NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division ~~and Taxation~~

Chapter 40 - Property Tax Exemption Regulations

Effective Date ~~1/3/07~~

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Title 350 - Nebraska Department of Revenue, Property Assessment Division ~~and Taxation~~
Chapter 40 - Property Tax Exemption Regulations

REG-40-001 PURPOSE

These regulations govern property tax exemptions of certain real and personal property as authorized by the Constitution and laws of the State of Nebraska.

(Neb. Const., Art. VIII, section 2, and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.~~R.R.S. 2003.~~)

REG-40-002 GENERAL RULES APPLICABLE TO PROPERTY TAX EXEMPTIONS

002.01 All property in the state of Nebraska is subject to property tax unless an exemption is mandated by the Nebraska Constitution or is permitted by the constitution and enabling legislation is adopted by the Legislature. Federal law may supersede the Nebraska Constitution with regard to taxation of property owned by the federal government or its agencies or instrumentalities.

002.02 Property tax exemptions are to be strictly construed and the burden of proof is on the party seeking an exemption to show that the property is eligible for exemption. Property tax exemptions may be allowed based on the inherent nature of the property, the ownership of the property, the use of the property, or a combination of these factors.

002.03 The following property shall be exempt from property taxes:

002.03A Property owned by the state and its governmental subdivisions that is used or being developed for use for a public purpose. See Property Owned by the State and Governmental Subdivisions Regulation, Chapter 15;

002.03B Property owned by and used exclusively for agricultural and horticultural societies;

002.03C Property owned by educational, religious, charitable, or cemetery organizations or any organization created for the exclusive benefit of any such qualified organization and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not (i) owned or used for financial gain or profit to either the owner or user, (ii) used for the sale of alcoholic liquors for more than twenty (20) hours per week, or (iii) owned or used by an organization which discriminates in membership or employment based on race, color, or national origin;

002.03D Household goods and personal effects not owned or used for financial gain or profit to either the owner or user;

002.03E The increased value of land by reason of shade and ornamental trees planted along the highway;

002.03F Non-depreciable tangible personal property;

002.03G Vehicles required to be registered for operation on the highways of this state; and

002.03H Business and agricultural inventory.

002.03H(1) Business inventory or agricultural inventory shall include personal property owned for purposes of leasing or renting such property to others for financial gain only if the personal property is: (1) of a type which in the ordinary course of business is leased or rented thirty days or less; (2) may be returned at the option of the lessee or renter at any time; and (3) is of a type which would be considered household goods or personal effects if owned by an individual.

002.03I Certain personal property for a specified period of time when a taxpayer has signed an agreement pursuant to the Employment and Investment Growth Act.

002.03J Livestock shall include all animals or other living creatures used or raised for profit.

(~~Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and~~ Neb. Rev. Stat. Section 77-202, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-40-003 GOVERNMENTAL PROPERTY TAX EXEMPTIONS

003.01 Real and personal property owned by the state of Nebraska and its governmental subdivisions that is used or being developed for use for a public purpose is exempt from property tax. Property of other states or their governmental subdivisions located in Nebraska is subject to property tax.

003.02 Taxation of property owned by the United States government and its agencies or instrumentalities is governed by federal law. Generally, this property is exempt unless a specific act of Congress subjects it to the state's taxing authority.

(~~Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and~~ Neb. Rev. Stat. Section 77-202, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-40-004 AGRICULTURAL AND HORTICULTURAL SOCIETY PROPERTY TAX EXEMPTIONS

004.01 Property owned by and used exclusively by agricultural and horticultural societies is exempt from property tax. A society must be the owner of the property and must be the exclusive user of the property in order for the property to qualify for exemption.

004.02 Exclusive use shall mean the predominant use of the property, to such an extent that an occasional or incidental use of the property for other purposes will not disqualify the property for an exemption.

004.03 An agricultural and horticultural society is a nonprofit organization promoting agricultural interests and includes, but is not necessarily limited to: the Nebraska State Board of Agriculture established by Chapter 2, article 1, county agricultural societies organized pursuant to Chapter 2, article 2, agricultural associations organized pursuant to Chapter 2, article 20, and, agricultural organizations organized pursuant to Chapter 2, article 28.

004.03A An agricultural and horticultural society does not include an association which devotes a substantial part of its activities to attempting to influence legislation, or which provides money, services, or endorsements to influence any political campaign for public office.

(~~Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and~~ Neb. Rev. Stat. Section 77-202, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-40-005 EDUCATIONAL, RELIGIOUS, CHARITABLE, AND CEMETERY PROPERTY TAX EXEMPTIONS

005.01 A five (5) part statutory test is prescribed for determining eligibility for educational, religious, charitable, and cemetery property tax exemptions. The five (5) mandated criteria are ownership, exclusive use, no financial gain or profit, restricted alcoholic liquor sales and prohibited discrimination. The property must meet all five criteria for the exemption to be allowed.

An organization need not be established solely for educational, religious, charitable, or cemetery purposes. It may be a combination of two or more of these four categories, such as a religious organization which also owns a cemetery or an educational organization which also provides religious activities.

005.01A Educational organization means an institution operated exclusively for the purpose of offering regular courses with systematic instruction in academic, vocational, or technical subjects, or an organization that assists students relating to the origination, processing , or guaranteeing of federally insured student loans for higher education.

005.01A(1) Educational organization shall also mean a museum or historical society operated exclusively for the benefit and education of the public.

005.01B Religious organization means an organization whose purpose is the dedication to or profession of a sectarian creed and belief in a divine or superhuman power or powers to be obeyed or worshipped, or the furtherance and enrichment of spiritual faith involving a code of ethics and a spiritual philosophy.

005.01C Charitable organization means an organization operated exclusively for the purpose of the mental, social, or physical benefit of the public or an indefinite number of persons.

005.01D Cemetery organization means an organization whose purpose is to maintain areas formally set apart for the interment of human dead.

005.02 Ownership means the property must be owned by an educational, religious, charitable, or cemetery organization or any organization for the exclusive benefit of an educational, religious, charitable, or cemetery organization. Ownership also means the right to sell, lease, use, give away, or enter and the right to refuse to do any of these. All rights may or may not be vested in one owner or interest holder.

005.03 Exclusive Use means the property must be used exclusively for religious, educational, charitable, or cemetery purposes. The property need not be used solely for one of the four categories of exempt use, but may be used for a combination of exempt uses. For purposes of this regulation, the term exclusive use shall mean the predominant or primary use of the property as opposed to incidental use. The exemption will not be lost if the property is used in an incidental manner as long as the predominant or primary use of the property is for one or more of the exempt uses.

005.03A In cases where it is determined that the property, when considered as a whole, is not used exclusively for exempt purposes, but the property has a separate and distinct exempt use portion, an exemption for the value of the portion used for exempt purposes shall be allowed. No exemption for a portion of the property is allowed where the exempt and non-exempt uses are commingled and the property, when considered as a whole, is not used exclusively for exempt purposes. Property which is vacant and unused for any purpose shall not be entitled to an exemption.

005.03B An organization claiming a property tax exemption shall have the burden of establishing that the property is used exclusively for exempt purposes. The following is a list of factors to be considered in determining if the organization shall be allowed the tax exemption in whole or in part.

005.03B(1) In the case of a private residence, an officer or employee of the organization shall be required to reside in the residence as part of his or her employment and for the convenience of the organization. The property is used for the convenience of the organization and its members to such a degree that the property is an integral part of the organization. The use of the property as a residence must be incidental to the use of the property as a part of the organization's mission.

005.03B(2) In the case of property that is separate from the main structure of the organization, the relative proximity may be considered in establishing that the property is used for exempt purposes by the organization, but, exclusive exempt use of the property must be proved.

005.03B(3) Using income from the property for exempt purposes under federal and state income tax laws shall not qualify the property for a property tax exemption, as it is the use of the property that establishes whether the property is exempt.

005.03B(4) Use of the property includes ongoing construction of a building or improvement that, when complete will be used exclusively for exempt purposes. The future use of the completed building or improvement may be ascertained by the actions of the organization owning the property, including but not limited to resolutions of an organization’s board of directors, or the amendment of the organization’s articles of incorporation or bylaws, that indicate a clear intent to use the parcel for an exempt purpose. For ongoing construction to be sufficient to render the property exempt from tax, such construction must prevent other, nonexempt uses of the property.

005.04 The following are examples illustrative of the above principles and are provided as general guidelines. In utilizing these examples, all relevant factors of each particular case must be considered.

005.04A Example--A qualifying organization owns residential property, which is used as the residence of an officer or employee of the organization. The officer or employee is required to reside in the residence as a condition of his employment and for the convenience of the organization. In addition to being the residence of the officer or employee, the residence is used for various activities of the organization, to such an extent that the residence becomes an integral part of the organization. Considering all these factors together, an exemption for the residential property would be allowed as the exclusive use is for exempt purposes.

005.04B Example--A qualifying organization owns a two-story building. The first floor is used by the organization as a full time bar and restaurant where food and alcoholic liquors are sold. The second floor is used exclusively by the organization for exempt purposes. The first floor has a non-exempt use and the second floor has an exempt use. The total actual value of this entire property is ninety thousand ($90,000) dollars , consisting of ten thousand ($10,000) dollars for the land and eighty thousand ($80,000) dollars for the improvements. The actual value of the first floor is fifty thousand ($50,000)dollars and the actual value of the second floor is thirty thousand ($30,000) dollars. The exempt portion of the building is three-eighths of the total value of the building, and so the value of the exempt portion of the building allocable to the lot is three-eighths of the value of the lot, or three thousand seven-hundred-fifty ($3,750) dollars. Thus the second floor of the building and three-eighths of the lot, or thirty-three thousand seven-hundred-fifty ($33,750) dollars, is the exempt portion of the entire property. In addition, personal property otherwise subject to taxation used on the non-exempt first floor for non-exempt purposes is taxable, while personal property on the exempt second floor used for exempt purposes is eligible for an exemption.

005.04C Example--A qualifying organization provides a motor vehicle to an officer or employee for use in the activities of the organization. The officer or employee also uses the motor vehicle for personal and family use beyond incidental use. The motor vehicle will be taxable since the motor vehicle is not used exclusively for exempt purposes. The motor vehicle does not have separable portions, therefore the entire vehicle is considered to be used exclusively for non-exempt purposes and is fully taxable. Personal use shall be deemed to include the use of the motor vehicle as transportation to and from the workplace, but such use does not automatically preclude an exemption.

005.04D Example--A qualifying organization conducts bingo games in the basement of its buildings two nights per week. Although conducting bingo games is not an exempt use, the use of the property for bingo is incidental, and the predominant use of the building remains exempt. No apportionment of the property is required and the entire building is exempt.

005.04E Example--A qualifying organization owns a building, which is used for its office space, and leases a portion of the building to a private law firm. The portion leased to the private law firm is not used exclusively for exempt purposes and is not eligible for an exemption.

005.04F Example--A qualifying organization buys a vacant lot for future use as a building site. However, the land is held idle for several years. No exemption is allowed for the tax years during which the vacant land sits idle, since during those years the land is not used for exempt purposes.

005.04G Example--A qualifying organization owns agricultural land on which it plans to build at some future date. In the interim, the land is rented to a farmer who plants and harvests crops on the land. No exemption is allowed for the land because it is used for non-exempt purposes. The use of the income by the organization for exempt purposes will not qualify the land for a property tax exemption. It is the use of the property that qualifies it for an exemption.

005.04H Example--A qualifying organization begins construction of a building on its previously nonexempt property that will, when completed, be exclusively used for an exempt purpose. The construction effectively precludes other uses of the property. An exemption for the property under construction will be permitted.

005.04I Example--A qualifying corporation owns and operates a residential facility for low-income elderly persons. Rent, meals, and other charges are designed to cover the actual cost of the services provided. The property is used for residential purposes, not used exclusively for charitable purposes, thus no exemption is allowable.

005.04J Example--A qualifying organization owns a health care facility which is made up of a nursing home and assisted living housing. The organization does not prescreen the applicants for financial ability prior to admission. The criteria for admission is the need for health care due to age, ill-health or physical disability. The facility meets the definition of a health care facility and/or assisted living facility under Nebraska law. All residents are permitted to remain in the facility regardless of their ability to pay for the services provided. In this case, the property is allowed an exemption because the property is used exclusively for charitable purposes.

005.05 No Financial Gain or Profit--The property must not be used for financial gain or profit to either the owner or user. There is no financial gain or profit if no part of the income from the property is distributed to the owner's or user's, members, directors, or officers, or to private individuals. Reasonable salaries paid to employees of the owner or user shall not constitute a distribution of financial gain or profit.

The following are examples illustrative of the above principles. These examples are provided as general guidelines to be used in particular cases. In utilizing these examples, all relevant factors of each particular case must be considered.

005.05A Example--A qualifying organization leases office space in its building to other charitable organizations. All of the building is used exclusively for charitable purposes. The lease payments are used for charitable activities. The entire building is allowed an exemption, since no financial gain or profit exists and the actual use of the entire property remained charitable.

005.05B Example--A qualifying corporation owns and operates a residential facility for low-income persons. Only nominal amounts are charged for rent, or no rent is charged, depending on the residents' ability to pay. Operational deficits are made up from outside donations and fund raising activities. In this case, the property is allowed an exemption because (1) no financial gain or profit exists, and (2) the use of the property is charitable since part or all of the actual cost of the housing is donated to the needy residents.

005.06 Prohibited Alcoholic Liquor Sales--The property must not be used for the sale of alcoholic liquors for more than twenty (20) hours per week. The sale of liquor is deemed not to be a use for educational, religious, charitable, or cemetery purposes. Property or portions of property used for selling alcoholic liquors include all areas in which alcoholic liquors are normally sold, served, or consumed. For purposes of determining whether alcoholic liquor is sold in excess of twenty (20) hours per week, a reasonable average for the tax year may be used.

005.07 Prohibited Discrimination--The property must not be owned or used by an organization which discriminates in membership or employment based on race, color, or national origin. Such discrimination is contrary to public policy and may not be subsidized through a tax exemption. There must be some actual formal or informal policy of discrimination present, which denies or otherwise abridges membership or employment to disallow an exemption. An organization is not deemed to be discriminatory even though all of its members or employees are of the same race, color, or national origin, if it is willing to admit and employ on a nondiscriminatory basis. Similarly, an organization may be deemed to be discriminatory even though it may have "token" members or employees, if it has a discriminatory policy towards prospective new members or employees.

(~~Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and~~ Neb. Rev. Stat. Section 77-202, R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-40-006 APPLICATION, COUNTY REVIEW AND APPEAL PROCEDURES FOR PROPERTY TAX EXEMPTIONS

006.01 Any organization or society seeking a property tax exemption for real or personal property, other than motor vehicles, shall file Exemption Application, Form 451, on or before December 31 of the year preceding the year for which the exemption is sought, with the assessor of the county in which the property is located. If the exemption is approved by the county board of equalization, it shall continue for a period of four (4) years, beginning with years evenly divisible by four (4). The first year in each period is known as an application year (e.g., 2000, 2004, 2008 etc.). If application for exemption is made and approved in an intervening year, the exemption shall continue for the remainder of the applicable four year period.

An approved exemption for a cemetery organization or any organization for the exclusive benefit of such cemetery organization shall remain in effect, without reapplication, until there is disqualification through a change in ownership or use.

006.01A To continue the exemption for a succeeding four (4) year period, an organization or society, which previously had been granted an exemption, other than motor vehicles, shall file Exemption Application, Form 451, with the assessor on or before December 31 prior to an application year.

006.01B Any organization or society which fails to file an exemption application for real or personal property, other than motor vehicles, on or before December 31 of an application year may, on or before June 30, apply to the assessor. With the application, the organization or society shall also file a request in writing to the county board of equalization, for a waiver so that the assessor may consider the application. If the county board of equalization finds that good cause exists for the failure to meet the filing deadline, the request for waiver shall be granted. The assessor shall then process the application for exemption, and shall assess a penalty against the property of ten (10) percent of the tax that would have been due or one hundred ($100) dollars, whichever is less, for each month or part thereof past December 31. Failure to file a completed application and request for waiver on or before June 30 shall constitute a waiver of the exemption for that year.

006.01B(1) The penalty shall be collected and distributed by the county treasurer in the same manner as a tax on the property and interest shall be assessed at the rate specified in Neb. Rev. Stat. Section 45-104.01 from the date the tax would have been delinquent until paid. The penalty shall become a lien on the property in the same manner as a tax pursuant to Neb. Rev. Stat. Section 77-203.

006.02 An organization or society which has been allowed an exemption for real or personal property, other than motor vehicles, shall file a Statement of Reaffirmation of Exemption, Form 451A, with the assessor on or before

December 31 prior to each intervening year. The reaffirmation statement shall certify that the ownership and use of the exempted property has not changed from the ownership and use of the property at the time of the application for the application year.

006.03 Any organization or society which fails to file the reaffirmation statement, on or before December 31, may maintain the exemption by filing the reaffirmation statement no later than the next June 30. The tax exempt status shall remain even if the county board of equalization had acted to deny the exemption because of the late filing. The assessor shall assess a penalty against the property of ten (10) percent of the tax that would have been due or one hundred ($100) dollars, whichever is less, for each calendar month or part thereof past the December 31 deadline. Failure to file a completed reaffirmation statement by June 30 shall constitute a waiver of the exemption.

006.03A The penalty shall be collected and distributed by the county treasurer in the same manner as a tax on the property and interest shall be assessed at the rate specified in Neb. Rev. Stat. Section 45-104.01 from the date the tax would have been delinquent until paid. The penalty shall become a lien on the property in the same manner as a tax pursuant to Neb. Rev. Stat. Section 77-203.

006.04 All forms required to be filed for exemption shall be completed in full. A form shall not be considered filed if it is submitted incomplete in any material aspect, such as the description of use or the type of owner. Any incomplete form may be rejected by the assessor for failure to constitute a proper and valid filing.

006.05 The assessor shall examine timely filed applications and shall recommend either taxable or exempt status for the property to the county board of equalization by February 1 of the year for which the exemption is sought. The assessor in making the recommendation may specify that only a certain portion of the property should be exempt if all of the property described in the application is not eligible for exemption. The assessor shall follow this procedure for applications filed on or before June 30, except that the February 1 date shall not apply.

006.06 The assessor shall maintain a list of the applications from organizations seeking tax exemption, descriptions of the property, and his or her recommendations to the county board of equalization as to whether the property is taxable or exempt.

006.06A Notice shall be published in a newspaper of general circulation in the county at least ten (10) days prior to the hearing on the applications by the county board of equalization. The notice shall state that a list of the applications from organizations seeking tax exemptions, descriptions of the property and the assessor's recommendations is available in the office of the assessor.

006.07 The county board of equalization shall hold a public hearing on all applications for exemption to determine whether to allow or deny an exemption. The hearing shall be held after the county board of equalization gives ten (10) days notice to the applicant at the address on the application. No exemption shall be granted or denied by the county board of equalization until after the required hearing is held. A hearing shall be held even if the applicant waives the opportunity to appear, since the purpose of the public hearing is also to permit members of the public to submit information regarding the tax exemption. The county board of equalization shall complete its review of the exemption applications by June 1, ~~of each year,~~ except for hearings on motor vehicle exemptions, exemptions for property which was newly acquired or converted to an exempt use after December 31, and applications filed on or before June 30, if the county board has granted the waiver. For applications granted a waiver by the county board, the board shall hear and certify its decisions by August 15.

006.08 The assessor or county board of equalization may cause any real or personal property exemption to be reviewed in any year to determine whether the exemption should be continued, even though the ownership or the use of the property has not changed. This review procedure shall include a hearing and notice of hearing from the county board of equalization and shall proceed in the same manner as for applications as stated in REG 40-006.07. The exemption previously allowed may be left unchanged, disallowed, or modified. If the exemption is disallowed or modified, the taxable property shall be placed on the tax list retroactive to January 1.

006.08A The assessor shall maintain a list of exemptions being reviewed. For each such exemption, the list shall state the name of the exempt organization or society, descriptions of the property and the recommendation of the assessor as to whether a change in the exemption is warranted.

006.08A(1) Notice shall be published in a newspaper of general circulation in the county at least ten days prior to any hearing of the county board of equalization, for the review of exempt status. The notice shall state that a list consisting only of exemptions being reviewed, descriptions of the property, and recommendations of the assessor regarding such exemptions being reviewed is available in the office of the assessor.

006.09 The county clerk within seven (7) days after any decision of the county board of equalization granting, denying or modifying an ~~application for~~ exemption from taxation for real or tangible personal property shall mail or deliver notice of such decision to the applicant and the county assessor.

006.09A Upon the determination of the disallowance or a modification of a previously granted exempt status, the county board of equalization shall send notice of the assessed value for the taxable real property to the record owner or his or her agent's last known address. Protests on the assessed valuation shall be filed

within thirty (30) days after the mailing of the notice. The procedure for filing a protest shall be the same as outlined in Neb. Rev. Stat. Section 77-1502.

006.09B Upon a determination of the loss of the exempt status on tangible personal property by the county board of equalization, the owner or his or her agent shall have thirty days after the date of denial to file a personal property return with the assessor.

006.09B(1) If the personal property return is not filed within the thirty (30) days, the assessor shall proceed to list and value the tangible personal property and apply a penalty of ten (10) percent of the tax due on the value added.

006.10 Persons, corporations, or organizations denied exemption from taxation for real or tangible personal property by a county board of equalization may file an appeal with the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013 within thirty days after the decision of the county board of equalization. The ~~Property Tax Administrator~~ Tax Commissioner may in his or her discretion intervene in such appeal.

006.11 Persons, corporations or organizations may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013 on or before December 31 of each year for a determination of the taxable status or the actual value of their real property because the failure to give notice pursuant to REG-40-006.09 and REG-40-006.09A prevented timely filing of a protest or appeal.

006.12 Only the assessor may appeal the action of the county board of equalization granting an exemption from taxation to the Tax Equalization and Review Commission. The ~~Property Tax Administrator~~ Tax Commissioner may in his or her discretion intervene in the appeal.

(Neb. Rev. Stat. Section 45-104.01, R.R.S. 1998, Neb. Rev. Stat. Sections ~~77-202.01, 77-202.05,~~ 77-203, ~~and 77-702 ,~~ R.R. S. 2003, ~~and~~ Neb. Rev. Stat. Sections ~~77-202.02, 77-202.03, 77-202.04~~ 77-1502 and 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-202.01 through 77-202.05 and 77-702, R.S. Supp., 2007.)

REG-40-007 PROPERTY TRANSFERS OR USE CONVERSIONS DURING TAX YEAR

007.01 When an organization or society seeks an exemption for property, except motor vehicles, acquired after or converted to exempt use after January 1 but on or before August 1 of any year, the organization or society shall file Exemption Application, Form 451, with the assessor on or before August 1 and comply with all application procedures and requirements. To qualify for an exemption, the property shall be used for exempt purposes as of the date of

application. Failure to file the application on or before August 1 disqualifies the property for an exemption for that tax year. The county board of equalization shall by August 15 next following the date of application, review the application for exemption as prescribed in Reg-40-006.07 and Reg-40-006.08.

007.02 All non-exempt property, except motor vehicles, acquired or converted to exempt use after August 1 by an organization or society, shall not be allowed an exemption for that tax year. If an application is timely filed pursuant to REG-40-006, the organization may be allowed an exemption for the next tax year.

007.03 When exempt property is sold to a non-exempt entity on or after January 1 and on or before levy date, the property shall be taxable retroactive to January 1 of the year the property is sold because, as of levy date, there is taxable property upon which to levy a tax.

007.04 When exempt property is sold between levy date and December 31, it will remain exempt for that year because no levy had been made upon the property.

007.05 When exempt property is sold to an educational, religious, charitable or cemetery organization or any organization for the exclusive benefit of an educational, religious, charitable or cemetery organization or agricultural or horticultural society on or before August 1, the property will be exempt only if the new owner files an application for exemption on or before August 1 of that year.

007.06 When an educational, religious, charitable or cemetery organization or any organization for the exclusive benefit of an educational, religious, charitable or cemetery organization or agricultural or horticultural society purchases between August 1 and levy date property that was exempt from taxes and the property continues to qualify for exemption, the purchaser shall on or before ~~December 1~~ November 15 make application to the assessor as provided in Reg-40-006.01. The county board of equalization shall by December 15 next following the date of application, review the application for exemption as prescribed in Reg-40-006.07 and Reg-40-006.08.

007.07 When ~~taxable property is purchased by an exempt~~ a federal governmental entity, that is exempt from paying property taxes, purchases taxable property on or after January 1 and on or before levy date, the property will be exempt for that tax year because, as of levy date, there was no taxable property upon which to levy a tax.

007.08 When ~~an exempt~~ a federal governmental entity that is exempt from paying property taxes, purchases taxable property between levy date and on or before December 31, such property will be exempt from taxation for that year because, as of the lien date (December 31), there is no taxable property upon which to attach a lien.

007.09 When a state agency or a political subdivision of the state, purchases property on or after January 1 and on or before levy date, and is using or developing the property for a public purpose, the property will be exempt for that year because as of levy date, there was no taxable property upon which to levy a tax. If in the years following the purchase, the property is not being used for a public purpose or being developed for a public purpose it will be subject to assessment for property tax purposes or an in lieu of tax.

007.10 When the State or a political subdivision purchases property for a public purpose after levy date and on or before lien date, the property shall be exempt from property tax for the current year, because as of lien date there is no taxable property upon which to attach the lien.

07.11~~09~~ When exempt property is transferred or converted to a non-exempt use on or before levy date, resulting in the property no longer qualifying for exemption, the county board of equalization shall hold a public hearing in the manner prescribed in REG-40-006.07. The county board of equalization shall place the property on the tax list retroactive to January 1 of the year the exemption is lost.

(~~Neb. Rev. Stat. Section 77-702, R.R.S. 2003,~~ Neb. Rev. Stat. Section~~s~~ 77-202 ~~and 77-202.03,~~ R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-202.03 and 77-702, R.S. Supp., 2007.)

REG-40-008 PRE-EXISTING TAX LIENS ON TAX-EXEMPT PROPERTY

008.01 When taxes, which are a lien on the property, were validly levied upon the property because the property was not exempt from taxation, the lien cannot be discharged solely by acquisition of the property by an organization or society for exempt use or conversion of the property to exempt use. When an organization or society acquires title to the property for exempt use, but does not provide for discharging any pre-existing tax liens, the property is acquired subject to the liens and the liens remain attached to the property. The property upon which the lien is attached is subject to tax foreclosure sale in order to satisfy the pre-existing lien.

008.02 If the state, its governmental subdivisions, or a federal governmental entity acquires property subject to a pre-existing tax lien, the property is not subject to levy and sale in order to satisfy the tax lien. The lien will remain on the property until paid or until the expiration of fifteen (15) years. If the property is sold to a person or entity other than the state, its governmental subdivisions, or a federal governmental entity prior to the expiration of the lien, the property will be acquired subject to the tax lien and will be subject to sale if the lien is not satisfied.

(Neb. Rev. Stat. Section 25-1555, R.R.S. 1995 and Neb. Rev. Stat. Sections ~~77-702,~~ 77-1737 and 77-1862, R.R.S. 2003 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-40-009 PUBLIC NOTICE OF PROPERTY TAX EXEMPTIONS

009.01 During the month of September of each year, the county board of equalization shall cause to be published in a newspaper of general circulation in the county a list of all real property exempted by the county board of equalization from property tax for that tax year. The list shall contain the exemptions of property in the following categories: (1) Agricultural and horticultural societies; (2) Educational organizations; (3) Religious organizations; (4) Charitable organizations; (5) Cemetery organizations and any organization for the exclusive benefit of an educational, religious, charitable, or cemetery organization.

009.02 The list shall be grouped into the above categories and identify the following: the organization owning the exempt property; the municipality, if any, in which the property is located; the number of parcels of real property exempted; and, any other information necessary to enable the general public to be aware of the types of real property granted exemptions. The list shall also indicate whether a total exemption or exemption of a portion of the property has been granted.

009.03 A copy of the list and Proof of Publication shall be forwarded to the Property Tax Administrator, on or before November 1 of each year.

(~~Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and~~ Neb. Rev. Stat. Sections 77-202.03~~,~~ and 77-702, R.S. Supp., 2007.~~2006.~~)

REG-40-010 MOTOR VEHICLE TAX EXEMPTIONS

010.01 Motor vehicles, owned, as defined in the Motor Vehicle Registration Act, and used exclusively by an agricultural or horticultural society, charitable, educational, religious, or cemetery organization or any organization for the exclusive benefit of any charitable, educational, religious, or cemetery organization may be exempt from the motor vehicle tax. To qualify for an exemption, the criteria set forth in REG-40-004 and REG-40-005 must be met. The tax exemption for a motor vehicle extends through one registration period.

010.02 A partial exemption of a motor vehicle may not be granted. As a motor vehicle does not have separable portions; it is either exempt or taxable in its entirety. If a motor vehicle is used for other than incidental non-exempt use, no exemption shall be granted. A non-exempt use shall include personal use of the motor vehicle.

010.03 An organization or society seeking tax-exempt status for a motor vehicle must annually file Exemption Application, Form 457, with the county treasurer or designated county official of the county where the motor vehicle is registered. The application shall be filed not more than fifteen (15) days before and not later than thirty (30) days after the registration date of the motor vehicle. For a newly acquired motor vehicle, an application must be made within thirty (30) days after the purchase date. Failure to apply for an exemption for a motor vehicle within the time specified shall constitute a waiver of the exemption for that registration year.

010.04 The county treasurer or designated county official shall review the Exemption Application, Form 457, and make a recommendation to the county board of equalization within twenty (20) days after receipt of the application. The county board of equalization review procedures shall proceed as for real and personal property as specified in REG-40-006. Upon completion of its review, the county board of equalization shall certify its decision to the applicant and the county treasurer or designated county official within seven (7) days after the decision. If the exemption application cannot be processed before the motor vehicle tax is due, the organization or society shall pay the tax and immediately file a claim for refund. The county board of equalization upon approval of the application for exemption shall also approve the claim for refund. Decisions of a county board of equalization relating to the grant or denial of an exemption under this regulation may be appealed to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

010.05 Persons, corporations or organizations may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013 on or before December 31 of the year notice should have been sent, for a determination of the taxable status of their motor vehicle because of a failure to give notice pursuant to REG-40-010.04 prevented timely filing of an appeal.

(~~Neb. Rev. Stat. Section 77-702 , R.R.S. 2003~~ Neb. Rev. Stat. Sections 60-320~~, 60-3,189~~ and 77-5013, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 60-3,189 and 77-702, R.S. Supp., 2007.)

REG-40-011 DISABLED OR BLIND HONORABLY DISCHARGED VETERAN

011.01 An honorably discharged veteran or a veteran with a general discharge under honorable conditions, of the United States Armed Forces, whose disability or blindness is recognized by the Department of Veterans' Affairs of the United States of America as service connected and:

011.01A Who has lost the use of or has undergone amputation of two (2) or more extremities, or

011.01B Who has undergone amputation of one (1) or more extremities and has lost the use of one (1) or more extremities, or

011.01C Whose sight is defective so as to seriously limit his or her ability to engage in ordinary vocations and activities of life, shall be eligible for exemption from taxation for the following property:

011.01D A mobile home owned and occupied by the blind or disabled veteran; and

011.01E One motor vehicle owned and used for his or her personal transportation.

011.02 Application for the mobile home exemption must be made to the assessor on or before April 1 of every year. A certificate of the veteran's condition from the Department of Veteran's Affairs must be attached to the application. The assessor shall approve or disapprove the application and notify the taxpayer of the decision within twenty (20) days of the filing of the application. The taxpayer may appeal to the county board of equalization within twenty (20) days after notice of decision is mailed. The taxpayer may appeal any decision of the county board of equalization under this section to the Tax Equalization and Review Commission.

011.03 Application for the motor vehicle exemption must be made to the county treasurer, or designated county official pursuant to Neb. Rev. Stat. Section 23-186, not more than fifteen days (15) before and not later than thirty (30) days after the registration date for the motor vehicle. A renewal application shall be made annually not sooner than the first day of the last month of the registration period or later than the last day of the registration period. The county treasurer, or designated official, shall approve or deny the application and notify the applicant of his or her decision within twenty (20) days after the filing of the application. An applicant may appeal the denial of an application to the county board of equalization within twenty (20) days after the date the notice was mailed. The taxpayer may appeal any decision of the county board of equalization under this section to the Tax Equalization and Review Commission.

011.04 If failure to give notice pursuant to REG-40-011.02 and REG-40-011.03 prevented timely filing of a protest or appeal. The owner may petition the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013, on or before December 31 of the year notice should have been sent, for a determination of the taxable status of their real property or motor vehicle.

(~~Neb. Rev. Stat. Section 23-186, R.S. Supp., 2003,~~ Neb. Rev. Stat. Sections 77-202.23 and 77-202.25, ~~and 77-702,~~ R.R.S. 2003, ~~and~~ Neb. Rev. Stat. Sections 60-3,185~~, 60-3,189~~ and 77-202.24, R.S. Supp., 2006 and Neb. Rev. Stat. Sections 60-3,189 and 77-702, R.S. Supp., 2007.)