

The seal of the Episcopal Diocese of Newark is a large, faint watermark in the background. It features a central shield with a blue cross and a red eagle. Above the shield is a crown. The shield is surrounded by a circular border containing the Latin text "SIGILLUM DIOECESIS NEVARKENSIS IN NOVA CAESAREA" and the date "MDCCCLXXXIV".

Episcopal Diocese of Newark

Legal Issues (Some) for Churches

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Legal Issues (Some) for Churches

Rule I

- Churches are legal entities just like businesses, corporations, etc.
- Just because you are a Church does not mean that the Law (and there are many) does not apply to you

I. Property Use Issues

- Use of Property As a Source of Revenue
- Use of Property As Part of Your Mission
- Use of Property As Part of Fellowship
 - Have an Agreement
 - Lease
 - Use Agreement
 - Something That Spells Out What Everyone Is Agreeing To
 - What Happens When Things Go Wrong

Property Use Issues (continued)

- Agreements should specify
 - Who
 - Gets to use the property:
 - What group
 - Who is responsible
 - Who gets the keys
 - Who cleans up
 - Where
 - What part of the church

Property Use Issues (continued)

- Permanent or Infrequent
- Beware of Usage and Time Creep
- What:
 - Of Your Equipment If Any Are They Going To Use
 - Kitchen, Sanctuary, Other Areas
- When:
 - Set Time Limits
 - Date and Time

Property Use Issues (continued)

- Money
 - When Do They Pay?
 - Before the Event
 - What Happens If They Don't?
 - What Are They Paying For?
 - Security/Cleaning Deposit
- Use of Church Name
 - Signs
 - On the Property
 - Around Town
 - In Newspapers

Property Use Issues (continued)

- Publicity
- Insurance/Indemnity
 - Certificate/Added Insurance (required)

II. Property Taxes

Problem: Churches can be subject to property taxation depending upon the situation.

- 54:4-3.6 Tax exempt property. The following property shall be exempt from taxation under this chapter:
- 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;

Property Taxes (continued)

- 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;

Property Taxes (continued)

Issue is USE & Not Ownership

- Special Rules for Rectories
- Profit vs. not-for profit rentals
 - If you rent to a not-for-profit then the exemption remains
 - Partial vs. total rentals – proportionate taxation

Property Taxes (continued)

- Maintaining your Tax Exemption
 - Every Three Year Renewal
 - Get the Forms

INITIAL STATEMENT OF ORGANIZATION CLAIMING PROPERTY TAX EXEMPTION
(N.J.S.A. 54:4-4.4; & 54:4-3.5; 54:4-3.6; 54:4-3.6a; 54:4-3.9; 54:4-3.10; 54:4-3.13; 54:4-3.15; 54:4-3.24; 54:4-3.25; 54:4-3.26; 54:4-3.27; 54:4-3.35; 54:4-3.52; 54:4-3.64; & N.J.S.A. 8A:5-10 et al)

IMPORTANT File this claim in **duplicate** with **municipal assessor** of taxing district where property is located by **November 1 of the pretax year**. Separate claims must be filed for each parcel. Every **third year as of November 1** a Further Statement updating the organization's status must be filed with the assessor. See instructions.

1. CLAIMANT ORGANIZATION NAME

2. ORGANIZATION ADDRESS (Corporate Headquarters)

3. CONTACT INDIVIDUAL, REPRESENTATIVE, OFFICER for ORGANIZATION

Name	Phone #	E-Mail Address	Fax #
Postal Mailing Address			

Property Taxes (continued)

4. INCORPORATION

A. Domestic-Incorporated or organized in New Jersey on (month/day/year) _____ under statute cite # _____

B. Foreign-Incorporated or organized in the state of _____ on (month/day/year) _____

Registered with New Jersey Secretary of State on (month/day/year) _____

5. ORGANIZATION'S PURPOSES (Explain organization's purposes. **Attach** Certificate of Incorporation, Articles of Association, Charter/Mission Statement, and Constitution & By-laws.)

6. NEW JERSEY STATUTE UNDER WHICH PROPERTY TAX EXEMPTION IS CLAIMED

State New Jersey statute cite # and brief description (see list in instructions)

7. PROPERTY LOCATION IN NEW JERSEY

Street Address	City	Zip Code		
County _____	Municipality _____	Block # _____	Lot # _____	Qualifier _____

8. PROPERTY OWNERSHIP

Grantor (Seller) _____ Grantee (Buyer) _____

Deed Date (Month/Day/Year) _____ Deed Book _____ Page _____

County of recording _____ Recording Date _____

Owner of legal title Yes No If no, describe ownership arrangement. **Attach** ownership document.

Property Taxes (continued)

9. PROPERTY'S PHYSICAL DESCRIPTION

Total Land Area (Sq. Ft./Acreage) _____ Land is Vacant or Improved with buildings and/or structures? (Check one)

If improved, state number of buildings and/or structures _____

State each building size in square feet _____

Fully describe each building/structure type _____

State \$ amount for which improvements are insured _____

10. PROPERTY'S ACTUAL USE or ACTUAL/EXCLUSIVE USE

If vacant land, state uses and area size for each use. If not used, state none. _____

If improved with buildings and/or structures, state uses of each. _____

Are land and/or buildings used for stated purposes of claimant organization per section 5 above?

No Yes If yes, Entirely or Partially? Explain if used for other than claimant organization's purposes or if used or occupied by other than the claimant organization _____

Are land and/or buildings leased or rented by other than claimant organization? No Yes

If yes, Entirely or Partially? Percentage of property leased ____% **Attach** copy lease/rental agreement.

Explain rental uses. _____

State tenant names and rental income received. _____

Property Taxes (continued)

INFORMATION/INSTRUCTIONS

GENERAL ELIGIBILITY: Real property tax exemption is determined by:

1. the organization's purpose
2. the property's use as of October 1 of the pretax year
3. the absence, presence, degree and use of profits
4. the property's ownership as of October 1 of the pretax year
5. incorporation of the organization or its authorization to operate in New Jersey
6. land area or existing buildings
7. timely application as of November 1 of the pretax year

Because eligibility criteria varies from statute to statute, specific questions regarding your organization's exemption requirements should be directed to the municipal assessor in the taxing district where the property is located.

LAND & BUILDINGS: Land and building criteria vary depending on statute under which exemption is claimed. Although there are some exceptions; such as cemetery and conservation land, vacant land **IS NOT** generally exempt even when owned by an otherwise exempt organization. In most cases, in the absence of buildings used for one of the exempt purposes specified by statute, independent vacant land is not exempt. Also most statutes impose acreage limits on exemptable land area. A common limit is five acres per exempt building. Please review applicable statute.

OWNERSHIP: Property must be owned by the organization claiming exemption as of October 1 of the pretax year. For example, possession of legal title as of October 1, 2000 would fulfill the ownership prerequisite for exemption for tax year 2001. In most cases, full legal title must be acquired; equitable title is insufficient. However, certain statutes by specific provision allow for equitable or beneficial ownership interest. Please review the statute under which you are requesting exemption with respect to eligible ownership.

Property Taxes (continued)

EXEMPT USE TEST-REASONABLE NECESSITY: Use must be a qualifying exempt use. Property's use must be an integral part of the exempt organization's operations, not just a convenience, and reasonably necessary for the proper and efficient fulfillment of the organization's exempt purpose.

ACTUAL USE: Property must be actually used for a permitted or qualifying use pursuant to the statute under which exemption is sought. Future use; for-profit use; and private use are ineligible. Occasional, incidental nonexempt use does not in itself invalidate exemption.

PARTIAL (PRORATED) USE v. EXCLUSIVE USE: Whether a property must be used **solely or exclusively** for its exempt purpose or if a proration is permitted depends upon the statutory language specific to that organization. For instance, schools, hospitals, religious and charitable organizations allow prorated exempt/taxable use while volunteer first-aid squads and associations to prevent cruelty to animals must meet the exclusive or singular use criteria. Please review applicable statute.

NONPROFIT STATUS: Federal 501(c)(3) status is not controlling with respect to New Jersey property tax exemptions. A monetary surplus, rather than a loss, does not necessarily indicate a for-profit, commercial operation. Provided moneys go back into operation of exempt organization, exemption is permissible. However, a for-profit motive, as evidenced by the facts, invalidates exemption, i.e., is the organization's structure, financial agreements, tuitions, fees set etc. with the intent to make a profit.

Property Taxes (continued)

DOCUMENTARY PROOFS: N.J.S.A. 54:4-4.4 provides, Each assessor may at any time inquire into a claimant's right to continue an exemption and for that purpose he may require the submission of such documentation as he considers necessary to determine the claimant's continuing right to exemption. Claimants may be asked to provide: proof of income via audited financial statements, tax return copies; proof of ownership via deed; proof of use via lease/rental agreements, itinerary/calendar of events & organization's promotional literature; proof of organization's purpose via certificate of incorporation, articles of association, charter or mission statement, and constitution and by-laws.

Burden of proof is on exemption claimant; it is not the responsibility of the assessor to seek out claimant or to bring claimant into exemption compliance.

STATUTES: Veterans organizations	N.J.S.A.54:4-3.5 & 54:4-3.25 & 54:4-3.15
Educational, religious, charitable organizations	N.J.S.A.54:4-3.6
Firefighter organizations	N.J.S.A.54:4-3.10 & 54:4-3.13
Burial grounds & cemeteries	N.J.S.A.54:4-3.9 & N.J.S.A.8A:5-10
Youth organizations	N.J.S.A.54:4-3.24
Fraternal organizations	N.J.S.A.54:4-3.26
Disaster relief organizations	N.J.S.A.54:4-3.27
District Supervisor Religious Organization	N.J.S.A.54:4-3.35

Property Taxes (cont'd.)

- Deadlines

NJ PROPERTY TAX DEADLINES

Jurisdictional Rules (Where must I file):

Any assessment at \$1M or LESS - Must begin at the county board in which the property is located.

Any assessment at MORE than \$1M — can begin immediately at the Tax Court or may be filed at the county board in which the property is located.

Deadlines For Standard Property Tax Appeals:

A. Deadline for All Counties Except B. Below:

April 1 for any regular jurisdiction

May 1 for any reassessment or revaluation jurisdiction.

B. Deadline for properties in Burlington, Gloucester, and Monmouth Counties is January 15 at the county board. If property qualifies for direct appeal to Tax Court, then April 1 (no May 1 deadline for these counties).

Deadlines for Appeals of an Added or Omitted Assessment:

A. These appeals are due December 1 of the year the added or omitted assessment is received.

Property Tax Issues - Solutions

- Ask a Lawyer (seriously)

(Who Actually Knows About Property Taxes)

- Tax Clauses in Leases Making Tenant Responsible for Any Tax Payments or Increased in Costs
- Understand the consequences of Leasing/Renting Property
- Standing Committee Approval

III. Insurance

Problems:

- Finding the Policy
- Limits & Self Insured Retentions (Deductible)
 - Saving Money vs. Adequate Coverage
- What is Covered?
 - Directors/Officers
 - Clergy Malpractice
 - Sexual Abuse/Adult Abuse
 - Fidelity Bonds-Coverage for Theft
 - Replacement Valve

Insurance – Solutions

- Have a policy that is specifically designed for Houses of Worship
 - Clergy Malpractice
 - Counseling Issues
 - Day Care
- Review annually-limits, coverage, SIR

Insurance – Solutions

- When Something changes at church review it again
 - New Tenant
 - New Programs
- Lease/Agreements with Tenants
 - Certificates of Insurance – make sure they are current
 - Indemnity Agreements – Indemnity without Insurance is worth nothing