

# This is from We Conserve PA

Conservationtools.org

## Recommendations for Pursuing Tax Exemption

First, set the stage for successful applications:

- Individual people make up Boards of Assessment Appeals. Even before you have an application pending, develop good relationships with Board members and staff. Help them understand who you are and the good charitable work you do.
- Likewise, develop good relationships with the officials of the taxing bodies that won't be receiving tax revenue if your application is successful. Help them understand how your work benefits their community.
- Scrupulously follow the specific requirements of the tax assessment office in the county where the property is located. The application and instructions for each county are available online. In some counties there are separate webpages for the application and the instructions. One application must be filled out for each parcel. The filing fee (typically ranging from \$50 to \$200 is per parcel) must accompany the application. Mail applications certified mail/return receipt to document timely filing.
- Don't miss the application deadline to file for tax exemption (or the deadline to appeal an exemption denial to a court)! It can be an expensive mistake. Postmarks are NOT accepted as meeting the filing deadline. If you do miss the deadline, consider filing a *nunc pro tunc* appeal which allows the Board to consider your application despite you not having followed the technical appeal or application requirements.
- Know how frequently your particular jurisdiction requires charitable organizations to file for exemption. (For example, as noted above, Philadelphia and Allegheny Counties revisit exemption status annually and triennially respectively.)
- Since taxes must be paid for the year in which the property is acquired, other issues aside, consider timing settlements to be near year-end (but not so near as to risk going into the following year) to minimize the organization's tax liabilities.
- Submit an exemption request as soon as possible after settlement but not before you think you can make a strong case for exemption. For example, a delay may be worthwhile to give the organization time to post parking signs and announce on the internet that the site is open to the public.
- Engage an attorney experienced in presenting cases before the Board in your area. (Contact your local bar association to determine who has this specialty and reach out to other charitable organizations in your area to get recommendations.) Work with the attorney to prepare a strong case.
- Determine who within your organization can best provide articulate, calm testimony to the Board.

Content of the application

Don't expect the people of the Board of Assessment Appeals to understand the charitable value delivered by a property without being provided a clear and detailed explanation of it. Identify public benefits delivered by the property that both square with the law and resonate with the values and priorities of Board members and staff. Demonstrate how the organization meets the HUP test and show how the property is actually and regularly used for charitable purposes:

- If the public has or will have access to the land for recreation or education, state this and demonstrate it: Provide brochures showing the property and web announcements about opportunities for public access on the property; be prepared to explain how and to whom the information is disseminated. Document public use of the property.
- Explain how the property meets a need identified by government, for example, the land's inclusion on an open space and recreation plan.
- Describe government support for the acquisition of the parcel, for example, a grant from the state, county, or local government.
- Describe how the property relieves government of burdens and demands for services; for example, the need to establish a new public park or obtain land for outdoor educational programs by the school district.
- Describe the costs savings to and costs avoided by government as a result of the protected open space, for example, the costs of water treatment, stormwater management, and road maintenance. Some organizations explain how avoiding development on a parcel avoids the need and associated costs of building and maintaining schools and expanding municipal services.
- Describe the benefits the property provides to people at no charge; for example, providing cleaner air and water, reducing noise, and preserving scenic views.
- Describe improvements made to the property for the public benefit; describe maintenance of the property.
- To the extent that any of these benefits provide particular benefit to people of low income, highlight this.

#### Payments in Lieu of Property Taxes

The Institutions of Purely Public Charity Act authorizes voluntary in lieu of tax agreements between charitable institutions and political subdivisions.<sup>kw</sup> The associated payments are sometimes referred to as PILOTS or *payments in lieu of taxes*.

An organization engaging in large-scale land acquisition in a community may seek tax exemption and then, after receiving an exemption, make payments in lieu of property taxes in order to help the community manage the loss of tax revenue or avoid controversy about land being taken off the tax roll. However, great caution should be taken in exercising such a choice, since doing so can drain substantial resources from the organization's charitable conservation work and motivate other municipalities where the organization works to seek similar treatment.

Charitable organizations, even those that generate substantial revenues from their ventures (e.g., hospitals and YMCAs) or whose charitable impact seems small,

generally are not shy about seeking property tax exemptions in support of their charitable work. Conservation organizations, which deliver tremendous benefits to the public and make little demand on government services, certainly have a strong case to make for both tax exemption and rejection of any suggestion that they make payments in lieu of taxes.

## Future Public Use

Where land is acquired for *future* public use, it may be helpful for tax exemption purposes for municipalities to assure that the property is permanently dedicated to the purposes of providing recreational opportunities or other open space benefits for the public by making a [declaration of public trust](#), inserting a deed restriction into the deed, or by granting a [conservation easement](#) on the property that prohibits future development inconsistent with providing open space benefits in perpetuity. It may also be helpful to be able to show the property on an open space, greenways, or other official plan to illustrate the value of open space to the community and how the property fits into the local government's plans.