing property. In such instances, the appraisals provided shall, at a minimum, conform to the appraisal methods prescribed and interpreted by Department Rules and Uniform Standards of Professional Appraisal Practice as defined in Chapter 9. The appraisal shall be sufficiently detailed to identify the asset investments under application and its contributing value, as part of the value of the whole.

(g) Decision and Appeal

(i) Annually, on or before May 1st or as soon as possible thereafter, the County Assessor shall notify the applicants of the type and amount of exemption to be allowed for the current tax year for each application submitted. The applicant shall file written objection(s) to the County Assessor's final administrative decision with the county board of equalization within thirty (30) days after the date or postmark date of the notification, whichever is later.

(ii) Annually, on or before the date set for certification of value of the respective department-assessed property, the Department of Revenue shall by letter to the applicants, certify the type and amount of exemption to be allowed for the current tax year for each application submitted. The applicant shall have thirty (30) days from the date of the final department appraisal notice of Fair Market Value and assessed value within which to file written objection(s) thereto with the State Board of Equalization.

Section 9. Property of a museum or hospital district - W.S. 39-11-105(a)(xvi).

Not all property of a museum or hospital district is exempt. A museum district may only exempt property owned for museum purposes (W.S. 18-10-203). A hospital district may only exempt property owned for hospital purposes (W.S. 35-2-403).

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Section 10. Pollution control property - W.S. 39-11-105(a)(xx) and 35-11-1103.

(a) The determination of exempt value shall be made by reasonably calculating the assessed value of the portion of the property necessary for and devoted to elimination, control or prevention of air, water and land pollution. No portion of the assessed value of property which serves other beneficial purposes and use, or which has value as the specific source of marketable byproducts, shall be exempt.

(i) The exemption calculation shall be based on information or application filed by the taxpayer or otherwise available to the assessing officer. The information shall clearly show components, use, installed cost and date of installation, including requested adjustments for functional or economic obsolescence. The assessor shall not rely upon mass asset groupings found on appraisal summary sheets without additional information detailing the components and the value for tax purposes for comparison with the value claimed exempt.

(b) "Property necessary for and devoted to elimination, control or prevention of air, water and land pollution" or "pollution control property" means facilities, installations, capitalized machinery or equipment which are primarily used for the elimination, control or prevention of air, water or land pollution consistent with the following:

(i) "Air pollution" means activities defined in W.S. 35-11-103(b)(ii).

(ii) "Water pollution" means activities defined in W.S. 35-11-103(c)(i).

(iii) "Land pollution" means contamination of soil or land by the presence of foreign substances in such quantities as may be injurious to human health or welfare, animal or plant life, or otherwise injurious to the beneficial use of the land. This term does not include routine mining operations which affect the contour, grade, presence of vegetation, presence of soil erosion, or presence of wildlife habitat and resources, or such other disturbances requiring reclamation or land restoration other than activities which introduce foreign contaminants in the soil, unless such activity otherwise qualifies as air pollution or water pollution.

(c) "Other beneficial purposes" means uses of property which are of value to the taxpayer such as:

(i) Property which functions as an essential item in the commercial or industrial process or facility;

(ii) Property used for non-pollution control purposes;

(iii) Property required to meet worker safety or convenience requirements or private insurance requirements; or

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(iv) Property which affords direct cost savings to the taxpayer in material or other cost categories.

(d) "Marketable by-products" means materials collected by the equipment or property at issue which are either directly marketed or recycled within the operation or process for eventual sale or use for value.

(e) If only a portion of the property is to be exempt, the calculation shall result in a reasonable apportioning of the value of the property between pollution control and non-pollution control purposes, (e.g., other beneficial purposes or the recovery of marketable by-products), if any.

(f) Notification

(i) Annually, on or before October 15th, pollution control exemption application forms and instructions shall be made available for review by taxpayers and/or agents at the Department's website located at <http://revenue.wyo.gov>.

(ii) Annually, on or before October 15th, the County Assessor shall provide standard exemption application forms and instructions to taxpayers who have made a request for said forms or has filed pollution exemption forms during the previous assessment year.

(g) Annually, on or before February 15th of each year, excluding holidays and weekends, all taxpayers and/or agents shall submit completed applications requesting property tax exemption for pollution control property on the application form noted in this section to the County Assessor for property assessed pursuant to W.S. 39-13-103(b) and the Department for property assessed pursuant to W.S. 39-13-102(m). Any application which is found to be incomplete or submitted after the deadline shall be denied in its entirety.

(h) The County Assessor or the Department of Revenue may contract with independent appraisers to determine the value of the pollution control property. In such instances, the appraisals provided shall, at a minimum, conform to the appraisal methods prescribed and interpreted by Department Rules and Uniform Standards of Professional Appraisal Practice as defined in Chapter 9. The appraisal shall be sufficiently detailed to identify the asset investments under application and its contributing value, as part of the value of the whole.

(i) Decision and Appeal

(i) Annually, on or before May 1st or as soon as possible thereafter, the County Assessor shall notify the applicants of the type and amount of exemption to be allowed for the current tax year for each application submitted. The applicant

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shall file written objection(s) to the County Assessor's final administrative decision with the county board of equalization within thirty (30) days after the date or postmark date of the notification, whichever is later.

(ii) Annually, on or before the date set for certification of value of the respective department-assessed property, the Department of Revenue shall by letter to the applicants, certify the type and amount of exemption to be allowed for the current tax year for each application submitted. The applicant shall have thirty (30) days from the date of the final department appraisal notice of Fair Market Value and assessed value within which to file written objection(s) thereto with the State Board of Equalization.

Section 11. Intangibles W.S. 39-11-105(a)(xxix) and W.S. 39-11-105(b)

(a) Criteria for reporting of Intangible Exemptions.

(i) Requests for exemption shall be timely filed with the exemption clearly defined and supplemented by all supporting documentation as defined within these rules, on forms provided by the appropriate assessing jurisdiction. Taxpayer(s) shall not self exempt property or property considerations from their report forms. If such a condition is found, the exemption shall be denied in its entirety to the requesting taxpayer(s).

(ii) The intangible must be capable of being separately identified on the taxpayer's company:

- (A) Books and records;
- (B) Reports filed with any municipal, county, state or federal agency;
- (C) Federal income tax returns; or
- (D) Other documentation as required by the assessing jurisdiction.

(b) If an intangible is requested and it is part of property or property considerations that consist of both tangible and intangible assets, the taxpayer shall provide a documented breakout of the amounts requested via taxpayer balance sheets, historical or original cost worksheets by vintage year. Claims utilizing income calculations shall provide the itemized gross revenues, operating expenses, depreciation and amortization by asset account, all other forms of taxes by asset category and any other deductions to Net Operating Income.

(c) Documents in support of requested intangibles shall include, but not be limited to, the following:

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(i) A third party fair market value appraisal for the requested exempt intangible assets;

(ii) Copies of audited company books and records, jurisdictional regulatory reports, current federal income tax returns specifically identifying the values or assets being claimed;

(iii) Independent narrative appraisals and/or valuation engineering studies defining all requested intangible assets by: vintage year by property or property consideration, actual use, economic life's, depreciation trends, net book values and appraised fair market value can meet the definition of as noted in the beginning of this statement.

(iv) For newly merged or acquired property or property considerations, documentation for requested intangible items must be separately listed and identified within corporate records of minutes.

(d) For purposes of these rules, computer software must be separately identifiable as to which portion is the "Standard Prewritten Programs" and which portion is "Customized Software Programs".

(i) Standard Prewritten Programs shall refer to "Canned or off-the-shelf" software or software not originally developed and produced for an individual user. These programs are tangible personal property and not eligible for exemption from property taxation;

(ii) Customized Software Programs shall refer to software having the following characteristics: specifically developed for a taxpayer's sole proprietary use or an original one-of-a kind nature. These programs are intangible personal property and eligible for consideration for exemption when documented by the taxpayer.

(e) Taxpayer requests for intangible exemptions on property or property considerations must be submitted on an annual basis to the appropriate assessing jurisdiction. Prior year exemption requests and granted exemptions shall not carry forward from year to year. It is the taxpayer's responsibility to make the exemption request on an annual report to the appropriate assessing jurisdiction.

(f) The assessing jurisdiction shall as part of the final fair market value appraisal provide to the taxpayer the following detail:

(i) Itemized listing for all requested intangibles;

(ii) Statement of whether the exemption was granted or denied;

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- (iii) Explanation for all denied exemption items;
- (iv) Calculations on determination for all granted exemption amounts;
- (v) Appraisal methods utilized to determine exemption amounts;
- (vi) Appeal rights, if separate from the final fair market value of the property.

(g) Annual Report Audit Rights and Responsibilities: The appropriate assessing jurisdiction reserves the right to engage the State of Wyoming, Department of Audit or a third party designee to conduct ad valorem tax audits on reporting taxpayer's.

Section 12. Schools, orphan asylums and hospitals - W.S. 39-11-105(a)(xxv).

(a) The fundamental basis for this exemption is the benefit conferred upon the public by schools, orphan asylums and hospitals, and the consequent relief, to some extent, of the burden upon the state to educate, care and advance the interests of its citizens. Such institutions thus confer a benefit upon the general citizenry of the state and render an essential service for which they are relieved of certain burdens of taxation.

(b) "Schools" means property owned by private educational institutions and used primarily to provide "traditional education" equivalent to public education. "Traditional education" means systematic instruction in useful branches of learning afforded through methods common to public schools and educational institutions, directed at an indefinite class of persons, which benefits the general public indirectly because it is of a nature ordinarily provided by the government at taxpayer expense.

(i) "Traditional" may include courses offering specialized instruction such as those centered around teaching outdoor leadership and practical field experience to professionals in the field of outdoor education.

(ii) "Traditional" does not include continuing education or education for the professional advancement of an organization's members.

(iii) An entity is rebuttably presumed to be a "school" if it possesses a license and teacher certification from the Wyoming Department of Education, or evidence of courses for which college or university credit is given.

(c) "Hospital" means property used to provide either traditional hospital or nursing home care, promote health care, or provide health related assistance to the general public. In general the institution shall have policies which reflect

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recognized standards adopted by public health care institutions therefore lessening governmental responsibility in this area.

(i) The institution shall provide health related assistance to the general public without regard to race, religion or gender.

(ii) Indigent care shall be afforded through admission to the institution based on the clinical judgment of the physician, not upon the patient's financial ability or inability to pay.

(d) The property of schools, orphan asylums and hospitals shall not be used for private profit.

(e) If a school, orphan asylum or hospital confers benefit only upon the citizens of another state, its property is not exempt.

Section 13. Property owned and used by a secret and benevolent societies and associations - W.S. 39-11-105(a)(xxvi).

(a) "Secret" means fraternal or lodge-type societies or associations which are not necessarily secret or ritualistic.

(b) "Benevolent" includes purposes which may be deemed charitable, as well as acts dictated by kindness, good will, or a disposition to do good, the objects of which have no relation to the promotion of education, learning, or religion, the relief of the needy, the sick, or the afflicted, the support of public works, or the relief of public burdens. The term has wider significance than "charitable" as a legal tenet but shall be limited to purposes or activities of sufficient public importance and wide-spread social value.

(c) To be exempt under this section, the institution shall fulfill the above definitions, and operate primarily for non-commercial purposes without any element of private profit.

Section 14. Senior citizens' centers - W.S. 39-11-105(a)(xl).

(a) "Senior citizen centers" include property used to provide transportation, information, and recreation facilities and other services which enable senior citizens to maintain their independence and avoid institutionalization.

(i) Senior citizen meal facilities or senior citizen housing complexes which are part of a senior citizen center are exempt. For the exemption, nonprofit organizations providing meals or services to senior citizens shall possess certification of such activity by the division of public assistance and social services of the department of health and social services (or its successor).

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(ii) Housing made available to senior citizens which is not part of a senior citizens' center (such as a retirement home) is exempt only if the entity owning the property meets the criteria of a "charitable society or association" in Section 15 of this Chapter. A retirement home is taxable if the residents provide their own furnishings and are charged for the cost of operating the home, including extra amenities enjoyed by the residents. Such a retirement home constitutes a commercial enterprise, even if operated on a non-profit basis with reduced charges.

(b) In order to be exempt under this section, the senior citizen center shall be operated without any element of private profit and primarily for non-commercial purposes. The definitions and restrictions in Section 23 of this Chapter shall apply.

(c) If a senior citizens' center confers a benefit only upon the citizens of another state, its property is not exempt.

Section 15. Charitable Society or Association - W.S. 39-11-105(a)(xli).

(a) "Charity" is a gift for the benefit of an indefinite number of persons in Wyoming, by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves in life, or by erecting or maintaining public buildings or works. The fundamental basis for this exemption is the benefit conferred upon the public, and the consequent relief, to some extent, of the burden upon the state to care and advance the interest of its citizens.

(b) The property shall not be used for investment purposes as defined in Section 23 of this chapter.

(c) The property must be used directly for the operation of the charity, which would directly benefit the people of this state.

Section 16. Nonprofit corporations - W.S. 39-11-105(a)(xxxv).

(a) In order to be exempt under this section, the corporation shall demonstrate:

(i) income tax exempt status authorized by the Internal Revenue Service as a "501(c)(3)" corporation; and

(ii) the property is owned and used by the corporation to serve persons with disabilities, mental illness, substance abuse problems, or family violence problems; and

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(iii) the extent to which the property is operated without any element of private profit, and primarily for non-commercial purposes as limited and defined by Section 23 of this Chapter.

(b) Housing made available to persons with disabilities, mental illness, substance abuse or family violence problems is not exempt if the residents provide their own furnishings, and are charged for the cost of operating the housing project, which constitutes a commercial enterprise, even if operated on a non-profit basis with reduced charges.

Section 17. Veterans' Exemption W.S. 39-11-105(a)(xxiv) and W.S. 39-13-105

(a) Definitions

(i) For purposes of this Chapter, "principal residence" means the residential real property or manufactured home occupied by the veteran or qualifying surviving spouse as his or her sole or primary home.

(ii) For purposes of this Chapter, "military service" means active federal service in a branch of the armed forces of the United States, including active federal service in the National Guard or Reserve units associated with a branch of the armed forces of the United States. The term "military service" as used herein does not include "active state service" as defined in W.S. 19-7-101(a)(v), as amended, and is expressly limited to federal service under Title 10, United States code.

(iii) For purposes of this Chapter, "tax year" means the calendar year, commencing with the real property assessment date of January 1st, and ending upon December 31st. The "tax year" for motor vehicle and mobile homes shall coincide with the current enrollment period for the exemption and shall conclude on the fourth Monday in May.

(iv) For purposes of this Chapter, "other authorized service or campaign medal" shall be defined as campaign or service medal(s) authorized by the Department of Defense for service in armed conflicts in a foreign country, and issued by the Department of Defense to the veteran and enumerated on the discharge documents.

(b) Eligible veterans

(i) To be eligible to claim the exemption, any veteran deemed to meet one or more of the qualifications of W.S. 39-13-105(a) must also be a bona fide resident of the State of Wyoming for at least three (3) consecutive years immediately preceding the time of claiming the exemption.

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(A) A recently discharged veteran with a home residency of Wyoming, with no break in residency, has met this requirement.

(B) A veteran previously enrolled in the veterans exemption program who moves to another state must wait three (3) years after returning to Wyoming before qualifying for the exemption.

(ii) Annually, the Property Tax Division shall publish a complete list of qualifying expeditionary medals which will be posted on the Department's website located at <http://revenue.wyo.gov>.

(c) Proof of Eligibility – Veteran

(i) An applicant for veteran's exemption must present the County Assessor written documentation of his honorable separation, release or discharge from military service. Acceptable forms of documentation include, but are not limited to: WD AGO Form 53-55, NAVMC 78-PD, NAVPERS-533, DD Form 214, DD Form 214N, DD Form 214MC.

(A) The Assessor shall retain a copy of each veteran's qualifying separation document on file.

(d) Eligibility – Surviving Spouse

(i) The unmarried surviving spouse of any person who died while serving honorably during the war, conflict or period described in W.S. 39-13-105(a) is entitled to a veterans exemption if:

(A) The surviving spouse is a bona fide resident of Wyoming for at least three (3) years at the time of claiming exemption.

(B) The surviving spouse previously enrolled in the veterans' exemption program who moves to another state must wait three (3) years after returning to Wyoming before qualifying for exemption.

(C) Should the surviving spouse remarry, the spouse does not qualify for the veteran exemption even if the marriage ends in divorce or becomes widowed,

(ii) In order for property subject to a trust created by, or for the benefit of a surviving spouse to qualify for application of the veterans exemption, the surviving spouse must not have remarried and be the sole current beneficiary of the trust.

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(e) Limitations

(i) A qualified veteran shall be limited to an annual exemption of tax based upon the assessed value limitation specified by W.S. 39-13-105(b), notwithstanding that the veteran may have honorably served in more than one war, conflict or period designated in W.S. 39-13-105.

(ii) The exemption for real property shall only apply to the principal residence of the veteran or qualifying surviving spouse. The assessor must use prudent judgment to evaluate the factors in (A) and (B) below for purposes of determination if a property qualifies as the principal residence of the veteran or qualifying surviving spouse wishing to claim the exemption.

(A) Factors that the assessor may consider that could indicate if a residential property or manufactured home is the principal residence of the veteran or surviving spouse:

(I) The property is occupied by the qualifying veteran or surviving spouse for more than six (6) months of each year during the last three (3) consecutive years immediately prior to the time of claiming the exemption required to meet the Wyoming residency requirement, and continues to be occupied by the veteran or qualifying surviving spouse for more than six (6) months in each tax year for which the exemption is claimed;

(II) The property is the location listed on public records as the veteran's or qualifying surviving spouse's legal residence for voter registration purposes;

(III) The property is identified as the legal address for the veteran's or qualifying surviving spouse's federal income tax returns;

(IV) The property is deemed to be the principal residence of the veteran or qualifying surviving spouse by other agencies of Wyoming government or its political subdivisions;

(B) Factors that the assessor may consider that could indicate that a property is not the principal residence of the veteran or qualifying surviving spouse may include:

(I) Absence of the veteran or qualifying surviving spouse from the property for periods of longer than six (6) months in the year for which the exemption is claimed, when the absences are not due to the veteran or qualifying surviving spouse attending an institution of higher learning; being hospitalized; or being confined to nursing home, hospice, or other similar care facility;

(II) The veteran or qualifying surviving spouse claiming another

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property as his or her principal, primary, or sole residence for other state, local, or federal taxation or voting purposes;

(III) Clear physical evidence that the property is something other than the principal residence of the veteran or qualifying surviving spouse.

(iii) For purposes of this Chapter, an honorably discharged veteran or qualifying surviving spouse who has qualified for the veteran's exemption and subsequently enlists or returns to the military service of the United States may continue to claim Wyoming as his or her principal state of residence for purposes of claiming the exemption so long as he or she declares Wyoming and no other state to be his or her legal state of residency.

(iv) The exemption may be claimed by the veteran or qualifying surviving spouse in only one (1) county in Wyoming in any given tax year.

(v) Ownership limitation, as set forth by W.S. 39-13-105(c)(ii) applies to both real property and personal property, including motor vehicles.

(A) If a husband and wife are both qualifying veterans under these Rules, and own property as specified in this subsection, each spouse may claim up to the maximum assessed value exemption as permitted by Statute. If the assessed value of property owned by the married qualifying veteran applicants in joint tenancy or tenancy in common is less than the aggregated assessed value for which they are entitled to exemption, the assessor shall use his or her discretion to equally apportion the exemption between the two applicants.

(B) If two or more qualified veterans own the same principal residential property, the exemption is granted since no party receives any unearned benefits. Each party may claim up to the maximum assessed value exemption as permitted by the Statute. If the assessed value of property owned by the qualifying veteran applicants in joint tenancy or tenancy in common is less than the aggregated assessed value for which they are entitled to exemption, the assessor shall use his or her discretion to equally apportion the exemption between all the applicants.

(C) As long as the veteran or veteran's spouse is listed as an owner and the property is the principal residence, the exemption shall be granted.

(f) Application Form

(i) Pursuant to W.S. 39-11-102(c)(xiv), the Department shall prescribe the form for the veterans' exemption application. The form shall require submission of information by the claimant deemed lawfully necessary to determine the claimant's eligibility for the exemption, to adequately establish the identity of claimant for purposes of the exemption, and to ascertain that the claimant is only claiming the exemption in one county in any given tax year.

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(A) On the initial claim form, the applicant must sign exemption claim form in the presence of the County Assessor or authorized employee.

(B) The County Assessor can accept a notarized signed claim form in lieu of a signed form in the presence of the County Assessor or their authorized employee.

(ii) Annual application, after the initial application, must be submitted by the statutory deadline specified in W.S. 39-13-105(c) and can be made via telephone or other communication method. Exemption will not be allowed during any tax year in which the claimant fails to file in a timely manner.

(iii) The County Assessor is required to log the date, time and method in which an applicant files.

(g) Reporting Requirements

(i) The County Assessor shall enter all veteran exemption claims into the Veterans Exemption Database (VED) provided by the Department.

(ii) The Department, Property Tax Division, shall on or before June 1st each year, provide the County Assessor and County Treasurer a form requesting the current year's veterans' exemptions as applied for within the county. The form shall provide for separate reporting of exemptions granted under W.S. 39-13-105 and W.S. 31-3-101(b)(vii).

(iii) The report shall be returned to the Administrator, Property Tax Division, by September 1st each year as required by W.S. 39-13-102(k).

Section 18. Claimed exemptions on multiple authorities.

(a) Taxpayers may claim exemption on the basis of one or more statutory provisions. Careful analysis of the ownership and use of the property is required.

(i) For example, museum property may be exempt because: it is a public municipal museum operated for a governmental purpose under W.S. 15-1-103 and W.S. 39-11-105(a)(v); it is a public county museum operated for a governmental purpose under W.S. 18-10-101 and W.S. 39-11-105(a)(iii); it is property of a special museum district under W.S. 18-10-201 and W.S. 39-11-105(a)(xvi); or it is owned by a non-profit entity qualifying as a charitable association and operated on a noncommercial basis under W.S. 39-11-105(a)(xli). Under this example only one exemption is applicable based on ownership and operation.

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(ii) Under appropriate circumstances more than one exemption provision may apply, (e.g. an entity may be both a school and a nonprofit charitable and benevolent entity owning property for a non-commercial use).

(iii) Different criteria are applicable and each shall be separately and carefully analyzed in making an exemption determination.

Section 19. Lease or rental of property.

(a) The occasional rental of property by an exempt entity, if such rental does not interfere with the use of the property consistent with the exemption standards, will not affect the exemption.

(b) With the exception of (c) and (d) below, the rental of property to an exempt entity (including rental by an exempt entity to an exempt entity) for any gain or profit shall render the property taxable. The commercial use of the property by the owner is part of its total use, and therefore an exemption is not available.

(c) The leasing of publicly owned property is not, of itself, a use for nongovernmental purposes if the primary use is reasonably necessary to the efficient provision of a governmental function or service. The fact a governmental entity accomplishes such function through a lessee will not affect the exemption. If, however, governmental property is used by a lessee for non-governmental purposes, the property is not exempt.

(d) Leased property owned by the State Loan and Investment Board through foreclosure is exempt.

(e) If a lease arrangement results in taxability of property owned by an exempt entity, the exempt entity owes the tax. The lessee shall not be assessed as leaseholds are not subject to taxation.

Section 20. Partial exemption.

(a) A partial exemption may only be allowed where a separately identifiable portion of the property is used for qualified purposes (either primarily or exclusively, based on the legal requirement). Where a partial exemption is allowed, the non-exempt portion shall be taxed according to its proportionate value, if any.

(b) A partial exemption may not be granted based upon percentage use of shared or common space or facilities. If a shared use is present a decision must be made as to whether the shared use is of such nature or duration as to invalidate the exemption.

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Section 21. Undeveloped, unconstructed or unused property.

(a) For exemptions requiring a specific use to qualify, neither ownership of the property nor stated objectives of the entity's organization is sufficient. To justify an exemption, actual and immediate use of the property consistent with the applicable exemption standard is required. The mere holding of the property by an entity for future or prospective use is not sufficient.

(b) An exemption may be granted once construction or use commences consistent with the exempt purpose.

Section 22. Conveyances.

(a) Any property, title to which is transferred of record to an exempt entity prior to January 1 of any given year, is not subject to taxation for that year provided an exemption otherwise applies.

(b) With the exception of (c) below, if title to property is transferred of record after January 1, the property is taxable for the entire year.

(c) Property of the State Loan and Investment Board is exempt if it becomes "owner" of the property pursuant to W.S. 11-34-126 before the fourth Monday in June.

(d) There is no authority for the county to pro rate taxes on real property. The proration of taxes is a private, contractual matter between the parties to a conveyance. Absent a contractual arrangement, the provisions of W.S. 39-13-103(c) and 39-13-107(b)(i)(E) apply.

Section 23. Exemption denial for property used for private profit, investment purposes or primarily for commercial purposes.

(a) For exemptions that require that property use cannot be for private profit, primarily for commercial purposes, or for investment purposes, the following shall apply.

(i) In making a determination of use for private profit, one distinctive feature is whether the entity has capital stock and a provision for dividends of profits, or whether it derives funds mainly from the public and private charity, holding them in trust to be expended only for charitable and benevolent purposes.

(A) An institution may charge fees or engage in business, but no gain or value may be distributed to members or stockholders. The officers and members may have no pecuniary interest in the property from which they gain. Payments made to

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officers, employees, contractors and suppliers shall be reasonable and not an indirect means of conferring gain or profit to private persons.

(B) Revenue from fees paid by recipients of the charity or services shall be devoted only to the maintenance of the institution or its purposes.

(C) A grant of sales/use tax exempt status by the State as a qualified charitable organization, or the grant of income tax exempt status by the Internal Revenue Service as a “501(c)(3)” or similar organization, is not binding in making the determination of whether the property of the entity is exempt from property taxation. Assessors may consider compliance with and operation under the tax exempt provisions of the Internal Revenue Service Code or an exemption from sales and use tax as a rebuttable presumption the institution’s operations are reasonable and not for profit.

(D) The matter of private profit concerns the way property is used, not solely the ownership thereof. The entire use of the property by all concerned shall be considered.

(ii) The property at issue shall not be used primarily for a “commercial purpose”, that is use of property or any portion thereof to provide services, merchandise, area or activities for a charge, which are generally obtainable from any commercial enterprise and are collateral to the purpose of the entity.

(A) Commercial purpose includes, without limitation, the operation for charge of bars, restaurants, dancing areas, merchandise shops, housing, theaters and bowling alleys.

(B) The use of property for commercial purpose is controlling, not whether or not a profit is actually made nor how the revenue is ultimately used. If an activity is considered “commercial”, it does not become “non-commercial” merely because the revenue derived from the commercial use is devoted to charitable or authorized purposes.