

Instructions to assessors: Renewal application for real property tax exemption for non-profit organizations

Assessor Manuals, Exemption Administration

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1. General information

Sections 420-a and 420-b of the New York State Real Property Tax Law authorize exemption from real property taxes of real property owned by certain nonprofit organizations.¹

The requirements of section 420-a, the mandatory class of exempt purposes, may be summarized as follows:

1. The real property must be **owned** by a nonprofit corporation or association **organized or conducted exclusively** for one or more of the purposes listed in section 420-a, **i.e.**, religious, charitable, educational, hospital or moral or mental improvement of men, women or children.²
2. The real property must **be used exclusively** for carrying out thereupon one or more of the purposes listed in section 420-a. Any portion of the property that is not so used is subject to taxation.

3. No officer, member or employee of the organization may be entitled to receive any pecuniary profit from its operations, except reasonable compensation for services performed in furtherance of the corporate purposes.
4. No exemption may be granted if the organization is a guise or pretense for directly or indirectly making any other pecuniary profit for the organization or for any of its members or employees.
5. The owner of the property must file with the assessor an application form prescribed by the Office of Real Property Tax Services.

The requirements of section 420-b, the permissive class of exempt purposes, may be summarized as follows:

1. The real property must be **owned** by a nonprofit corporation or association **organized exclusively** for one or more of the purposes listed in section 420-b, i.e., bible, tract, benevolent, missionary, infirmary, public playground, scientific, literary, bar association, medical society, library, patriotic or historical purposes, for the development of good sportsmanship for persons under the age of 18 years through the conduct of supervised athletic games or for the enforcement of laws relating to children or animals.
2. The real property must be used exclusively for carrying out thereupon one or more of the purposes listed in section 420-b. Any portion of the property that is not so used is subject to taxation.
3. No officer, member or employee of the organization may be entitled to receive any pecuniary profit from its operations, except reasonable compensation for services performed.
4. No exemption may be granted if the organization is a guise or pretense for directly or indirectly making any other pecuniary profit for the organization or for any of its members or employees.
5. Application forms for exemption, as prescribed by the Office of Real Property Tax Services, must be filed by the owner of the property with the assessor of the appropriate county, city, town or village on or before the appropriate taxable status date.

The nonprofit organization exemption is one of the most difficult statutes with which the assessor must deal. Like all exemption statutes, it must be strictly construed, and any doubts or ambiguities must be resolved in favor of taxation.

The purpose of the RP-420-a and RP-420-b exemption renewal application forms is to provide the assessor with a factual basis on which to determine whether property owned by an organization previously granted tax exemption pursuant to section 420-a or 420-b remains entitled to the exemption. **Renewal application forms may be used only after exemption has been granted on the basis of initial RP-420-a and RP-420-b application forms.**

The renewal forms are designed to provide information on **changes** in the organization and the use of its property that the assessor needs to make a determination of taxable status. However, the forms are **not** meant to limit further inquiry by the assessor. Where he finds it necessary, the assessor SHOULD seek additional information from the applicant.

Information on organizational activities and finances can be found in forms such as Form 990) that some

organizations file with the Internal Revenue Service; these forms are listed in Question 3 of Form RP-420-a/b-Rnw-I. (For a description of these forms, see **Instructions to Assessors, Application for Real Property Tax Exemptions for Nonprofit Organizations**, pp. 241.51-241.60 in Section 4.05 of this volume.) If the organization has not filed any of these forms with the Internal Revenue Service since application for property tax exemption was last filed, the assessor may find it convenient to use Schedule A, Form RP-420-a/b-Rnw-I, to obtain any additional information needed. In evaluating the information given in Schedule A, the assessor should apply the same criteria, discussed in **Instructions to Assessors** (cited above, pp. 241.65-241.68), as for Schedule A, Form RP-420-a/b-Org.

The organizational changes and changes in property use that are justifiable grounds for denying renewal of exemption under sections 420-a and 420-b are described below in the discussion of Forms RP-420-a/b-Rnw-I and RP-420-a/b-Rnw-II. **Note, however, that renewal of exemption may be denied even if no change has occurred since application for exemption was last filed.** Continuation of exemption may be denied on the basis of the renewal forms (and any additional documentation that the assessor may request) **if the assessor determines that the property was in fact not entitled to exemption the previous year but was erroneously granted the exemption.**

2. Filing by applicant

Exemptions granted under section 420-a and 420-b must be renewed annually. Before an assessor may renew exemption under either section 420-a or 420-b, he or she must have on file sufficient information to indicate that the property continues to be entitled to exemption.

In the case of organizations seeking exemption under section **420-a**, the owner of the property must file either (a) a properly completed application form prescribed by the Office of Real Property Tax Services (ORPTS) or (b) any comparable application form. If neither type of form is filed, the assessor may nevertheless grant the exemption provided he or she personally inspects the property and certifies in writing that it satisfies all of the requirements for exemption. If the property is not granted exemption, the owner may seek judicial review pursuant to Article 7 of the Real Property Tax Law or Article 78 of the Civil Practice Law and Rules.

As for organizations seeking exemption under section **420-b**, all such organizations must annually file renewal application forms prescribed by ORPTS.

If such renewal application forms are used to seek exemption under section 420-a or 420-b, the appropriate forms are: Forms RP-420-a/b-Rnw-I (organization purpose), RP-420-a/b-Rnw-II (property use), and, if necessary, Schedule A, RP-420-a/b-Rnw-I (nonprofit status). **One** copy of Form RP-420-a/b-Rnw-I must be filed in **each assessing unit** in which renewal of exemption is sought; **one** copy of Form RP-420-a/b-Rnw-II must be filed with the appropriate assessor for **each parcel** of property for which renewal of exemption is sought.

In those villages which have opted to use the town or county assessment roll pursuant to section 1402(2) of the Real Property Tax Law, one copy of Form RP-420-a/b-Vlg may be submitted in lieu of Form RP-420-a/b-Rnw-I and Form RP-420-a/b-Rnw-II. The application should be completed and filed by someone authorized by the organization to do so.

The assessor should mail the required renewal forms to all applicants well in advance of the taxable status date. The assessor should enter the parcel location and assessment roll information on the forms **before** mailing them.

Each organization should submit the completed forms to the assessor on or before the taxable status date. If an organization fails to submit the required forms by that time, the assessor should contact the organization and remind it of the necessity to file the forms. If the organization refuses or fails to do so, the assessor should enter the property as taxable on the tentative assessment roll. The organization may then seek exemption from the board of assessment review or the courts.

Each organization must satisfy all of the statutory requirements of section 420-a or 420-b. Thus, the assessor should enter the property as taxable if an organization submits the renewal forms but no longer satisfies the organization purpose test as evidenced by Form RP-420-a/b-Rnw-I, or is now shown to be a guise or pretense for making a pecuniary profit for the organization or its officers, members, or employees. Likewise, if an organization passes the organization purpose test but no longer satisfies all of the requirements of the property use test as evidenced by Form RP-420-a/b-Rnw-II, the assessor must enter all disqualified parcels (or portions of parcels) as taxable on the assessment roll.

3. Changes in organization purpose (form RP-420-a/b-Rnw-I)

Question 2a: Change in Purpose(s) or activities

Case 1: Eligible purposes/activities

Purpose(s) and/or activities of the organization have changed. However, the current purpose(s) are still **exclusively** one or more of the purposes eligible under section 420-a or 420-b, and the current activities of the organization are consistent with its current purpose(s).

Assessor action:

Renew exemption.

Case 2: Ineligible purposes

Purpose(s) of the organization have changed, and one or more of the current purposes are **not** among those eligible under section 420-a or 420-b.

Assessor action:

Deny renewal of exemption.

Case 3: Inconsistent activities

Purpose(s) of the organization are still **exclusively** one or more of those eligible under section 420-a or 420-b. However, one or more of its current activities are not consistent with any of the organization's current purposes, and these inconsistent activities are such that they indicate that the actual purpose(s) of the organization are not as they have been stated by the applicant.

Assessor action:

Deny renewal of exemption.

Question 2b: Change in Operations³

Case 4: Authorization issued

Operations of the organization have changed because it has been **issued** an operating certificate, permit, charter, or similar authorization by a public regulatory agency. The operations so authorized are consistent with the current purpose(s) of the organization.

Assessor action:

Renew exemption.

Case 5: Authorization restricted or withdrawn

Operations of the organization have changed because its operating certificate, permit, charter, or similar authorization has been **restricted** or **withdrawn** by a public regulatory agency. The restriction or withdrawal has caused the organization to change its operations to the extent that its activities are now largely inconsistent with its current stated purpose(s).

Assessor action:

Deny renewal of exemption.

Question 2c: Change in Federal Exemption Status

Case 6: Original code section applicable

The organization's status as exempt from federal income tax has been **recognized** by the Internal Revenue Service, and the Internal Revenue Code section under which exempt status has been recognized is applicable to organizations whose purposes qualify them for exemption under Section 420-a or 420-b of the Real Property Tax Law.

As a rule, the appropriate Internal Revenue Code section is:

501(c) (3) for an organization whose purpose(s) are religious, charitable, hospital, education, moral or mental improvement of men, women, or children, bible, tract, benevolent, missionary, infirmary, public playground, scientific, literary, library, patriotic, historical, and/or enforcement of laws relating to children or animals

501(c) (6) for an organization whose purpose is bar association or medical society

501(c) (13) for an organization whose purpose is cemetery

Assessor Action: Renew exemption.

Case 7: Original code section inapplicable

The organization's status as exempt from federal income tax has been **recognized** by the Internal Revenue Service. However, the Internal Revenue Code section under which exempt status has been recognized is **not** applicable to organizations whose purpose(s) qualify them for exemption under section 420-a or 420-b of the Real Property Tax Law, **and further investigation by the assessor** has shown that the organization is in fact not one that is eligible for exemption under section 420a or 420-b.

For example, an association has applied for section 420-a property tax exemption as an "educational" organization. Yet, its exemption from federal income tax has been recognized not under Section 501(c) (3) of the Internal Revenue Code, as one would expect for an educational organization, but under Section 501(c) (7), which applies to "clubs organized for pleasure, recreation, and other nonprofitable purposes." The assessor investigates further into the activities of the association and finds that, although some sports instruction is given in its facilities, the association's primary purpose is to support purely recreational, rather than educational, activities.

Assessor action:

Deny renewal of exemption.

Case 8: New code section applicable

The Internal Revenue Code classification of the organization's exemption from federal income tax has been changed by the Internal Revenue Service, and the *current* classification is applicable to organizations whose purposes qualify them for exemption under section 420-a or 420-b.

Assessor action:

Renew exemption.

Case 9: New code section inapplicable

The Internal Revenue Code classification of the organization's exemption from federal income tax has been changed by the Internal Revenue Service, but the **current** classification is **not** applicable to section 420-a or 420-b **and further investigation by the assessor** has shown that the applicant is not eligible for property tax exemption under either of these sections.

Assessor action:

Deny renewal of exemption.

Case 10: Exempt status denied

The organization's application for exemption from federal income tax has been **denied** by the Internal Revenue Service, and further investigation by the assessor has shown that for the purposes of sections 420-a and 420-b also the applicant has failed to satisfy the organization purpose, pecuniary profit, and/or compensation test.

Assessor action:

Deny renewal of exemption.

Case 11: Exemption revoked

The organization's exemption from federal income tax has been *revoked* by the Internal Revenue Service, and further investigation by the assessor has shown that for the purposes of sections 420-a and 420-b also the applicant has failed to satisfy the organization purpose, pecuniary profit, and/or compensation test.

Assessor action:

Deny renewal of exemption.

4. Changes in property use (form 420-a/b-Rnw-II)

Question 2a: Change in ownership

Case 12: Property sold

Organization has sold all or part of the parcel since application for property tax exemption was last filed.

Assessor action:

Renew exemption for any unsold portion of the property if that portion is still being used for exempt purposes.

Question 2b: Change in use by owner

Case 13: Exempt use

Use of all or part of the parcel by the owner has changed, and the current use **is** consistent with the current exempt purpose(s) of the organization.

Assessor action:

Renew exemption.

Case 14: Nonexempt use, part of parcel

Use of all or part of the parcel by the owner has changed, and the current use of **part** of the parcel **is not** consistent with the current exempt purpose(s) of the organization.

Assessor action:

Renew exemption of only that part of the parcel which is currently used for activities that are consistent with the current exempt purpose(s) of the organization.

Case 15: Non-exempt use, entire parcel

Use of all of the parcel by the owner has changed, and the current use of the **entire** parcel **is not** consistent with the current exempt purpose(s) of the organization.

Assessor action:

Deny renewal of exemption.

Question 2c: Property offered for sale or lease

Case 16: Non-exempt use

All or part of the parcel is now being offered for sale or lease, and the portion being offered **has** been vacated (is no longer being used for the exempt purpose(s) of the organization).

Assessor action:

Renew exemption for only that portion of the parcel that has not been vacated.

Case 17: Exempt use

All or part of the parcel is now being offered for sale or lease, but the portion being offered **has not** been vacated (is still being used for the exempt purpose(s) of the organization).

Assessor action:

Renew exemption.

Note, however, that if the property is subsequently sold to a nonexempt owner after the taxable status date, it will become immediately subject to taxation (see Real Property Tax Law, section 520).

Question 2d: Change in use by other than owner

Property owned by a nonprofit organization eligible for exemption under section 420-a or 420-b may be entitled to exemption even though all or part of the property is used by an organization other than the owner. For guidance in determining whether property used by other than the owner is eligible for exemption, see **Instructions to Assessors, Application for Real Property Tax Exemptions for Nonprofit Organizations** (Part IV, RP-420-a/b-Use, A. Property Use, Questions 12 and 13) in Section 4.05 of this volume.

If either of the following conditions exists, a parcel or portion of a parcel is taxable: (a) the parcel or portion is leased to or normally (rather than occasionally) used by an organization that is not entitled to exemption; (b) the income received by the owner from the user organization exceeds the carrying, maintenance, and depreciation charges of the parcel or portion. Question 4d of Form RP-420-a/b-Rnw-II is intended to alert the assessor to conditions of property used that require that a parcel or portion of a parcel be made taxable.

Case 18: Non-exempt use

The proportion of the parcel currently used by nonexempt organizations indicates that the parcel **is not**

being used primarily for exempt purposes, **or** the terms of occupancy by nonexempt organizations indicate that the parcel **is not** being used primarily for exempt purposes, **or** the payments made by all occupants (whether exempt or nonexempt organizations) **together exceed** the carrying, maintenance, and depreciation charges of the parcel.

Assessor action:

Deny renewal of exemption.

Case 19: Exempt use

The proportion of the parcel currently used by nonexempt organizations indicates that the parcel *is* being used primarily for exempt purposes, **and** the terms of occupancy by nonexempt organizations indicate that the parcel **is** being used primarily for exempt purposes, **and** the payments made by all occupants (exempt or non-exempt) **together do not exceed** the carrying, maintenance, and depreciation charges of the parcel.

Assessor Action: Renew exemption.

Question 2e: Physical change

Case 20: Construction—Alteration—exempt use)

A building or other improvement has been constructed or altered, and the structure **is** being used primarily for exempt purposes.

Assessor action:

Renew exemption.

Case 21: Construction—Alteration—Non-exempt use

A building or other improvement has been constructed or altered, but the structure **is not** being used primarily for exempt purposes.

Assessor action:

Deny renewal of exemption for that portion of the parcel involved.

Case 22: Demolition—Exempt use

A building or other improvement has been demolished, and the land now vacant *is* being used for exempt purposes.

Assessor action:

Renew exemption.

Case 23: Demolition—Non-exempt Use

A building or other improvement has been demolished, and, for reasons other than the lack of suitable

improvements, the land now vacant **is not** being used for exempt purposes.

Assessor action:

Deny renewal of exemption for that portion of the parcel involved.

Question 2f: Change in construction plans)

An exemption may be granted for property from which no revenue is derived where such property is not used because of the absence of suitable buildings or other improvements, provided that the construction of such buildings or other improvements is contemplated in good faith.

The organization applying for exemption should give the assessor some sort of evidence of good faith contemplation of construction. Examples of such evidence are: a resolution of the organization authorizing the construction of a building, creation of a building fund by the organization, and a date **in the near future** given by the organization as an estimate of when construction will begin.

Case 24: Construction in the near future intended

The organization has postponed the date on which construction is expected to begin, **but** it has shown evidence of actual intent to begin construction soon *and* has shown a significant or at least growing financial ability to carry out the construction project.

Assessor action:

Renew exemption.

Case 25 (Construction in the Near Future Unlikely)

The organization has postponed the date on which construction is expected to begin, **and** it has not shown evidence indicating that construction is now actually intended.

Assessor action:

Deny renewal of exemption for that portion of the parcel involved.

Case 26: Construction plans canceled)

Plans for construction of needed buildings or other improvements have been canceled, and the former construction site is not being used for exempt purposes.

Assessor action:

Deny renewal of exemption for that portion of the parcel involved.

Question 2g: Change in hospital property use)

Case 27: Private practice

All or part of the parcel is being used for the private practice of staff members or others rather than for

direct hospital-related activities.

Assessor action:

Deny renewal of exemption for that portion of the parcel so used.

5. Denial of exemption renewal with no change reported by applicant

Case 28: Corrected status

All or part of the parcel was in fact not entitled to exemption the previous year but was erroneously granted exemption.

Assessor action:

Deny renewal of exemption for that portion of the parcel involved.

Case 29: Failure to file

The organization failed to file the required renewal application forms in time for preparation of the tentative assessment roll.

Assessor action:

Deny renewal of exemption for all parcels involved.

¹ Chapter 919 of the Laws of 1981 repealed section 420 and enacted two new sections. Those categories of exempt purposes previously included in paragraph a of subdivision one of section 420 are now contained in section 420-a, entitled "Nonprofit organizations; mandatory class." Those categories of exempt purposes previously included in paragraph b of subdivision one of section 420 are now contained in section 420-b, entitled "Nonprofit organizations; permissive class."

Chapter 920 of the Laws of 1981 deleted cemetery purposes from section 420. The cemetery exemption is now found exclusively in section 446 of the Real Property Tax Law.

² The taxable status of property owned by a religious organization while used by the officiating clergyman of that organization for residential purposes is governed by section 462 of the Real Property Tax Law, not by section 420-a. Initial application for exemption of such property must be made by means of Form RP-462 and RP-420-a-Org. Renewal of exemption should be applied for by using Forms RP-462 and RP-420-a/b-Rnw-I. For guidance in processing Form RP-462, see [Instructions to Assessors, Application for Real Property Tax Exemption, Property Used as Residence of Officiating Clergyman of Religious Organization](#).

³ For a description of public regulation of nonprofit organizations, see [Instructions to Assessors, Application for Real Property Tax Exemptions for Nonprofit Organizations](#).

Forms

[RP-420-a/b-Rnw-I](#)

[RP-420-a/b-Rnw-II](#)

[Schedule A \(RP-420-a/b-Rnw-I\)](#)

[RP-420-a/b-Vlg](#)

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