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N.J.A.C. 7:35

**REAL PROPERTY TAXATION OF
RECREATION AND CONSERVATION LANDS
OWNED BY NONPROFIT ORGANIZATIONS**

Statutory authority:

N.J.S.A. 54:4-3.63 et seq. (P.L. 1974, Chapter 167)

Date last amended:

December 13, 2007

For regulatory history and effective dates see the New Jersey Administrative Code

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SUBCHAPTER 1. GENERAL PROVISIONS

7:35-1.1 Purpose and scope

To help satisfy the acute need in New Jersey for natural open space areas for public recreation and conservation purposes, the Legislature has found that it is "in the public interest to encourage the dedication of privately-owned open space to public use and enjoyment." (N.J.S.A. 54:4-3.63 et seq.). These rules are supplemental to and not in derogation of existing tax laws.

7:35-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the content clearly indicates otherwise.

“Act” means P.L. 1974, c. 167, an act concerning exemption from taxation of real property owned by certain nonprofit corporations (N.J.S.A. 54:4-3.63 et seq.).

“Application” means a request to the Department, filed in accordance with this chapter, for certification of eligibility for tax exemption on one parcel or a unified group of parcels intended for similar use.

“Certification of eligibility for tax exemption” means establishment by the Commissioner of eligibility for exemption pursuant to the provisions of the Act and this chapter.

“Change of use” means a use of land or property for other than recreation and conservation purposes.

“Commissioner” means the Commissioner of the Department of Environmental Protection or his or her designated representative.

“Department” means the New Jersey Department of Environmental Protection.

“Land” or “lands” means real property, including any improvement, right-of-way, water, riparian and other rights, easements, privileges, and any other rights or interests in, relating to, or connected with real property.

“Nonprofit organization” means an organization or corporation that has applied for and received a determination letter from the U.S. Department of Treasury granting exemption from Federal income tax under Section 501(c)(3) of the Federal Internal Revenue Code.

“Parcel” means a piece of land with designated boundaries. A parcel may include multiple tax lots.

“Pretax year” means the year in which the nonprofit organization submits an application to the Department. The pretax year is the year prior to the year in which tax exemption is requested to begin.

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“Program” means the Tax Exemption Program.

“Property” means land that is the subject of an application for tax exemption or land that has been certified as eligible for tax exemption.

“Public use” means a use or right of use available to the general public or some portion thereof for recreation and conservation purposes.

“Recreation and conservation purposes” means the use of lands for beaches, biological or ecological study, boating, camping, fishing, forests, greenways, hunting, natural areas, parks, playgrounds, protecting historic properties, water reserves, watershed protection, wildlife preserves, active sports, or a similar use for either public outdoor recreation or conservation of natural resources, or both.

“Roll-back taxes” means taxes in an amount equal to the taxes that would have been payable on the property had it not been tax exempt, in the current tax year (the year of sale or change of use) and in each of the two tax years immediately preceding the current tax year during which the real property was exempt, with interest compounded at eight percent annually pursuant to N.J.S.A. 54:4-3.69.

7:35-1.3 Eligible organizations

Any nonprofit organization that qualifies for exemption from Federal income tax under Section 501(c)(3) of the Federal Internal Revenue Code and that owns land in the State of New Jersey and makes that land available for public use for recreation and conservation purposes is eligible to make application under this program.

7:35-1.4 Eligible real property

(a) To be eligible for tax exemption, real property must meet the following criteria:

1. The property must be a natural open space area not dominated by buildings or other structures. Any buildings or structures that are present must be used exclusively for, or in support of, recreation and conservation purposes, otherwise the buildings or structures and the portion of the property immediately around them shall not be eligible for tax exemption;

2. The property must be maintained and operated for the benefit of the public and be open for public use on an equal basis;

3. Tax exemption must be determined by the Commissioner to be in the public interest;

4. Fees charged for entrance onto or use of the property, if any, must be determined by the Commissioner to be non-discriminatory and reasonable; and

5. Restrictions on the use of the property by the public, if any, must be determined by the Commissioner to be necessary for proper maintenance and improvement of the property or because significant natural features of the property may be adversely affected by unrestricted access.

(b) If it is determined by the Department, at any time, that the property does not meet one or more of the criteria in (a) above, then the Department shall rescind the certification of eligibility for tax exemption and shall notify the nonprofit organization and the municipal tax assessor accordingly.

7:35-1.5 Program information and forms; address for submission

Unless otherwise specified, information about the Program and application forms are available from, and any questions and all submissions required under this chapter should be directed to: Green Acres Program – Tax Exemption, New Jersey Department of Environmental Protection, 501 East State Street, P.O. Box 412, Trenton, NJ 08625-0412; 609-984-0500; www.nj.gov/dep/greenacres.

7:35-1.6 Application procedures for initial certification of eligibility for tax exemption

(a) An applicant for initial certification of eligibility for tax exemption must submit to the Department the following documents by August 1 of the pretax year; however, it is preferred that applicants submit the documents by May 15 of the pretax year:

1. The Department's Application for Real Property Tax Exemption, with original signatures. This application form shall:

- i. Identify the owner of the property;
- ii. Provide site information including municipality, county, block and lot; identify flora, fauna, adjacent land use, and facilities on the property;
- iii. Describe the public use, means of access, fees for use, and restrictions;
- iv. Provide a detailed maintenance, policing, and preservation plan for the property;
- v. Indicate the name and contact information for the municipal tax assessor and official advertising newspaper of the municipality in which the property is located;
- vi. Include a statement releasing the State of New Jersey from any liability that may arise from the public use of the property;
- vii. Provide supporting documentation to demonstrate the nonprofit status of the applicant organization and its legal ownership of the property; and
- viii. Provide an affidavit signed by the officer of the nonprofit organization attesting to the veracity of the information supplied in the application;

2. The New Jersey Department of Treasury Initial Statement of Organization Claiming Property Tax Exemption, with original signature (Form I.S. Rev. December 2001 as may be supplemented or revised), available from the Department of Treasury web site at www.nj.gov/treasury/taxation/pdf/other_forms/lpt/initialstment.pdf or from the Green Acres Program web site at www.nj.gov/dep/greenacres;

3. The Federal Internal Revenue Service 501(c)(3) letter of determination certifying the organization as a nonprofit organization;

4. A copy of the recorded deed to the property showing ownership by the nonprofit organization or, if a recorded deed is not available at the time of application, a non-recorded deed to be followed by a recorded deed no later than August 15 in the year of the application for tax

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exemption, or a certification signed by the chief executive of the nonprofit organization or by legal counsel representing the nonprofit organization verifying ownership and committing to submit the recorded deed no later than August 15 in the year of application for tax exemption;

5. The property tax bill(s) for the pretax year for all property for which application is being made;

6. The tax map(s) labeled to show all property for which application is being made;

7. A municipal street map labeled to show the location of the property and all public access points;

8. A map of the property showing any and all public access points, parking areas, roads, driveways, trails, and points of interest; and

9. Documentation legally establishing the nonprofit organization and defining its purpose. Acceptable documents include a copy of the applicant's certificate of incorporation, articles of association, or the charter and bylaws.

(b) The Department has the right to enter upon the property that is the subject of the application for the purposes of a site inspection after application has been made.

(c) Prior to the public hearing required under (d) below, the applicant shall send to the tax assessor of the municipality(ies) in which the property is located two copies, with original signatures, of the items required under N.J.A.C. 7:35-1.6(a)1 and (a)2 above.

(d) A public hearing shall be held by the Commissioner or by his or her designated representative, at such date, time, and location as designated by the Commissioner. The applicant shall advertise, at the expense of the applicant, the date, time, and location of the hearing in the official newspaper of the municipality in which the property for which application is being made is located. The newspaper advertisement must be published at least 15 days in advance of the date of the public hearing. The applicant shall send to the Department proof of timely publication of the advertisement of the public hearing; proof must be received by the Department at, or preferably prior to, the public hearing.

(e) On or before September 15 of the pretax year, the Commissioner shall make a decision regarding eligibility or ineligibility for tax exemption and shall notify the applicant and municipal tax assessor of that decision in writing.

(f) Upon notification of eligibility for tax exemption and the granting of tax exemption by the municipal tax assessor, the nonprofit organization shall post the property with Green Acres Tax Exemption Program sign(s) provided by the Department.

7:35-1.7 Application procedures for recertification of eligibility for tax exemption

(a) Once the Department has certified a property as eligible for tax exemption, the nonprofit organization shall submit to the Department the following document(s) not later than April 15 of every third year succeeding the year of initial certification of eligibility:

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1. The New Jersey Department of Treasury Further Statement of Organization Claiming Property Tax Exemption (Form F.S. Rev. April 2002 as may be supplemented or revised), available from the Department of Treasury web site at www.nj.gov/treasury/taxation/pdf/other_forms/lpt/further.pdf or from the Green Acres Program web site at www.nj.gov/dep/greenacres, with original signature; and

2. If the Department determines or it has been reported on the Further Statement of Organization Claiming Property Tax Exemption that there have been physical and/or use changes, or property ownership changes/dispositions, then the nonprofit organization shall also submit to the Department the Department's Application for Recertification of Exemption from Real Property Taxes, with original signatures; the Department's Property Use Analysis form; and all other documents as specified at N.J.A.C. 7:35-1.6(a)4 through and including 8.

i. The Property Use Analysis form shall include the following information:

- (1) The application number (previously assigned by the Department during the initial certification process);
- (2) The name of the preserve (if any);
- (3) The municipality and county in which the property is located;
- (4) The block number(s), lot number(s), and acreage(s) of the parcel(s) that is the subject of the application;
- (5) A description of the public use(s) of the property, including number of visitors and frequency of visits;
- (6) Active and/or passive recreational/conservation activities available on the property;
- (7) A description and an explanation of the restrictions (if any) on the public uses of the property;
- (8) A list of the building(s), if any, on the property and the use(s) of such building(s);
- (9) Actions taken by the applicant to further the public benefit of the property;
- (10) A description of changes to the property;
- (11) A copy of the tax map indicating the property;
- (12) A project location map (street map or other similar map) showing the location of the property and public access points; and
- (13) Recent photograph(s) of Green Acres Tax Exemption Program sign(s) posted on the property.

(b) When applying for recertification of a tax-exempt property, the nonprofit organization shall also send to the tax assessor of the municipality(ies) in which the property is located two copies, with original signatures, of the Further Statement of Organization Claiming Property Tax Exemption form.

(c) On or before September 15 of the year in which a nonprofit organization files an application for recertification, the Commissioner may conduct a public hearing on the application.

(d) If it is reported on the Further Statement of Organization Claiming Property Tax Exemption form that there have been no physical and/or use changes, and no property ownership changes/dispositions, and the property continues to meet all the criteria of N.J.A.C. 7:35-1.4, then the Department shall continue to deem the property as eligible for tax exemption.

(e) If there have been physical and/or use changes, or property ownership changes/dispositions, then the Department shall apply the provisions of N.J.A.C. 7:35-1.4 and determine whether or not the property meets the qualifications therein for continued eligibility for tax exemption.

(f) On or before September 15 of the year in which a nonprofit organization files an application for recertification, and after a public hearing on the application (if any) is held, the Commissioner shall make a decision regarding eligibility or ineligibility for continued tax exemption and shall notify the applicant and tax assessor of the municipality(ies) in which the property is located of that decision in writing.

7:35-1.8 Change of use or ownership

If property which is exempted under the provisions of the Act or this chapter is applied to a use other than public recreation and conservation purposes, or is sold or otherwise transferred to an entity that is not a nonprofit organization, the applicant shall immediately notify the Department and the municipal tax assessor. That property shall no longer be eligible for tax exemption under this Act and shall be subject to roll-back taxes.

7:35-1.9 Save harmless liability

The nonprofit organization, its servants, licensees, agents or invitees shall accept all liability arising out of the use of the tax exempt property.

7:35-1.10 Amendments

The Commissioner, in consultation with the Director of the Division of Taxation, shall have the power to adopt, amend and repeal these administrative rules to effectuate the purposes of the Act.