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I. Constitutional Background

- A. Uniformity Requirement of State Constitution, Article 8, Sec. 1, par. 1(a) and par. 2
 - 1. Equality and fairness in classifying property.
 - 2. Same standard of value - Tax preferences have to be specifically provided by constitutional provision. Art. 8, Sec. 1, par. 4
 - 3. Limit upon Legislature to classify property.

B. Tax exemption statutes are strictly construed. Burden of proving entitlement to an exemption is on the party seeking it. N.J. Carpenters v. Borough of Kenilworth, 147 N.J. 171, 177-78 (1996); Princeton Univ. Press v. Borough of Princeton, 35 N.J. 209, 214 (1961).

II. Private Exemptions

- A. N.J.S.A. 54:4-3.6 - primary provision establishing exemption for various categories of property (religious, charitable, education, moral and mental improvement, hospital).
- B. N.J.S.A. 54:4-3.6a - exemption of property of nonprofit entity used for production of educational television and radio.
- C. N.J.S.A. 54:4-3.9 - exemption of burial grounds and vaults used or intended to be used as burial areas.

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- D. N.J.S.A. 54:4-3.10 - exemption of property of fire association, fireman's relief association and volunteer fire company and used exclusively for the purpose of the entity.
- E. N.J.S.A. 54:4-3.11 - exemption of all property used for railroad or canal purposes by a railroad or canal entity.
- F. N.J.S.A. 54:4-3.13 - exemption of property of an association or corporation used to maintain a public fire patrol or salvage corp to protect against fire damage.
- G. N.J.S.A. 54:4-3.15 - exemption of property used by crippled soldiers.
- H. N.J.S.A. 54:4-54:4-3.18 - exemption of turnpike property used by the public without tolls.
- I. N.J.S.A. 54:4-3.24 - exemption of property used by Y.M.C.A., et al.
- J. N.J.S.A. 54:4-3.25 - exemption of property of veterans' associations.
- K. N.J.S.A. 54:4-3.26 - exemption of property of nonprofit fraternal organizations.
- L. N.J.S.A. 54:4-3.27 - exemption of property of volunteer aid and relief organizations.
- M. N.J.S.A. 54:4-3.30 - exemption of dwellings of veterans suffering certain disabilities; surviving spouse's rights.

See Hennefeld v. Township of Montclair, 22 N.J. Tax 166 (Tax 2005) (Tax Court ruled that same-sex couple, one of whom was an honorably discharged disabled veteran, was entitled to a 100% disabled veteran's property tax exemption with respect to their residential property, upon registration as domestic partners under Domestic Partnership Act (DPA).)

Township of Dover v. Scuzo, 22 N.J. Tax 568 (Tax 2005) (Tax Court held that a disabled veteran's tax exemption and the veteran's property tax deduction, which both provided benefits for veterans who were honorably discharged from "active service in time of war," included active service for training purposes or service in the armed forces reserve during the Vietnam conflict.)

Township of Willingboro v. Redding, (Not Reported), 2006 WL 250379 (App. Div., January 31, 2007) (The Appellate Division affirmed the Tax Court's ruling that the plaintiff was entitled to a disabled veteran's property tax exemption. In doing so, the Appellate Division stated: "the duration of the veteran's presence in New Jersey is not a significant factor in determining his

domicile. The evidence indicated that defendant has been a long-term resident of the Township and that he had received the tax exemption for at least five years preceding the 2005 tax year. While he did not meet the initial deadline for filing the exemption, on appeal he satisfactorily demonstrated that he is a “citizen and resident” of the Township and that he has an unqualified intention to remain there indefinitely.”)

- N. N.J.S.A. 54:4-3.35 - exemption for residences of district supervisors of religious organizations.
- O. N.J.S.A. 54:4-3.48 - exemption of blast or radiation fallout shelter erected on residential property.
- P. N.J.S.A. 54:4-3.5 – exemption of property used for military purposes.
- Q. N.J.S.A. 54:4-3.52 - exemption of historic sites.
- R. N.J.S.A. 54:4-3.56 - exemption of equipment for abating or preventing pollution.
- S. N.J.S.A. 54:4-3.59 - exemption of improvement to water supply or sewerage disposal systems.
- T. N.J.S.A. 54:4-3.64 - land for conservation or recreation purposes owned by non-profit organization.
- U. N.J.S.A. 54:4-3.114 - exemption of property used in solar energy systems installed in any building. (Expired).
- V. N.J.S.A. 54:4-3.131 - exemption of property used in automatic fire suppression system.
- W. N.J.S.A. 54:4-3.138 - exemption of property of non-profit entity dedicated for a pet cemetery.
- X. N.J.S.A. 54:4-3.154 - exemptions from real property tax provided by municipal ordinance (environmental opportunity zones).
- Y. N.J.S.A. 54:4-3.160 - exemptions (health enterprise zone).
- Z. Deductions
 - 1. N.J.S.A. 54:4-8.41. Tax deduction for senior citizen or permanently and totally disabled person for dwelling house or tenant shareholder in cooperative or mutual housing corporation.
 - 2. N.J.S.A. 54:4-8.11. War veterans and surviving spouses; deductions

III. Public Exemptions

A. N.J.S.A. 54:4-3.3

1. State and federally-owned property. Ownership, not nature of property's use, is condition of tax exemption. If private use is involved, see "Leasehold Taxing Act" below.
2. Property must be owned by government entity as of the applicable assessing date. See City of Trenton v. Ewing Tp.--- N.J. Tax ----, 2006 WL 4071355 (Tax 2006) (holding that City was not eligible for exemption for certain tax year since it did not acquire property until after assessing date of pretax year).
3. Leasehold Taxing Act (N.J.S.A. 54:4-2.3 et seq.)

Leasehold Taxing Act results in taxing leasehold estate to lessee when leasing itself does not make real estate taxable. See also N.J.S.A. 54:4-1.10 which results in taxation to private party under a non-lease arrangement.

State v. Eatontown Borough, 366 N.J. Super. 626 (App. Div. 2004)

After state contracted with private for-profit entity to operate state-owned motor vehicle inspection stations, municipalities where stations were located revoked the tax-exempt status of the properties and issued added and/or added/omitted assessments for several covered tax years.

The Appellate Division held that municipalities could not assess, as against state, real estate taxes on tax-exempt real estate owned by state but leased or otherwise used and operated by private for-profit entity.

4. Municipal, county property.

- #### B. Property Owned or Used by State-Created Authorities - e.g. Turnpike Authority - N.J.S.A. 27:23-12 establishes exemption from property taxation for property acquired or used by the Authority for governmental purposes.

Township of Holmdel v. New Jersey Highway Authority, 388 N.J. Super. 36 (App. Div. 2006)

Township brought action against Highway Authority, seeking to impose local property tax on portions of arts center complex owned by authority and operated by private entities pursuant to leases. The Tax Court determined that portions of

center in dispute had governmental immunity from taxation. The Appellate Division, reversed and remanded.

On remand, the Tax Court concluded that arts center was not entitled to tax exemption, with exception of amphitheater facilities for certain year. Authority appealed.

Appellate Division, held that sufficient evidence supported tax court's finding that facilities were not operated as contemplated by the legislature, such that they did not qualify for immunity.

C. County Improvement Authorities – (N.J.S.A. 40:37A-85).

D. County and Municipal Water and Sewage Disposal Authorities - (N.J.S.A. 40:14B-63).

IV. N.J.S.A. 54:4-3.6 – Qualification for Exemption.

To obtain a property tax exemption under N.J.S.A. 54:4-3.6, the applicant must be: (1) organized exclusively for an exempt purpose; (2) the property must be actually and, in certain cases, exclusively used for the exempt purpose; and (3) the applicant must not operate or use its property for profit. See Paper Mill Playhouse v. Millburn Tp., 95 N.J. 503, 506 (1984).

A. Qualification as a "Non-Profit"

1. Non-profit “purposes” specified in N.J.S.A. 54:4-3.6.

Entity must be organized exclusively for an exempt purpose.

2. Entity must be (1) organized as a non-profit and (2) actually operated as non-profit

3. Organization must be "actually operated" as a non-profit. IRC 501(c)(3) is not determinative of non-profit status but can be evidence of “non-profit” status

4. Items to investigate to establish entity is "actually operated" as a non-profit:

a. What do organizational documents state? Does it "actually" operate that way? What happens to funds on dissolution? Do funds go to non-profit purposes?

- b. Does entity make money? If so, how is it spent? Toward non-profit purposes? Do surpluses, if any, go back into the maintenance, expansion and development of organization?
- c. Is entity in competition with private entities?
- d. Does it charge for its services? Are services provided below market? Are charges competitive with for profit?
- e. Is it in competition with non-profit entities?
- f. Does entity provide services government would have to provide if entity did not exist?
- g. Case Law discussing “non-profit” status

Paper Mill Playhouse, 95 N.J. 403 (1984). (In determining whether an entity operates on a not-for-profit basis, New Jersey Courts have adopted a "realistic common sense" approach to this prong and have avoided "mechanical centering on income and expense figures." Thus, the critical inquiry is not whether the organization actually makes a profit, but whether the activity is conducted for the purpose of making a profit. When undertaking such an analysis, it is instructive to trace cash flow. More specifically, if surplus inures to the benefit of individuals in the form of dividends or other similar distributions, the corporate purpose is to turn a profit. If, on the other hand, money is placed into an endowment fund or used to pay moderately priced salaries, the fact that the corporation may operate at a surplus is not relevant to obtaining an exemption under N.J.S.A. 54:4-3.6.)

Southern Jersey Family Medical Center, Inc. v. City of Pleasantville, 351 N.J.Super. 262 (App. Div. 2002), 176 N.J. 184 (2003). (Not all public grants paid to a non-profit corporation will bar a property tax exemption. Thus, government aid, which is generally not provided to a for-profit commercial enterprise, may support a taxpayer's position that it is exclusively engaged in charitable services.)

Essex Properties Urban Renewal Assoc., Inc. v. City of Newark, 20 N.J. Tax 360 (Tax 2002). (The mere furnishing of services to low income residents does not equate to offering free services.)

Job Haines Home For The Aged v. Township of Bloomfield, 19 N.J. Tax 408, 416 (Tax 2001). (A business is not conducted for the purpose of making a profit when revenue or income from investments exceeds the operating budget and is returned to the endowment fund.)

1711 Third Ave. Inc. v. Asbury Park City, 16 N.J. Tax 174 (1996). (Fact entity may operate at a profit or loss is not key - question is whether property is operated for charitable purposes or to make a profit. Look at financial statements; explain revenue use; look for below market charges for services/rents.)

Salt and Light Co., Inc. v. Mount Holly Tp., 15 N.J. Tax 274 (1995), aff'd. 16 N.J. Tax 40, cert. den. 148 N.J. 458. (Entity's providing of temporary shelter and services to homeless poor relieved government of burden; rents were below market; fee for service revenue from subsidies and tenant payments was partial; no eviction if inability to pay; organization's average daily cost to support homeless was below government's cost to support similar individuals.)

New Jersey Carpenters Apprentice Training and Educ. Fund v. Borough of Kenilworth, 147 N.J. 171 (1996) certif. denied, 117 S. Ct. 1845 (1997) (Training Center owned and operated by Fund was primarily for benefit of for-profit construction entity and thus not operating as a non-profit. Primary role was to provide employees for contractors and unions. Revenues had no relation to cost of providing education and revenue could not be used to provide education for any other industry.)

Roman Catholic Archdiocese of Newark v. East Orange City, 17 N.J. Tax 298 (1998), aff'd. 18 N.J. Tax 649 (App. Div. 2000). (Look to use of property to determine non-profit status, not use of funds generated by property. Investment or revenue raising activity of exempt organizations do not enjoy same exemptions from taxation as those activities which are devoted exclusively to the charitable, religious, or other exempt activities of the exempt organization.)

Abunda Life Church of Body, Mind & Spirit v. City of Asbury Park, 18 N.J. Tax 483 (App. Div. 1999). (Taxpayer has burden of proof to establish non-profit.)

Boys' Club of Clifton, Inc. v. Jefferson Township, 72 N.J. 389 (1977). (Even where a particular operation of a non-profit organization has produced a profit, the property tax exemption is not lost with respect to

land owned by non-profit organization where excess funds have been applied to carry out organization's beneficent policies.)

- h. Expert Accounting Testimony: Look to accounting principles: FASB lists the following factors:
 - a. Receipt of resources from providers who do not expect repayment or economic benefits proportionate to resources provided.
 - b. Operating purposes that are other than to provide goods or services at a profit.
 - c. Absence of defined ownership interests that can convey entitlement to a share of residual distribution of resources in event of liquidation.

B. Ownership and Use Requirement

Ownership

- 1. Full legal title to the property
 - a. City of Hoboken v. East German Annual Conference of M.E. Church, 19 N.J. Misc. 266 (1941). (A corporation engaged in benevolent purposes, which occupied building under a contract of purchase, was not entitled to have building exempted from taxation under provision granting exemption on behalf of property used for "religious or charitable purposes," since corporation's equitable title did not satisfy statutory requirement of ownership.)
 - b. Property must be owned on statutory assessing date of October 1 of pretax year.
- 2. Long-Term Lease
 - a. Center For Molecular Medicine and Immunology v. Township of Belleville, 357 N.J. Super. 41 (App. Div.2003). (Nonprofit entity's 115-year lease of county-owned property was "ownership" of property for purpose of statute exempting such property used for public purpose from local real estate taxes, where length of lease was not so short term that purpose of lease was to shelter property from taxation, county retained long-term control of property for benefits of its citizens, and entity expended millions of dollars on renovations--much of which was federal grant money--with expectation that property was exempt.)

3. Land (The land must be used for the exempt purposes to be entitled to an exemption).

In Jamouneau v. Division of Tax Appeals, 2 N.J. 325 (1949), a private party entered into a fifty-year agreement with Newark by which it leased tax exempt land and constructed a factory at its own cost. Upon construction, the factory was to become the property of the City. The Court determined that neither the land nor improvements were entitled to an exemption from taxation. The Court stated that "[t]he use was exclusively private and commercial; there was neither vestige of a present public use nor prospect of a future public use within the terms of the lease," and "the receipt of rentals from a private lessee does not transform a private use into a public use."

In Renaissance Plaza Associates, Ltd. Partnership v. Atlantic City, 18 N.J. Tax 342 (Tax 1998), the Casino Reinvestment Development Authority ("CRDA") leased land to a private entity on which that private entity constructed a retail shopping center pursuant to 99-year lease.

The Court denied CRDA's contention that the land was exempt. The Court stated, "[i]n this case, having legal title in the CRDA, subject to a ninety-nine-year lease, is a method for spreading the cost of the land to the user over a long period of time. Allowing the property in this matter to be exempt from taxation would be to impose on all of the other property owners in the City a greater tax burden, directly contrary to the purpose of the Act. Exempting the land from local property taxation in this case would have the anomalous result of assisting the residents of Atlantic City by the CRDA's investment and financing powers, while at the same time burdening them by diminishing the City's tax base. This could not have been the intention of the Legislature."

4. Exception to October 1 ownership (N.J.S.A. 54:4-3.6(b))
 - a. Owner of exempt property under N.J.S.A. 54:4-3.6 and 54:4-3.26 who acquires another property which is exempt under N.J.S.A. 54:4-3.3 through 54:4-4.4, upon application from the new owner, shall be allowed to continue exemption although it was not owned on October 1 of pretax year.

Example: Colleges, historical society, public library, hospitals, moral and mental improvement buildings, religious or charitable purpose buildings.

Use Requirement

1. Exempt Use Test

- a. Reasonable Necessity
 - i. Not just convenience;
 - ii. Integral part of operation of exempt organization and reasonably necessary for proper and efficient operation of exempt organization.
- b. Actual Use
 - i. Mere intention not sufficient.

Job Haines Home for Aged v. Township of Bloomfield, 19 N.J.Tax 408 (2001), affirmed, 20 N.J.Tax 137. (To obtain a property tax exemption for buildings actually used in the work of associations and corporations organized exclusively for exempt purpose, the taxpayer must show actual use as of the assessment date for a specified exempt purpose; mere intended or projected use is not enough to qualify for an exemption. Even where the character of a building under construction and its adoption to an exempt use are evident, a property tax exemption does not attach until actual use commences.)

See Grace & Peace Fellowship Church v. Cranford Twp., 4 N.J. Tax 391 (1982); Holy Cross Precious Zion Glorious Church of God, 2 N.J. Tax 352 (1981); Paper Mill Playhouse v. Millburn Twp., 7 N.J. Tax 78 (1984).

- 2. Exclusive Use – Note: check the particular part of N.J.S.A. 54:4-3.6 you are dealing with; “exclusive use” is not required for certain types of nonprofit organizations.

- a. "Principal" or "Primary" use must be exempt use
 - i. Occasional or incidental nonexempt use does not, by itself, void a property tax exemption.

See Ironbound Educational v. City of Newark, 220 N.J. Super. 346 (App. Div. 1987) (Holding that merely because a nonprofit association or corporation leases out a portion of its property does not necessarily mean that it is no longer exclusively used for one of the purposes enumerated in this section providing property tax exemption due to property owner's nonprofit status; if property being leased is not used for an enumerated purpose, then corporation or association loses its tax exempt status, but if property leased is used for one of the purposes, then lessor

corporation is entitled to maintain exemption and lessee shoulders tax burden).

3. Multi-Use

- a. 1985 Amendment to N.J.S.A. 54:4-3.6 (L. 1985, c. 395)
 - i. 1985 amendment allowed associations for moral and mental improvement of men, women, and children to receive a partial property tax exemption for buildings partially used for exempt purposes and partially used for non-exempt purposes or leased to profit-making tenants. Similar treatment has been provided to hospitals (L. 1983, c. 224) and educational institutions (L. 1977, c. 370)

Hillcrest Health Service Center v. Hackensack, 18 N.J. Tax 38 (Tax 1998). (Hackensack contended that only a small portion of the subject building was not used for hospital purposes. Since hospitals are among the users entitled to partial exemption for the portion of property actually used for exempt purposes, Hackensack's argument was that the portion of the building whose use is disputed is subject to taxation.)

- b. 2001 amendment to N.J.S.A. 54:4-3.6 (L. 2001, c. 18).
 - i. N.J.S.A. 54:4-3.6, was amended on January 29, 2001 to provide that a religious or charitable organization would not lose its exemption if a portion of a building was leased to another exempt entity with a different exempt use. This amendment overruled Roman Catholic Archdiocese of Newark v. East Orange, 17 N.J. Tax 298, aff'd, 18 N.J. Tax 649 (App. Div. 2000) where the Tax Court held that a religious corporation lost its exemption for a building leased to a board of education.

The 2001 amendment also provided that a religious or charitable organization may lease a portion of a building to a for-profit organization and still retain a partial exemption on the remaining portion of the building.

- ii. In Catholic Community Services v. City of Newark, 21 N.J. Tax 633 (Tax 2004), the Court was called upon to revisit the statutory exemption from taxation under N.J.S.A. 54:4-3.6, following the court's decision in Roman Catholic

Archdiocese of Newark v. City of East Orange, 17 N.J.Tax 298 (Tax 1998), aff'd, 18 N.J.Tax 649 (App. Div. 2000), and in light of the subsequent amendment of the statutory provision.

Plaintiff, the owner of the subject property which was previously exempt for religious purposes allowed a portion of its exempt property to be used as a post-office. The plaintiff contended that the subject property continued its exempt status under the statute's 2001 amendment, denoted as L. 2001, c. 18. The defendant countered that the plaintiff was not entitled to the statutory exemption since the property was being leased to a "tax-immune" and not a "tax-exempt" entity.

Ultimately, the Tax Court held that plaintiff as an exempt entity may permit the use of a portion of its exempt property by the Postal Service, an immune or exempt entity, for its postal service functions, without any impact upon the tax liability status of the subject property, for the tax years in question as a result of the 2001 amendments.

The 2001 amendment, as clarified by Catholic Community Services v. City of Newark, 21 N.J. Tax 633 (Tax 2004) clearly allows a charitable or religious tax exempt property to continue its exempt status even if a portion of that property is leased to a non-tax-exempt entity or an entity exempted for a different purpose.

Recently, the Appellate Division affirmed the Tax Court's ruling. Catholic Community Services, Inc. v. City of Newark, 23 N.J. Tax 57 (App. Div. 2006).

5. Non-Profit Use

- a. If any part of a building is used for profit, the entire building loses its exempt status, except for the following:
 - (i) Where a building property tax exempt as a college, school, academy or seminary is leased, in part, to a nonexempt profit-making organization, the leased portion of the building is subject to tax. The portion of the building used for college, school, academy or seminary purposes continues to be exempt.

Exception - A college, school, academy or seminary may lease out part of its property without losing even a portion of its tax exempt status if the lease arrangement meets these conditions:

1. Income derived from lease must be used for exempt purposes of educational organization;
 2. Income derived from lease cannot result from primarily profit-seeking transaction; must be of a de minimis nature;
 3. Lease cannot be more than four consecutive months in duration.
- (ii) Buildings use for hospital purposes may be leased, in part, to profit-making organizations, but the leased portions are taxable while the remainder of the buildings are exempt. Jersey Shore Medical Ctr. v. Neptune Tp., 14 N.J. Tax 49 (Tax 1994). (Hospital property need not be used exclusively for hospital purposes in order to qualify for exemption from local property tax; partial exemption is available for portion so used.)
- (iii) Buildings used for moral and mental improvement purposes may be leased to profit-making organizations; the leased portions are taxable and the remaining building exempt.
- (iv) Buildings used for charitable, religious or benevolent organization purposes may be leased to profit-making organizations; the leased portions are taxable and the remaining building exempt.

See N.J.S.A. 54:4-3.6 as amended by L. 2001, c. 18.

See Catholic Community Services v. City of Newark, 21 N.J. Tax 633 (Tax 2004)

What happens if 3.6 exempt entity derives income from fees and charges resulting from use of its property? Exemption may be granted if:

1. entire income is devoted to authorized purposes of the organization;
2. building is wholly controlled by 3.6 entity;
3. use is de minimis.

C. Date of Qualification

1. Statutory Assessing Date:
October 1 of pretax year
2. Taxable property purchased after October 1 by exempt organization:
No exemption granted until next following tax year.
3. Exempt property purchased after October 1 by exempt organization:
Exemption remains subject to two conditions being met:
 - a. Applicant and property meet all other requirements for exemption;
and
 - b. Subject property was exempt from taxation when acquired by
exempt application.

D. Initial and Further Statements

1. Initial Statement. Should be filed with assessor of taxing district where property located. N.J.S.A. 54:4-4.4. Filed under oath by taxpayer. Initial statement is supposed to give assessor factual and legal basis for exemption. Taxpayer should file initial statement on or before November 1 of pretax year. Assessor files duplicate of initial statement along with exempt property list on or before January 10 of tax year with county tax board.
2. What happens if initial statement is not filed?

New Jersey case law is clear that the filing of an initial statement pursuant to N.J.S.A. 54:4-4.4 is not a condition precedent to the allowance of an exemption under N.J.S.A. 54:4-3.6 and the failure to file an initial statement will not vitiate a claim for exemption. See Emmanuel Missionary Baptist Church v. Newark, 1 N.J. Tax 264 (Tax 1980); Atlantic County New Sch. Inc. v. Pleasantville, 2 N.J. Tax 192 (Tax 1981); Renaissance Plaza Associates, Ltd. Partnership v. Atlantic City, 18 N.J. Tax 342 (Tax 1998); See also West Orange Tp. v. Joseph Kushner Hebrew Academy, 13 N.J. Tax 53 (Tax 1993) (holding that failure to comply with N.J.S.A. 54:4-4.4 requiring an exempt organization to file a triennial statement with the assessor, was not a condition precedent to exemption under N.J.S.A. 54:4-3.6 and “the failure to file the triennial statement has no effect upon the claimant's entitlement to exemption”); See further Blair Academy v. Blairstown, 95 N.J. Super. 583, certif. denied, 50 N.J. 293 (1967) (holding that the failure of the municipal assessor to obtain the statements, which N.J.S.A. 54:4--4.4 makes it mandatory for him to obtain, should not deprive a

not-for-profit organization of the tax exemption to which it is entitled by law).

3. Further Statement. Should be filed with assessor no later than November 1 of every third succeeding year. Should show no change in use of property which would negate exemption. Failure to file further statement is not a condition precedent to continuation of exemption. Blair Academy v. Blairstown, 95 N.J. Super. 583 (App. Div. 1967).
 4. The assessor always has right to question entitlement to exemption - assessor can ask for proofs within range of relevancy and reasonableness at any time.
 5. N.J.S.A. 54:4-3.6(c). Governing body of municipality may by ordinance refund taxes paid on exempt property. May not pay interest. Must act within 3 years of application. Can use this to correct situations where entity failed to give assessor initial statement and/or information and property which otherwise qualified for exemption ended up on tax rolls.
 6. N.J.S.A. 54:3.6(b). Exempt property transferred to a non-profit continues to qualify for exemption in hands of new owner assuming new owner meets requirements. If transfer is after November 1, new owner cannot make a timely filing of initial statement. Late application is okay - no guidance as to how late it can be. If not by January 10, assessor may not have proper information to determine entitlement to exemption.
- E. Types of Entities - Exemption generally determined by organizational purpose, use, absence of profit, timely ownership and application.
1. Colleges, schools, academies and seminaries

All buildings actually used for colleges, schools, academies or seminaries are exempt, provided that if any portion is leased to profit-making organizations or otherwise used for purposes which are not themselves exempt, said portion shall be subject to taxation and the remaining portion only shall be exempt.

See Princeton University Press v. Borough of Princeton, 35 N.J. 209 (1961); New Jersey Carpenters Apprentice Training and Educ. Fund v. Borough of Kenilworth, 147 N.J. 171 (1996), certiorari denied, 520 U.S. 1241; Kimberley School v. Town of Montclair, 2 N.J. 28 (1949); Blair Academy v. Blairstown Tp., 95 N.J. Super. 583 (App. Div. 1967), certification denied, 50 N.J. 293.

2. Historical societies, associations and exhibitions

All buildings actually used for historical societies, associations and 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.

3. Public libraries, asylums or schools for feebleminded or idiotic persons and children

All building actually and exclusively used for public libraries, or asylum or schools for the feebleminded or idiotic persons and children are eligible for exemption.

Tappan Washington Memorial Corp. v. Margetts, 9 N.J.Super. 212 (App. Div. 1950) (While libraries and museums devoted to public use are not strictly places of instruction such as schools, they, nevertheless, serve important educational purposes and may be deemed to be "charities" within tax exemption statutes.)

Disabilities Resource Center/Atlantic And Cape May, Inc. v. City of Somers Point, 371 N.J.Super. 1 (App. Div.2004), (With respect to qualification for so-called "feeble-minded" property tax exemption, staff of group home engaged in conduct that would qualify as study of residents, where each resident had a individual rehabilitation plan setting forth substantial information relating to the individual's abilities and specific goals and objectives; study of each resident both as to his or her progress and as to the effectiveness of each training program was inevitable.)

4. Association for the Prevention of Cruelty to Animals

All buildings actually and exclusively used by any association or corporation formed for the purpose and actually engaged in the work of preventing cruelty to animals are eligible for exemption.

5. Volunteer first aid squads

All buildings actually and exclusively used and owned by volunteer first-aid squads which are incorporated as associations not for pecuniary profit.

6. Organizations devoted to moral and mental improvement

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.

Paper Mill Playhouse v. Millburn Tp., 95 N.J. 503 (1984). (To secure property tax exemption for property used by nonprofit corporation for moral and mental improvement of society, nonprofit corporation must show that it was organized exclusively for moral and mental improvement of men, women and children, property is actually and exclusively used for tax-exempt purpose and its operation and use is not conducted for profit.)

Chester Theatre Group of Black River Playhouse v. Borough of Chester, 115 N.J.Super. 360 (App. Div.1971). (Property of corporation organized to stimulate, perpetuate and develop interest in dramatic arts and to educate general public in arts was, for tax exemption purposes, actually and exclusively used in work of corporation organized exclusively for moral and mental improvement of men, women and children.)

1711 Third Ave., Inc. v. Asbury Park City, 16 N.J.Tax 174 (1996). (Corporation that owned property that housed mentally ill tenants was not organized exclusively for moral and mental improvement of men, women, and children, and thus property did not qualify for tax exemption on that ground; purpose clause in certificate of incorporation indicated that corporation was organized exclusively for charitable and/or educational purposes, and providing housing was a means of accomplishing those purposes but was not itself one of the corporation's purposes.)

Fountain House of New Jersey, Inc. v. Montague Tp., 13 N.J.Tax 387 (1993). (Taxpayer was not corporation conducted exclusively for accomplishment of moral improvement purpose, for purposes of charitable exemption from real property taxation, although taxpayer claimed that its exclusive purpose was to rehabilitate discharged mental patients by allowing them to maintain grounds and club house; taxpayer's activities at subject property led to conclusion that its purposes were maintaining property for use by many different groups, conducting farming activities, and leasing of bulk of acreage for use as state registered tree farm.)

City of Camden v. Camden Masonic Ass'n, 9 N.J.Tax 331 (1987), affirmed, 11 N.J.Tax 88. (For property to continue qualifying for benefits of tax exemption as buildings actually used in work of associations and corporations organized exclusively for moral and mental improvement of men, women, and children, on October 1 of each year buildings must be actually used for moral and mental improvement of men, women and children.)

International Schools Services, Inc. v. West Windsor Tp., 21 N.J.Tax 553 (2004), rev'd, 22 N.J. Tax 659 (App. Div. 2005) (Tax Court held that nonprofit corporation that was organized for the purpose of providing funds and

services to schools was not organized exclusively for the moral and mental improvement of men, women, and children, and thus, it was not entitled to a property tax exemption; the purpose of providing services and funds to other institutions, without more, was not a purpose which qualified for a property tax exemption.

The appellate division reversed and remanded the Tax Court's decision and held that in determining whether a non-profit organization's corporate documents demonstrate that it is organized "exclusively for the moral and mental improvement of men, women and children," for the purpose of claiming statutory exemption from local real estate taxes, information extrinsic to those documents may be considered if relevant to ascertaining the meaning of the documents.

New Jersey Ass'n of School Business Officials, Inc. v. Hamilton, 22 N.J. Tax 467 (Tax 2005). Tax Court held that plaintiff was not organized exclusively for the moral and mental improvement of men, women and children since nothing in plaintiff's organizational documents could be construed as providing moral and mental improvement directly to the general public. The Court held that the training provided by the plaintiff indirectly benefits school districts and the general public by producing school administrators who are better able to run a school district efficiently and in a cost-effective manner. The Court held that the moral and mental improvement exemption is limited to organizations which directly rather than indirectly seek to uplift the general public morally and mentally.

The Tax Court further concluded that, even if plaintiff's corporate purposes could be construed as being for the moral and mental improvement of the general public, plaintiff failed to establish which portion of the subject, if any, was actually used for those purposes, as opposed to activities unrelated to its educational mission.

7. Property used for religious or charitable purposes

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.

Community Access Unlimited Inc. v. City of Elizabeth, 21 N.J. Tax 604 (2003). (The determination of whether or not property is being used for a

charitable purpose depends on the facts and circumstances of each case; there is no precise definition of what constitutes a charitable activity. Multiple factors must be taken into consideration when making the determination as to an organization's charitable status, in order to qualify for a tax exemption, including but not limited to the organization's social services activities and source of funding.)

Catholic Charities of Diocese of Camden v. City of Pleasantville, 109 N.J. Super. 475 (App. Div. 1970), certification denied, 56 N.J. 474. (With respect to charitable tax exemption, exclusiveness is tested by organization's purpose and actual use of its property.)

Essex Properties Urban Renewal Associates, Inc. v. City of Newark, 20 N.J. Tax 360 (2002). (Taxpayer, a non-profit corporation that operated an apartment facility for disabled persons, was not entitled to property tax exemption; taxpayer failed to prove that its activity qualified as actual and exclusive use for charitable purpose within exempt purposes set forth statute governing exemption of property of nonprofit organizations, and taxpayer's qualification as non-profit charitable organization was not, in and of itself, enough to qualify taxpayer for property tax exemption.)

St. Luke's Village, Inc. v. Peapack & Gladstone Borough, 11 N.J. Tax 76 (1990). (Exemption from real property tax for property used for charitable purposes requires finding that use of property is exclusively charitable.)

Roman Catholic Archdiocese v. E. Orange, 18 N.J. Tax 649 (App. Div. 2000), use of former parish properties as warehouse for church documents and artifacts did not preclude exemption. Court would not examine quantum of use of religious properties to determine whether property qualified; property was actually used for religious use where Mass was held weekly.

Greek Orthodox Monastery of Saint Barbara v. Middletown Township, (Not Reported), App. Div., November 22, 2005, 2005 WL 3108456, (the Appellate Division affirmed the Tax Court's holding denying an application for exemption filed by a monastery where the monastery's stated purpose was "prayer and study and [to] maintain chaplaincies in hospitals and university.")

City of Newark v. Catholic Community Services, (Not Reported), App. Div. 2005 WL 2860395. The Appellate Division confirmed the well established principle "that in applying [the reasonably necessary standard], the Court has held that 'necessary' is not the same as 'absolutely indispensable.' When the issue is whether buildings are reasonably necessary for the tax exempt purpose, the use of each building should be evaluated in terms of how it serves the particular organization."

The Court also noted:

Since the City of Long Branch decision, courts have been more willing to consider uses that are complementary to or consistent with charitable or religious purposes.

8. Property used for hospital purposes

All buildings actually used in the work of associations and corporations organized exclusively for hospital purposes. If any portion of building used for hospital purposes is leased to a profit-making organization or is otherwise used for purposes that are not themselves exempt from tax, that portion of the building is subject to tax and remainder is exempt. Statute amended by L. 1993, c. 166, §1 adding closing paragraph defining "hospital purposes." See below.

"Exclusively" describes a full hospital operation. Entity must be integrated into hospital. See Intercare Health Sys. V. Cedar Grove Township, 11 N.J. Tax 423 (1990), aff'd, 12 N.J. Tax 273 (App. Div. 1990); Jersey Shore Medical Center v. Neptune, 14 N.J. Tax 49 (Tax Ct. 1994); Overlook Hosp. Ass'n v. City of Summit, 6 N.J. Tax 90 (1983), affirmed, 6 N.J. Tax 350. (Child care center was "reasonably necessary" for hospital purpose. Coffee shop was taxable, not "reasonably necessary" and not operated on non-profit basis. Parking garage was reasonably necessary to hospital operation, entitling it to real property tax exemption).

"Organization" deals with a hospital's organizational documents. Mega Care, Inc. v. Union Tp., 15 N.J. Tax 566 (1996). (Property owned by nursing home corporation which was affiliated with hospital was not entitled to exemption as property used in work of corporation organized exclusively for hospital purposes where nursing home's certificate of incorporation did not specifically limit its activities to those conducted in support of and integrated with hospital and did not identify particular hospital.)

"Hospital purpose" includes nursing homes, residential health care facilities, assisted living residences, class C rooming and boarding house. Also, included are similar facilities that provide medical, nursing or personal care services to their residents and that portion of central administrative or service facility of a continuing care retirement community that is reasonably allocable as a health care facility. (L. 1993, c. 166, §1).

Health care facility owned and operated by an HMO does not fit definition of "hospital." Does not offer 24-hour continuous bed care and refers patients to hospitals for care it cannot provide. New Brunswick v. Rutgers Community Health Plan, Inc., 7 N.J. Tax 491 (1985).

Staff residences. Summit v. Overlook Hosp. Assn., 4 N.J. Tax 183 (Tax 1982), aff'd, 6 N.J. Tax 438 (App. Div. 1984); Perth Amboy General Hospital v. Perth Amboy, 176 N.J. Super. 307 (App. Div. 1980).

Assisted living facility - needs to be operated as a non-profit. What are fees being charged? Are they competitive with for-profit? Do patients stay if funds run out?

Health club facility owned and run by hospital located in hospital. Hillcrest v. Hackensack City, 18 N.J. Tax 38 (Tax Ct. 1998) seems to question entitlement to exemption. May turn on if there is non-hospital use of facility.

Hunterdon Medical Center v. Readington Township, 22 N.J. Tax 302 (Tax 2005).² Hunterdon Medical Center (“HMC”), a 176 bed community hospital, a not-for-profit corporation established under Title 15A:1-1 et. seq. of the Revised Statutes of New Jersey, and a tax-exempt non-profit organization under 501(c)(3) of the Internal Revenue Code sought an exemption pursuant to N.J.S.A. 54:4-3.6 on a portion of its property in Readington Township.

The 26,055 square foot subject building contained a Health and Wellness Center, an area devoted to Physical Therapy, an area devoted to Cardiopulmonary Rehabilitation, and a hospital-owned pediatric practice.

Organization

The Tax Court held that a “sensible and reasonable” reading of HMC’s organizational documents showed that HMC was organized exclusively for hospital purposes.

Not-For-Profit-Purpose

The Court determined that HMC was “in general, . . . not operated for profit” as established by HMC’s organizational documents. The Court further determined that the Health and Wellness Center, the physical therapy services, and the cardiopulmonary rehab services within the subject building were not operated on a for-profit-basis. With respect to the hospital owned and operated pediatric practice, the Tax Court determined that employment agreements between HMC and its physicians indicated that it was run on a “for-profit” basis.

Use

1. New Test (termed by the Court as the “Analytical Framework”)

The Tax Court adopted its own test to determine whether the specific functions of the subject building were used for hospital purposes pursuant to

² This case is currently pending before the Appellate Division.

N.J.S.A. 54:4-3.6. The three pronged test with two “additional” factors was presented as follows:

- b. Nature and extent of integration.
- c. The extent to which the activity being conducted in the facility is under the control or supervision of the hospital medical staff.
- d. Whether the facility serves primarily hospital patients or primarily members of the general public.
- e. Additional Factors to consider:
 - i. The extent to which the hospital facility competes with commercial or privately-owned facilities in the area.
 - ii. Whether an exemption can be granted in proportion to the percentage of use by the hospital patients of a specific facility within the building. (“Predominant Use” standard).

Health and Wellness

The Tax Court determined that the Health and Wellness Center did not meet the test because of the Court’s perceived “lack of integration.” The Court further determined the “vast majority of the members at the Wellness Center” were not inpatients or outpatients of the hospital.

Physical Therapy

The Tax Court determined that none of the three prongs had been satisfied. Thus, that portion of the subject building was not entitled to an exemption.

Pediatric Practice

The Court determined that the first two prongs were satisfied. However, the Court determined that the practice “primarily served members of the public as distinguished from Hospital patients” and, therefore, failed the third prong of the test. The Court further determined that the pediatric practice was in “direct competition” with private pediatric practices.

Cardiopulmonary Rehabilitation

With respect to the area of the subject building devoted solely to cardiopulmonary rehabilitation, the Tax Court determined that it met all elements of the “analytical framework” and was exempt from taxation pursuant to N.J.S.A. 54:4-3.6.

9. Parsonages and accessory buildings

Buildings, not in excess of two, actually occupied as a parsonage by the officiating clergyman of any religious corporation as well as the accessory buildings located on the same premises. Land must be exclusively devoted to use of parsonage, cannot exceed 5 acres, and only that portion necessary for fair enjoyment of buildings is entitled to exemption.

Parsonage must be owned by religious entity. Ehrlich v. Passaic City, 15 N.J. Tax 561 (1995). Entity can have up to 2 parsonages but both cannot be in same town. Deal Yeshiva Inc. v. Deal Borough, 16 N.J. Tax 599 (1997) What constitutes a congregation? Who is an "officiating clergyman"? What is a "parsonage"? Goodwill Home and Missions, Inc. v. Garwood Bor., 281 N.J. Super. 596 (App. Div. 1995), appeal dismissed 143 N.J. 317. (Religious congregation due to its fixed meeting place and its activities at regular intervals. Although it also had "charitable" characteristics, Goodwill was a religious organization) Cresskill v. Northern Val. Evangelical Church, 125 N.J. Super. 585 (A.D. 1973); Int'l. Missions, Inc. v. Bor. of Lincoln Park, 87 N.J. Super. 170 (A.D. 1965); St. Matthew's Lutheran Church v. Div. of Tax Appeals, 18 N.J. Super. 552 (App. Div. 1952). (A congregation signifies an assemblage or union of persons in society to worship their God publicly in such manner as they deem most acceptable to Him, at some stated place and at regular intervals). Shrine of Our Lady of Fatima v. Mantua Tp., 12 N.J. Tax 392 (Tax Ct. 1992). (In denying parsonage exemption, found religious services only conducted two days per month and parsonage used for personal convenience of church deacon.) Friends of Ahi Ezer Congregation, Inc. v. Long Branch City, 16 N.J. Tax 591 (1997) (Rabbi was not "officiating clergyman" of synagogue. He did not preside over service, present sermon or have any authority. Another rabbi had responsibility. Look at extent of his duties.) Chester Borough v. World Challenge, Inc. 14 N.J. Tax 20 (Tax 1994) (No parsonage exemption where church did not maintain established church in N.J. and occupant of parsonage did not conduct religious worship in N.J.)

Temple Emanu-El v. Englewood City, 21 N.J. Tax 462 (2004). (Purposes of the parsonage property tax exemption are to relieve congregations of a portion of the economic burden of supporting their clergy and to facilitate the convenient location of parsonages. Where a "retired" clergy individual continues to share in the officiating functions, the parsonage property tax exemption does not require that the occupancy be conditioned on the performance of those functions.)

City of Long Branch v. Ohel Yaacob Congregation, 21 N.J. Tax 268 (App. Div. 2003). (Residential property used by religious congregation to house visiting clergy, but that did not qualify for parsonage exemption, qualified for exemption from property tax as property used in the work of a religious organization, as property was reasonably necessary for congregation's operation; additional clergy were needed in summer when congregation's membership expanded substantially, summer membership provided majority of financial support for congregation, and, because of religious restrictions on travel by clergy on the sabbath and religious holidays, it was necessary for congregation to supply housing in close proximity to synagogue.)

Congregation Ahavath Torah v. Englewood City, 21 N.J. Tax 318 (2004). (Cantor for Jewish congregation was "officiating clergy" and thus congregation could claim property tax Parsonage Exemption for residence

used by cantor, despite other exemption for rabbi's residence, where cantor had permanent position that included conduct of religious services at congregation's synagogue on a regular basis, cantor was important in congregation's worship services, cantor had role at weddings and funerals, and lay members of congregation were not permitted to perform a duty or responsibility of the cantor without the cantor's consent.)

Friends of Ahi Ezer Congregation, Inc. v. Long Branch City, 16 N.J. Tax 591 (1997). (Nursing home was not synagogue and, thus, rabbi's services and activities at nursing home did not render him officiating clergyman of that institution for purposes of determining if rabbi's residence was entitled to parsonage exemption, even though religious services were conducted at nursing home, as nursing home was not set apart for public worship.)

10. Land

Land on which buildings of nonprofit organizations are erected that may be necessary for fair enjoyment of buildings, and that is devoted to exempt purpose and no other may be exempt. Cannot be excess of five acres per improvement.

Does assessor have to exempt five acres per improvement?

If multiple buildings, each should be separate, stand alone building to exempt 5 acres/building.

Land should be "reasonably necessary" to accomplish purpose of organization putting property to exempt use.

Parking Lots

City of Hackensack v. Hackensack Medical Center, 9 N.J. Tax 460 (1988), aff'd, 228 N.J. Super. 310 (App. Div. 1988) (Parking lot on which only a guard house erected several blocks from hospital it served not exempt); Congregation Ban's Israel v. Millburn, 35 N.J. Super. 67 (App. Div. 1955) (parking lot across street from house of worship was exempt); Planned Parenthood v. Hackensack City, 12 N.J. Tax 598, aff'd, 14 N.J. Tax 171 (App. Div. 1993) (parking lot parcel across street exempt).

F. Certificates of Incorporation - what needs to be in them?

1. The organization must be incorporated or otherwise organized under the laws of New Jersey or any other state, and authorized to carry out the purposes for which exemption is claimed. Once a corporation is

authorized to operate in this State, even though not incorporated under New Jersey law, it is considered to have met the corporation/organizational criteria for exemption.

See WHYY, Inc. v. Borough of Glassboro, et al, 91 N.J. Super. 269 (1966), 50 N.J. 6 (1967), 390 U.S. 979 (1968); Memorandum Opinion t Samuel Temkin, Superintendent, Local Property and Public Utility from DAG Harry Haushalter, June 16, 1983.

Issues for Certificate:

- a. Is the corporation a not-for-profit corporation?
- b. Does the general purposes clause show that it is aimed at a class of citizens needing special benefit?
- c. Public benefit v. private charity.
- d. No private individual has proprietary interest.
- e. In dissolution, do remaining assets go to an exempt organization?
- f. Do bylaws provide that membership is independent and not owned by private interests?

G. Added, Omitted and Partial assessments

1. Added assessment

Schizophrenia Foundation of N.J. v. Montgomery Tp., 6 N.J. Tax 439 (App. Div. 1984) (Use of property as of completion date is determinative of exemption claim made with respect to added assessment.)

2. Omitted Assessment

City of Camden v. Camden Masonic Ass'n., 9 N.J. Tax 331 (1987), aff'd. 11 N.J. Tax 88 (1988) (Omitted assessment appropriate where building not being used and could not be used for exempt purpose in immediate future and it probably had not been used on assessment dates for past 2 years.)

3. Partial assessment

Hillcrest v. Hackensack City, 18 N.J. Tax 38 (Tax Ct. 1998). (Partial assessment on improvement being constructed is permitted. Property tax exemption available to new building does not attach until the building actually used.)

Moral of story: Addeds are defeated if property eventually is entitled to exemption; Partials are permitted even if property is eventually entitled to exemption.

V. Municipal Property - What happens if non-municipal use?

A. Municipal Property

1. Must be used for "public purpose"

Public purpose is broadly defined. See Hanover Tp. v. Town of Morristown, 4 N.J. Super. 22 (1949)

2. Lease or rental of municipal property

Use to which property is put is key - must be public purpose. City of Newark v. Essex Cty. Tax Bd., 155 N.J. Super. 586 (A.D. 1978); Jamonneau v. Division of Tax Appeals, 2 N.J. 325 (1949). Land owned by municipality which is leased to a non-tax exempt entity and not used for public purposes should be assessed and taxed regardless of the provisions in the lease which determine whether taxes are to be paid by the municipal lessor or tenant. Atty. Gen. F.O. 1961, No. 25.

Essex County v. City of East Orange, 214 N.J. Super. 568 (App. Div.1987), certification denied, 107 N.J. 120. (Under statutory provision for exemption of county-owned property, there was no authority for apportionment of exemption for property which was leased partly to private entities.)

Center for Molecular Medicine and Immunology v. Township of Belleville, 19 N.J. Tax 342 (2001), reversed and remanded, 357 N.J. Super. 41. (A lease between a county and a private entity does not remove governmental immunity from local property tax as long as the private entity uses the property as it was intended to be used under the governing provisions and in the fashion the tax immunity was intended.)

3. Private use of municipal property - must be taxed

4. Telecommunication Towers

Emmis Broadcasting of N.Y. v. East Rutherford, 14 N.J. Tax 524 (Tax Ct. 1995) aff'd 16 N.J. Tax 29 (App. Div.), certif. denied, 147 N.J. 263 (1996). Radio broadcast towers not subject to real property tax. Towers in this case themselves broadcast and are not used for the purpose of supporting an antenna. See NYT Cable TV v. Audubon 230 N.J. Super 530 (App. Div.) certif. denied 117 N.J. 646 (1989) for distinction. In Emmis, towers were machinery, apparatus or equipment. They were used to actually broadcast. Concrete bases used to support radio towers were not exempt under Business Retention Act. They did not pass (a) part of test.

- a. Non-public use of property.

Lease to private entity for non-public use negates exemption.

Therefore lease of municipal property to telecommunication company for tower can cause land to be taxed.

- b. Is tower real property or tangible personal property?

N.J.S.A. 54:4-1 - Business Retention Act, L. 1992, c.24 §3. If tower does not broadcast, tower may be real property under part (b) of Business Retention Act. Tower may be a structure that supports or houses equipment or may be intent is to have tower permanently affixed to land so it is real property under (a) part of Business Retention Act.

- c. If tower is taxable, is it done by a cost approach or income approach?

Cost approach values unique, special purpose nature of tower.

Income approach values business being conducted and may value more than real estate.

- d. Does land have residual value?

- e. What about lease of property of tax exempt 3.6 entity for telecommunication tower? Is exemption lost? Remember "exclusive use" requirement of some 3.6 entities.

VI. Leasing of Exempt Property – Status of Tax Exemption?

- A. Leasehold Taxing Act (N.J.S.A. 54:4-2.3)

- B. Leasing by nonprofit to nonprofit entity – it is important to focus on exemption statute and exempt entity classification. See page 14 and following of outline.

West Orange Tp. v. Kushner Hebrew Academy, 13 N.J. Tax 48 Tax 1993)

- C. Leasing by nonprofit to profit entity

City of Atlantic City v. Atlantic County, 193 N.J.Super. 583 (App. Div.1984). (Where 53% of property owned by county was leased to county college for educational purposes, and 47% was temporarily subleased to electric company, only that portion leased to college was exempt from local property tax, and fact that property was leased, rather than held by college in fee, did not negate partial tax relief.)

1. Listed as property of lessee rather than owner;
2. Assessed as taxable real estate as of effective date of lease;
3. Lease beginning during year entered on next added assessment list after effective lease date (pro rata for year).

D. Exceptions - Properties not subject to Leasehold Taxing Act:

1. Property leased to or by any interstate agency under an interstate compact between State of New Jersey and any other state. N.J.S.A. 54:4-2.12(1);
2. Leasehold estates and the appurtenances or tenancies of any person heretofore or hereafter renting or leasing real property owned by any municipality whether acquired by said municipality for public use pursuant to law or in any other manner or for any other lawful purpose whatsoever N.J.S.A. 54:4-2.12(2);
3. Leasehold estates or tenancies of any person renting or leasing for residential use any house or apartment constructed or renovated under the "Local Housing Authorities Law" (P.L.1938, c. 19, as amended), "Housing Co-operation Law" (P.L.1938, c. 20), "Redevelopment Companies Law" (P.L.1944, c. 169), "Urban Redevelopment Law" (P.L.1946, c. 52), "Public Housing Law" (P.L.1933, c. 78), or any law of this State or of the United States granting, requiring, or authorizing tax assistance or total or partial tax exemption to real estate or improvements thereon used in connection with any public housing project or any veterans' housing project. N.J.S.A. 54:4-2.12(3)