

Process for Determination of Property Tax Exemption

(REVISED)

Section 58.1-3651.D., Code of Virginia, provides:

Pursuant to subsection 6 (a) (6) Article X of the Constitution of Virginia, on and after January 1, 2003, any county, city or town may by designation or classification exempt from real or personal property taxes, or both, by ordinance adopted by the local governing body, the real or personal property, or both, owned by a nonprofit organization that uses such property for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes. The ordinance shall state the specific use on which the exemption is based, and continuance of the exemption shall be contingent on the continued use of the property in accordance with the purpose for which the organization is classified or designated. No exemption shall be provided to any organization that has any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex, or national origin.

Nothing in §58.1-3651, Code of Virginia, or in any ordinance adopted pursuant to this section shall affect the validity of a classification exemption claimed by an organization, or a designation exemption granted by the General Assembly, prior to January 1, 2003, that was still effective on December, 31, 2002, pursuant to Article 3 (§58.1-3609 et seq.) or 4 (§58.1-3650 et seq.) of this chapter, and no locality shall recognize a classification exemption first claimed by an organization pursuant to Article 3 (§58.1-3609 et seq.) of this chapter after January 1, 2003. An exemption granted pursuant to Article 4 (§58.1-3650 et seq.) of this chapter may be revoked in accordance with the provisions of §58.1-3605. For purposes of subsection D of §58.1-3651 “a classification exemption claimed by an organization” as of January 1, 2003, means that the organization owns property in a locality that is not being taxed by the locality on December 31, 2002, by virtue of a classification exemption provided under Article [3] (§58.1-3609 et seq.) of this chapter. Such claim of exemption applies to each such locality in which such an organization owns property that is not being taxed on December 31, 2002, and only to each such locality.

Step 1.

Any organization planning to seek tax-exempt status for its real and/or personal property must first request in writing on the organization’s letterhead a determination from the Commissioner of the Revenue whether the organization is already eligible for tax-exempt status by classification or designation per Title 58.1, Chapter 36 – Tax Exempt Property, of the Code of Virginia (1950), as amended. The organization must include a written description of the intended use of the property for which tax exemption is being requested.

The Commissioner of the Revenue will respond to the organization in writing after a determination of tax-exempt status has been made. If the organization is already eligible for tax-exempt status and the intended use of the property is determined to be consistent with the mission of the organization, the organization will be so informed in writing.

If the organization is not already eligible for tax-exempt status, the organization should then proceed to Step 2.

Step 2.

For calendar 2003, the organization must file a petition with the City Clerk by June 1st in order to be considered for tax-exempt status by City Council for the next tax year beginning July 1st. The petition must include the following information (see attached petition template):

1. Descriptive information regarding the organization and the nature of its request;
2. Legal basis for the request referencing the appropriate section of the State code;
3. Statement that the Commissioner of the Revenue has determined the organization is not already eligible for tax-exempt status by classification or designation (see Step 1.) – a copy of the written determination must be attached to the petition;
4. Statement that the organization agrees to pay to the City an annual service charge equal to twenty percent of the real estate tax levy that would be applicable to the real property of the organization if the organization were not exempt from such taxation, for as long as the tax exemption is in effect;
5. Statement that the organization, if located within a service district, agrees to pay to the City an annual service charge equal to the additional service district tax that would be levied, for as long as the tax exemption is in effect;
6. Responses to questions set forth in subsection B of Section 58.1-3651 of the Code of Virginia (1950), as amended; and
7. Statement that the organization agrees, if approved for tax-exempt status, to provide information to the Director of Real Estate Valuation upon request to allow a triennial review of the tax-exempt status of the organization.

Step 3.

Petitions forwarded by the City Clerk to the City Manager by April 15th for evaluation and recommendation to City Council will have an effective date of July 1st. Petitions forwarded by the City Clerk to the City Manager by October 15th for evaluation and recommendation to City Council will have an effective date of January 1st. The City Attorney will prepare an ordinance for adoption by City Council.

The ordinance exempting property shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The City Clerk shall publish notice of the hearing once in a newspaper of general circulation in the city. The notice shall include the assessed value of the real and tangible personal property owned by the organization requesting the exemption as well as the property taxes that either were paid or would have been paid in the most recent year. The public

hearing may not be held until at least (5) days after the notice is published in the newspaper. The City may collect the cost of publication from the organization requesting the property tax exemption. Before adopting any such ordinance City Council shall consider the following questions:

- a. Whether the organization is exempt from taxation pursuant to § 501 (c) of the Internal Revenue Code of 1954;
- b. Whether a current annual alcoholic beverages license for serving alcoholic beverages has been issued by the Virginia Alcoholic Beverage Control Board to such organization, for use on such property;
- c. Whether any director, officer, or employee of the organization is paid compensation in excess of a reasonable allowance for salaries or other compensation for personal services which such director, officer, or employee actually renders;
- d. Whether any part of the net earnings of such organization inures to the benefit of any individual, and whether any significant portion of the service provided by such organization is generated by funds received from donations, contributions or, local, state or federal grants. As used in this subsection, donations shall include the providing of personal services or the contribution of in kind or other material services;
- e. Whether the organization provides services for the common good of the public;
- f. Whether a substantial part of the activities of the organization involves carrying on propaganda, or otherwise attempting to influence legislation and whether the organization participates in, or intervenes in, any political campaign on behalf of any candidate for public office;
- g. Whether any rule, regulation, policy, or practice of the organization discriminates on the basis of religious conviction, race, color, sex or national origin;
- h. The revenue impact to the locality and its taxpayers of exempting the property; and
- i. Any other criteria, facts and circumstances that the Council deems pertinent to the adoption of such resolution.

Exemptions of property from taxation shall be strictly construed in accordance with Article X, Section 6 (f) of the Constitution of Virginia.

The ordinance will identify what kind of exemption the ordinance extends the organization: religious, charitable, patriotic, historical, benevolent, cultural or public park and playground purposes.