

To: New Jersey Law Revision Commission
From: Samuel M. Silver, Dep. Dir.
Re: Exemption of Property of Nonprofit Organizations
Date: January 16, 2023

MEMORANDUM

Project Summary

In New Jersey, nonprofit organizations may be exempt from tax on real and personal property under certain circumstances.¹ The statute that sets forth the property exemptions, N.J.S. 54:4-3.6, consists of two block paragraphs.² The first paragraph sets forth the organization that are exempt from taxation. The second defines the term “hospital purposes,” which is used twice in the first paragraph.³

In November of 2022, a member of the public brought the statute to the attention of the Commission Staff,⁴ stating that the first paragraph of the statute is cumbersome, difficult to read, and therefore difficult to comprehend. Staff examined the history of the statute, its structure, and syntax to determine whether applying contemporary statutory drafting standards could make the statute easier to read and understand.

Statute Considered

N.J.S. 54:4-3.6, entitled “Exemption of property of nonprofit organizations,” provides, in its entirety:

The following property shall be exempt from taxation under this chapter: all buildings actually used for colleges, schools, academies or seminaries, provided that if any portion of such buildings are leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, said portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually used for historical societies, associations or exhibitions, when owned by the State, county or any political subdivision thereof or when located on land owned by an educational institution which derives its primary support from State revenue; all buildings actually and exclusively used for public libraries, asylum or schools for adults and children with intellectual disabilities; all buildings used exclusively by any association or corporation formed for the purpose and

¹ N.J. STAT. ANN. § 54:4-3.6 (West 2023).

² *Id.*

³ *Id.*

⁴ N.J. STAT. ANN. § 1:12A-8c (mandating that the Commission “[r]eceive and consider suggestions from... members of the public... for the improvement and modification of the general and permanent statutory law of the state and to bring the law of this State... into harmony with modern conceptions and conditions...”).

actually engaged in the work of preventing cruelty to animals; all buildings actually and exclusively used and owned by volunteer first-aid squads, which squads are or shall be incorporated as associations not for pecuniary profit; all buildings actually used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women and children, provided that if any portion of a building used for that purpose is leased to profit-making organizations or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings actually used in the work of associations and corporations organized exclusively for religious purposes, including religious worship, or charitable purposes, provided that if any portion of a building used for that purpose is leased to a profit-making organization or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion shall be exempt from taxation, and provided further that if any portion of a building is used for a different exempt use by an exempt entity, that portion shall also be exempt from taxation; all buildings, other than those exempt from taxation pursuant to section 3 of P.L.2021, c. 17 (C.54:4-3.6j), actually used in the work of associations and corporations organized exclusively for hospital purposes, provided that if any portion of a building used for hospital purposes is leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt; all buildings owned or held by an association or corporation created for the purpose of holding the title to such buildings as are actually and exclusively used in the work of two or more associations or corporations organized exclusively for the moral and mental improvement of men, women and children; all buildings owned by a corporation created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and actually and exclusively used in the work of one or more associations or corporations organized exclusively for charitable or religious purposes, which associations or corporations may or may not pay rent for the use of the premises or the portions of the premises used by them; the buildings, not exceeding two, actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, together with the accessory buildings located on the same premises; the land whereon any of the buildings hereinbefore mentioned are erected, and which may be necessary for the fair enjoyment thereof, and which is devoted to the purposes above mentioned and to no other purpose and does not exceed five acres in extent; the furniture and personal property in said buildings if used in and devoted to the purposes above mentioned; all property owned and used by any nonprofit corporation in connection with its curriculum, work, care, treatment and study of men, women, or children with intellectual disabilities shall also be exempt from taxation, provided that such corporation conducts and maintains research or professional training facilities for the care and training of men, women, or children with intellectual disabilities;

provided, in case of all the foregoing, the buildings, or the lands on which they stand, or the associations, corporations or institutions using and occupying them as aforesaid, are not conducted for profit, except that the exemption of the buildings and lands used for charitable, benevolent or religious purposes shall extend to cases where the charitable, benevolent or religious work therein carried on is supported partly by fees and charges received from or on behalf of beneficiaries using or occupying the buildings; provided the building is wholly controlled by and the entire income therefrom is used for said charitable, benevolent or religious purposes; and any tract of land purchased pursuant to subsection (n) of section 21 of P.L.1971, c. 199 (C.40A:12-21), and located within a municipality, actually used for the cultivation and sale of fresh fruits and vegetables and owned by a duly incorporated nonprofit organization or association which includes among its principal purposes the cultivation and sale of fresh fruits and vegetables, other than a political, partisan, sectarian, denominational or religious organization or association. The foregoing exemption shall apply only where the association, corporation or institution claiming the exemption owns the property in question and is incorporated or organized under the laws of this State and authorized to carry out the purposes on account of which the exemption is claimed or where an educational institution, as provided herein, has leased said property to a historical society or association or to a corporation organized for such purposes and created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes.

As used in this section “hospital purposes” includes health care facilities for the elderly, such as nursing homes; residential health care facilities; assisted living residences; facilities with a Class C license pursuant to P.L.1979, c. 496 (C.55:13B-1 et al.), the “Rooming and Boarding House Act of 1979”; similar facilities that provide medical, nursing or personal care services to their residents; and that portion of the central administrative or service facility of a continuing care retirement community that is reasonably allocable as a health care facility for the elderly.

Background / Analysis

• Enactment and Amendments

In 1918, the New Jersey Legislature amended the Act for the assessment and collection of taxes (“Act”).⁵ In Chapter 236 of the Laws of 1918, the Legislature set forth fourteen categories of real and personal property (collectively “property”) that it determined should be exempt from taxation.⁶

⁵ L.1918, c. 236 p. 847 (An Act for the assessment and collection of taxes (Revision of 1918)).

⁶ *Id.* at p. 848-52 ((1) United States securities; (2) public property; (3) property used for military purposes; (4) property used by nonprofit organizations; (5) corporation stock; (6) burial grounds; (7) fire companies; (8) railroads and canals;

As originally enacted, the fourth and longest subsection of the Act contained a provision that exempted certain property, owned by specified nonprofit organizations, from taxation.⁷ To obtain this exemption, the Legislature required that a taxpayer meet a number of conditions precedent.

First, tax exemption was extended only to buildings that were used for:

[1] colleges, schools, academies, or seminaries... [2] public libraries, religious worship, or asylums or schools for feeble-minded or idiotic persons and children... [3] preventing cruelty to animals... [4] the moral and mental improvement of men, women, or children, or for religious, charitable or hospital purposes... [5] occupation by the officiating clergy....⁸

Next, the land on which the buildings were erected were not permitted to “exceed five acres in extent.”⁹ The Legislature also extended the tax exemption to the personal property found in the buildings of these association “if used in and devoted to the purposes” provide in the statute.¹⁰ In addition, the entities originally entitled to this tax exemption were prohibited from conducting their business for a profit.¹¹ Finally, the exemption statute applied “only where the association, corporation or institution claiming the exemption own[ed] the property in question and [was] incorporated... under the laws of this State....”¹²

The Legislature began to amend the Act shortly after its enactment. From 1919 to 1931, Section 203 was amended ten times,¹³ ultimately including seventeen exemptions.¹⁴ Following the revision of New Jersey’s statutes in 1937, the fourth subsection of the Act for the assessment and collection of taxes - tax exemptions for nonprofit organizations – was designated N.J.S. 54:4-3.6.¹⁵ The overarching purpose of N.J.S. 54:4-3.6 is the “encouragement of private sector work that will benefit mankind while lessening the burdens on the State.”¹⁶

(9) poll taxes for firemen, soldiers, and sailors; (10) mortgages; (11) property used for soldiers with disabilities; (12) household goods up to a certain value; (13) bank stock; and, (14) turnpike roads used by the public without payment of a toll.

⁷ L.1918, c. 236 § 203 p. 848.

⁸ *Id.* at p. 849.

⁹ *Id.*

¹⁰ *Id.* at p. 849-50.

¹¹ *Id.*

¹² *Id.*

¹³ L.1918, c. 236, § 203, p. 848, amended by L.1919, c. 47, § 1, p. 89; L.1920, c. 28, § 1, p. 52; L.1920, c. 296, § 1, p. 533; L.1921, c. 320, § 1, p. 892; L.1922, c. 276, § 1, p. 678 [1924 Suppl. § 208-66d(203)]; L.1925, c. 221, § 1, p. 537; L.1927, c. 338, § 1, p. 790; L.1929, c. 42, § 1, p. 74; L.1931, c. 372, § 1, p. 904.

¹⁴ L.1927, c. 338, pp. 790-95. *See* L.1920, c. 28, § 1 (adding metals in transit to property exempt from taxation); L.1925, c. 221, § 1, p. 542 (including personal property in storage in a warehouse as the sixteenth tax exempt property set forth in the statute); and L.1927, c. 338, § 1, p. 795 (exempting motor vehicles from tax assessments).

¹⁵ L.1941, c. 243, p. 663.

¹⁶ *Ctr. or Molecular Med. & Immunology v. Twp. of Belleville*, 357 N.J. Super. 41, 54 (App. Div. 2003); *1785 Swarthmore, LLC v. Twp. of Lakewood*, No. A-4701-13T4, 2015 WL 6473258, at *6 (N.J. Super. Ct. App. Div. Oct. 28, 2015).

From 1941 until 2011, N.J.S. 54:4-3.6 was modified an additional fourteen times.¹⁷ These amendments extended the tax exemption to additional nonprofit organizations, modified the limits of the exemption granted for certain organizations, updated statutory references, defined the term “hospital purposes,” and removed pejorative language from the statute.¹⁸

• *Structure and syntax*

In its current form, the nonprofit property exemptions and associated restrictions are set forth in the first of two paragraphs in N.J.S. 54:4-3.6. The statutory provision governing the tax exempt status of property owned by nonprofit organizations has been voluminous since its enactment in 1918.¹⁹ In the 100 years since its enactment, twenty-four amendments added to its length.²⁰

The first block paragraph of N.J.S. 54:4-3.6 spans two typewritten pages.²¹ It contains 957

¹⁷ **L.1941, c. 243, p. 663, § 1** (extending the exemption to buildings of first-aid squads); **L.1949, c. 85, p. 394, § 1** (extending the exemption to buildings of a corporation created under or otherwise subject to Title 15); **L.1960, c. 119, § 1** (extending the exemption to property owned by nonprofit corporations for the care of individuals with mental disabilities); **L.1962, c. 154, § 1** (amending the clause relating to parsonages by substituted “buildings, not exceeding 2” for “building” and inserting “together with the accessory buildings located on the same premises” in the clause); **L.1964, c. 42, § 1** (deleting the limitation “to an amount not to exceed \$25,000.00” on buildings on the parsonage’s premises); **L.1966, c. 318, § 1**, eff. Jan. 5, 1967 (inserting the phrase or when located on land owned by an educational institution which derives its primary support from State revenue” to define exempt types of historical societies, and adding a provision at the end of the section to exempt property leased to historical society, association or nonprofit corporation by an educational institution); **L.1977, c. 370, § 1** (inserting the phrase “provided that if any portion of such buildings are leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, said portion shall be subject to taxation and the remaining portion only shall be exempt” in proximity to the first portion of the second sentence”); **L.1983, c. 224, § 1**, eff. June 27, 1983 (replacing the phrase “for charitable or hospital purposes, or for one or more such purposes” found in the first sentence with “or charitable purposes, or for one or more such purposes; all buildings actually used in the work of associations and corporations organized exclusively for hospital purposes, provided that if any portion of building used for hospital purposes is leased to profit-making organizations otherwise used for purposes which are not themselves exempt from taxation, the portion shall be subject to taxation and the remaining portion only shall be exempt. . . .”); **L.1985, c. 395, § 1**, eff. Dec. 20, 1985 (replacing the language exempting property of corporations organized for moral and mental improvement with a reference to Title 15A of the New Jersey Statutes in two locations); **L.1993, c. 166, § 1** (adding a second paragraph that defines the term “hospital purposes”); **L.2001, c. 18, § 1**, eff. Jan. 29, 2001, retroactive to Sept. 30, 1999 (deleting “religious worship or” prior to “asylum or schools”, and “and exclusively” following “all buildings actually”; inserting the phrase “purposes, including religious worship,” following “exclusively for religious”; and inserting “provided that if any portion of a building used for that purpose is leased to a profit-making organization or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion shall be exempt from taxation, and provided further that if any portion of a building is used for a different exempt use by an exempt entity, that portion shall also be exempt from taxation” following the phrase “or charitable purposes”); **L.2010, c. 50, § 81**, eff. Nov. 14, 2010 (replacing the pejorative terms); **L.2011, c. 35, § 4**, eff. March 1, 2011, and **L.2011, c. 171, § 4**, eff. Jan. 5, 2012 (adding an exemption for land purchased pursuant N.J.S. 40A:12-21 and owned by a nonprofit organization and used for the cultivation and sale of fresh fruits or vegetables).

¹⁸ See *supra* note 16 and accompanying text.

¹⁹ Compare L.1918, c. 236 p. 847 (An Act for the assessment and collection of taxes (Revision of 1918)).

²⁰ See *supra* notes 13, 16 and accompanying text.

²¹ N.J. STAT. ANN. § 54:4-3.6 (West 2023).

words — in two sentences.²² The first sentence contains 861 words. The property to which the statute applies, and the requirements for application, are separated by sixteen semi-colons in that sentence.²³

Repetitive words in the statute add to its overall length; “all buildings,” for example, appears nine times to introduce the type of use that is required to obtain a tax exemption.²⁴ Intermingled among the list of exempt property types, in no discernable order, are the requirements and limitations imposed by the Legislature for the tax exemption to be granted.²⁵

The second sentence of this lengthy paragraph mandates that the entity “claiming the exemption owns the property in question and is incorporated or organized under the laws of this State and [is] authorized to carry out the purposes... of which the exemption is claimed...”²⁶

Finally, the second paragraph of N.J.S. 54:4-3.6 defines the term “hospital purposes,” which appears twice in the first paragraph.²⁷

Pending Bills

To this time, four bills involving N.J.S. 54:4-3.6 have been introduced in New Jersey’s 2022-2023 legislative session, none of which seek to amend the statute’s syntax and structure or clarify potentially confusing provisions.²⁸

Conclusion

Staff requests authorization to conduct additional research and outreach to determine whether it would be beneficial to address the syntax and structure of N.J.S. 54:4-3.6 to make it easier to read and understand.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* (limiting exemption to two parsonage buildings; providing that the buildings subject to exemption are not erected on land that does not exceed five acres; providing an exception to the nonprofit exemption for fees raised to support charitable, benevolent or religious organizations).

²⁶ *Id.* Alternatively, an educational institution may lease the property to a historical society subject to the provisions of Title 15 or Title 15A of the New Jersey Statutes.

²⁷ *Id.* L.1993, c. 166, § 1.

²⁸ S.B. 1641, 2022 Leg., 220th Sess. (N.J. 2022) (establishing tax-free business incubators at institutions of higher education) (identical to bill A.B. 2101, 2022 Leg., 220th Sess. (N.J. 2022)); S.B. 1394, 2022 Leg., 220th Sess. (N.J. 2022) (eliminating property tax exempt status of certain school facility housing); S.B. 455, 2022 Leg., 220th Sess. (N.J. 2022) (maintaining property tax exemption for certain nonprofit hospitals and their nursing homes and requiring these hospitals to pay community service contributions to host municipalities); and A.B. 1867, 2022 Leg., 220th Sess. (N.J. 2022) (exempting nonprofit vocational training schools from property tax).