



*This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.*

## **Basics of Property Tax Exemption for Nonprofits in Georgia**

This article provides some basic information regarding whether a nonprofit organization's owned real property is exempt from Georgia's property tax, how to apply for property tax exemption, and best practices for maintaining that exemption.

### **What real property is subject to taxation?**

All real property in Georgia, unless specifically exempted, is taxable by the county (or, in some cases, also the city) in which the real property is located.

### **What types of real property have been granted an exemption from Georgia's property tax?**

The Georgia Code grants several exemptions from property tax. The following list sets forth the property tax exemptions that are most likely to be used by Georgia nonprofit organizations. In order to qualify for one of the exemptions, the property must not be used for the purpose of producing private or corporate profit, and any income from property must be used exclusively for charitable purpose. This list is not exclusive, and it assumes that the property owners are all nonprofit organizations, exempt from federal income tax. It is important to note that federal and state income tax exemptions do not control whether real property owned by nonprofit organizations in Georgia is exempt from property tax.

- Institutions of purely public charity. This the "catch-all" provision that most nonprofits will rely on for tax exemption purposes. Although there is no definition in the Georgia Code of what constitutes a "purely public charity," there are several qualifications that the entity must prove to be considered a purely public charity. These qualifications are explained in the next section.
- Property owned and used exclusively as the general state headquarters of a nonprofit corporation organized for the purpose of encouraging cooperation between parents and teachers to promote the education and welfare of children
- All places of religious worship and burial
- All property owned by and operated exclusively as a church or other religious association

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- Property owned by religious groups that is used as single-family houses where no income is derived from the property
- Buildings erected and used as a college, an incorporated academy, or other seminary of learning, but only if open to the general public
- All property of public libraries and any other literary associations
- Property of a nonprofit home for the aged and property of a nonprofit home for the mentally disabled
- Property owned and used exclusively by a veteran's organization which is chartered by the United States Congress
- Property of nonprofit hospitals used in connection with their operation
- Property owned by a historical fraternal benefit association that is used exclusively for charitable, fraternal, and benevolent purposes

### **How do I determine if my organization is a “purely public charity”?**

The organization bears the burden of proving it qualifies as a purely public charity and to meet that burden it must satisfy all of the requirements listed below. These requirements are not automatically tied to IRS 501(c) tax exemption or to “non-profit” status:

- The owner of the property must be an institution entirely devoted to charitable pursuits;
- The charitable pursuits of the owner must be for the benefit of the public; and
- The use of the property must be exclusively devoted to those charitable pursuits.

The owner may use the property to secure and raise income through non-charitable purposes so long as such income is used exclusively for the operation of the charitable institution and the income-generating activity does not become the primary purpose of the property. For example, an organization may occasionally rent out property for wedding receptions, birthday parties, and other private events, so long as the rental income is used exclusively for the organization's charitable pursuits and the property is not solely used as a for-profit rental space.

Simply stating a charitable use is not enough to allow for an exemption. In addition, allowing other charities to use the property or simply owning the property without putting it to use will not meet the qualifications for exemption. Georgia courts

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have also held that intention and preparation for use by a purely public charity, including the construction and renovation phases of property that will be used for charitable purposes, are not enough to bear the burden for exempt use.

### **How do I apply for a property tax exemption?**

In order to take advantage of an exemption, the property owner must file an application with the tax assessor of the county in which the property is located (see below), which typically requires:

- A form or letter
- Detailed description of the organization and the property, including pamphlets, brochures, web sites, and other marketing material
- Detailed description of the organization's qualifications as a "purely public charity," using the factors listed in the previous section (assuming that is the basis for the exemption)
- Organization's Articles of Incorporation from the Secretary of State showing nonprofit status
- 501(c) Letter from IRS (effective January 1, 2008, a Georgia 501(c)-qualified exempt entity is automatically exempt from state income tax)

While the exemptions provided above are state-wide, and all Georgia counties recognize the exemptions, the procedures to obtain the exemptions are specific to the county in which the property is located. Contact the county's tax assessor's office to confirm the procedure for obtaining an exemption. The due date for filing the application varies, but it generally must be filed during the year the exemption is sought or by the return filing date (either March 1<sup>st</sup> or April 1<sup>st</sup>). For your convenience, we have provided below direct links to exemption applications and/or instructions for the following Atlanta-area counties:

- [Cobb](#)
- [DeKalb](#)
- [Fulton](#)

### **What happens if my application is denied?**

If the application for a property tax exemption is denied, the property owner may enter into an administrative appeals process. The appeals process is time consuming,

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so it is important to provide detailed and adequate information with your initial application.

The first step in the appeals process is an initial appeal to the Board of Tax Assessors regarding why the application was denied. For example, the Board may not have understood the organization's operations or have the adequate information to make a proper decision.

If the Board of Tax Assessors still denies the application, the property owner may appeal to the Board of Equalization. Following the written appeal, there will be a hearing to determine whether the property is exemptible.

A taxpayer may appeal a decision of the Board of Equalization to the Superior Court of the county in which the property is located.

At each level of appeal, a taxpayer must make sure to file its appeal within the appropriate time mandated by law. It is important to contact an attorney (or Pro Bono Partnership of Atlanta if you are a client) well in advance of any filing deadline, particularly as each level of appeal increases in complexity.

### **How do I preserve my property tax exemption?**

As noted above, exempt property must not be used to produce private or corporate profit, and any income derived from such must be used exclusively for religious, educational, and charitable purposes. Therefore, nonprofits should not rent, lease or otherwise use exempt property to produce income, except in certain situations where the income production does not become the "primary purpose" of the building and any income is used exclusively for the operation of the nonprofit.

In addition, exempt organizations need to ensure that they maintain their 501(c)(3) status. While section 501(c)(3) status does not automatically ensure that the property qualifies as owned by a "purely public charity," loss of such status would have significant detrimental consequences, including loss of its property tax exemption. This requires careful planning of future activities and reevaluation of existing activities.

To learn more information, please visit the Georgia Department of Revenue's Local Government Services Division [website](#), which provides valuable information about the Georgia property tax system.

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