

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #7

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**NOTICE OF AN EMERGENCY RULE**

AGENCY: State Tax Department TITLE NUMBER: 110

CITE AUTHORITY: W. Va. Code §§ 11-3-9 and 29A-3-15

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: 3

TITLE OF RULE BEING FILED AS AN EMERGENCY: Exemption of Property

From Ad Valorem Property Taxation

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

STATE EX REL. COOK V. ROSE, 299 S.E.2d 3 (W.VA. 1982) REQUIRES THE STATE TAX COMMISSIONER TO ISSUE CLEAR AND SPECIFIC REGULATIONS AND GUIDELINES TO ASSIST ASSESSORS IN DETERMINING QUESTIONS OF EXEMPTION FROM AD VALOREM PROPERTY TAXATION. BECAUSE THERE ARE NO UNIFORM GUIDELINES CURRENTLY IN EXISTENCE AND DUE TO THE FACT THAT MORE COMPLEX ISSUES AND LEGAL CHALLENGES RELATING TO EXEMPTION QUESTIONS ARE BEING RAISED, IT IS NECESSARY FOR THE ASSESSORS TO BE ABLE TO HAVE THESE REGULATIONS FOR USE WHEN COMMENCING THEIR ANNUAL ACTIVITIES ON JULY 1, 1988. AS W.VA. CODE § 11-3-1 ET SEQ. REQUIRES ASSESSORS TO COMMENCE THEIR ACTIVITIES ON JULY 1 OF EACH YEAR AND TO COMPLETE THOSE ACTIVITIES BY THE FOLLOWING JANUARY 31, THEY WOULD BE REQUIRED TO WAIT UNTIL JULY 1, 1989 IF THE REGULATIONS WERE NOT AVAILABLE IMMEDIATELY. AS A RESULT, THE PUBLIC WELFARE WOULD SUFFER GREATLY, CONFUSION ON THE PART OF ASSESSORS RELATING TO EXEMPTION QUESTIONS WOULD CONTINUE, THE AMOUNT OF JUDICIAL ACTIVITY WOULD INCREASE FURTHER, AND SUBSTANTIAL HARM TO THE PUBLIC INTEREST WOULD RESULT.

Use Additional Sheets If Necessary.

  
MICHAEL E. CARYL  
STATE TAX COMMISSIONER



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State Tax Department  
of West Virginia

OFFICE OF THE SECRETARY OF STATE  
SECRETARY OF STATE

ARCH A. MOORE, JR.  
GOVERNOR

Charleston 25305

MICHAEL E. CARYL  
COMMISSIONER

August 11, 1988

The Honorable Ken Hechler  
Secretary of State  
West Virginia Capitol Complex  
Charleston, WV 25305

Re: Exemption of Property from Ad Valorem Property Taxation Rule

Dear Mr. Hechler:

Please be advised that the State Tax Department hereby revokes the emergency status of the above-referenced rule and requests that the rule continue as a proposed rule. This action is effective immediately upon filing of this letter in the State Register.

OFFICE OF THE STATE TAX COMMISSIONER BY  
JOHN E. MONTGOMERY, STAFF ATTORNEY  
WEST VIRGINIA STATE TAX DEPARTMENT

SS

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Exemption Of Property From Ad Valorem Property Taxes

Type of Rule:  X  Legislative   Interpretive   Procedural

Agency:  Tax Department  Address:  State Capital; Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services	-0-	-0-	-0-	-0-	-0-
Current Expense	-0-	-0-	-0-	-0-	-0-
Repairs and Alterations	-0-	-0-	-0-	-0-	-0-
Equipment	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-

2. Explanation of above estimates:

The rule should have cost effect because it does not envision any expenditures.

3. Objectives of these rules:

The objective of the rule is to provide guidelines which will assist assessors in determining questions of exemption from ad valorem property taxation.

EMERGENCY  
WEST VIRGINIA LEGISLATIVE REGULATIONS  
STATE TAX DEPARTMENT  
TITLE 110  
SERIES 3  
1986

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EXEMPTION OF PROPERTY FROM AD VALOREM PROPERTY TAXES

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§ 110-3-1. General.

1.1 Type of Regulation. - These emergency legislative regulations are a "legislative rule" as defined in W. Va. Code § 29A-1-2(d) (1982).

1.2 Scope. - These emergency legislative regulations provide guidelines to clarify and explain state law as it relates to exemption of property from ad valorem property taxes under W. Va. Code § 11-3-9.

1.3 Authority. - These emergency legislative regulations are issued under the authority of W. Va. Code §§ 11-3-9 and 29A-3-15.

1.4 Filing Date. - These emergency legislative regulations were first filed as proposed legislative regulations in the State Register on December 5, 1986. A public comment period was held until 5:00 p.m. on January 30, 1987. These regulations were refiled as emergency legislative regulations in the State Register on July 1, 1988; a public comment period commenced at that time and continued until 5:00 p.m. on July 31, 1988.

1.5 Effective Date. - These emergency legislative regulations become effective upon being filed in the State Register.

1.6 Citation. - These emergency regulations may be cited as: 110 C.S.R. 3, § \_\_\_\_ (1988).

§ 110-3-2. Definitions. - As used in this rule and unless the context requires a different meaning, the following terms shall have the meanings ascribed herein, and shall apply in the singular or in the plural.

2.1 The term "academy" means a private secondary or college preparatory school, a school for special instruction or a specified society of scholars or artists.

2.2 The term "aged" means over the age of sixty-five years.

2.3 The term "bank deposits" as used in these regulations shall mean a deposit of money with any person engaged in the business of banking. It includes money on deposit in a checking, time, interest or savings account, and certificates of deposit (including money market certificates and All Savers Certificates). The term "person engaged in the business of banking" means and

includes banks, building and loan associations, industrial banks, industrial loan companies, supervised lenders, credit unions and all other similar institutions, whether persons, firms or corporations, which are by law under the jurisdiction and supervision of the West Virginia Commissioner of Banking, the Federal Reserve Board or the United States Comptroller of the Currency.

2.4 The term "benevolent association or society" means a society or association having a philanthropic or charitable purpose and intended to confer benefits to the general public or a specific section of the public at large rather than to produce profit or gain.

2.5 The term "blind" means a person whose central visual acuity does not exceed twenty-two hundred in the better eye with correcting lenses, or if his visual acuity is greater than twenty-two hundred but is occasioned by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

2.6 The term "bond" means a certificate or evidence of debt on which the issuing church or religious society promises to pay to the bond holders a specified amount of interest for a specified length of time, and to repay the loan on the expiration date. In every case a bond represents a debt. Commonly, bonds are secured by a mortgage or lien on specific property. The term "bonds" includes annuity bonds, bearer bonds, callable bonds, chattel mortgage bonds, collateral trust bonds, convertible bonds, corporate bonds, coupon bonds, debenture bonds, general mortgage bonds, general obligation bonds, guaranteed bonds, improvement bonds, income bonds and supportment bonds.

2.7 The term "cash" as used in these regulations shall mean and include all United States and foreign currency.

2.8 The term "cemetery" as used in these regulations, shall mean a place where the dead bodies of human beings are buried; it is a place or area of ground set apart for the burial of the dead, and includes not only lots for depositing the bodies of the dead, but also such avenues, walks, and grounds as may be necessary for its use or for ornamental purposes. In Re Hillcrest Memorial Gardens, Inc., 146 W. Va. 337, 119 S.E.2d 753 (1961).

2.9 The term "charitable" means of, or for, charity.

2.10 The term "charity" means a gift to be applied consistently with the existing laws, for the benefit of an indefinite number of persons, either by bringing their hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public buildings or works, or otherwise lessening the burdens of government. It is immaterial whether the purpose is called charitable in the gift itself if it is so described as to show that it is charitable. Any gift not inconsistent with

existing laws which is promotive of science or tends to the education, enlightenment, benefit or amelioration of the condition of mankind or the diffusion of useful knowledge, or is for the public convenience is a charity.

2.11 The term "child" means any person under eighteen years of age.

2.12 The term "church," as used in the regulations, shall refer to an individual parish, congregation or like subgroup of an organized religion, denomination, sect or religious society which is exempt from federal income taxes under 26 U.S.C. §§ 501(c)(3) or (c)(4).

2.13 The term "club room" means a place used by a voluntary, incorporated or unincorporated club or association of person which is officially approved by the college or university and which has a membership consisting primarily of students or faculty members or both, and which meets for social, literary, educational, or scientific purposes, or other purposes of like nature.

2.14 The term "college" means and includes any "State college of university" or "community college" as defined in W. Va. Code § 18-26-2; and any other institution of higher education which has approval from the West Virginia Board of Regents to award degrees of higher educational status pursuant to W. Va. Code § 18-26-13a. The term "higher educational institution" means any institution as defined by section 401(g, (g) or (h) of the Federal Higher Education Facilities Act of 1963, as amended, and includes the private proprietary educational institution operated for profit which offers one or more programs leading to a degree. See W. Va. Code § 18-26-3(g).

2.15 The term "dead victuals" means all non-living edible foodstuffs, beverages containing no alcohol and other non-living items commonly thought of as food intended entirely for human consumption, including, by way of illustration and not limitation, cereals and cereal products, meat and meat products, fish and fish products, poultry and poultry products, fresh and salt water animal products, egg and egg products, vegetables and vegetable products, fruit and fruit products, flour and flour products, sugar and sugar products, milk and milk products, cocoa and cocoa products, coffee and coffee substitutes, tea, herbs, spices, salt and salt substitutes, condiments, candy and confections, soft drinks, soft drink mixes and syrups, tenderizers, food coloring, bottled drinking water, sugar substitutes, oleo margarine, shortening, gelatins, baking and cooking ingredients, mushrooms, spreads, relishes, desserts, flavorings, chewing gum, edible seeds, nuts and berries. This term does not include medicines, vitamins and dietary supplements whether in liquid, powered, granular, tablet, capsule, lozenge, or pill form spirituous, malt or venous liquors or beer, or tobacco or tobacco products.

2.16 The term "deaf" means having a hearing impairment of such severity as to substantially interfere with the capacity to learn in a normal traditional classroom setting, or the capacity to obtain gainful employment.

2.17 The term "debenture" means a bond or promissory note backed by the general credit of the issuer usually not secured by a mortgage or lien on any specific property, subject to the following variations:

2.17.1 Convertible debenture. - A debenture which may be changed or converted into some other security usually at the option of the holder.

2.17.2 Convertible subordinate debenture. - A debenture which is subject or subordinate to prior payment of other indebtedness but which may be converted into another form of security.

2.17.3 Sinking fund debenture. - A debenture which is secured by periodic payments into a sinking fund, commonly managed by a trustee for purposes of retiring such debt.

2.17.4 Subordinate debenture. - A debenture which is subject to or subordinate to prior payment of other indebtedness.

2.18 The term "dormitory" means a place used by students as sleeping quarters or living quarters.

2.19 The term "dumb" means lacking the power of speech or having such impairment of the power of speech as to substantially interfere with the capacity to learn in a normal traditional classroom setting, or the capacity to obtain gainful employment.

2.20 The term "education" means the process of teaching or developing the knowledge, skill or character of persons, especially by formal schooling. "Education" does not include programs designed to train animals.

2.21 The term "evidence of debt" means a written instrument entered into by two or more parties whereby one party acknowledges in writing a debt of money as owing or payable to another party.

2.22 The term "fraternal association or society" means an association or society of persons, often sharing a similar or the same calling, avocation, or profession, formed for mutual aid and benefit, or a common cause and operated on a not-for-profit basis.

2.23 The term "free school" means a school included in the system of public schools required by W. Va. Const. Art. XII, § 1, but does not include higher education.

2.24 The term "friendless" means those persons without workable family or other human support such as to be in need of housing, care or feeding, and unable to obtain or provide such housing, care or feeding for themselves.

2.25 The term "health care corporation" as use in these regulations shall refer to any corporation organized and licensed under the provisions of W. Va. Code § 33-25-1 et seq.

2.26 The term "home for children" means an orphan asylum as defined under Section 2.42 of these regulations.

2.27 The term "house of refuge" means a place operated for the purpose of providing shelter, protection, safety or escape from danger, distress or persecution.

2.28 The term "household goods," as used in these regulations, shall refer only to tangible personal property commonly found within the house and items used to care for the house and its surrounding property.

2.29 The term "hospital" means an institution which is primarily engaged in providing to in-patients, by or under the supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled or sick persons, or rehabilitation services for the rehabilitation of injured, disabled or sick persons and which is either licensed by the West Virginia Department of Health as a hospital, or operated by the federal government or the state government as a hospital. This term also includes psychiatric and tuberculosis hospitals. See W. Va. Code § 16-2D-2(t).

2.30 The terms "hospital service corporation," "medical service corporation," "dental service corporation" and "health service corporation" as used in these regulations shall be defined as they are defined in W. Va. Code § 33-24-2.

2.31 The term "immediate use" is use which is direct and not separated in time, relationship or connection.

2.32 The term "infirm" means persons who are so weak, frail, ill, feeble or unstable as to be unable to house, care for or feed themselves or obtain such housing, care or feeding for themselves.

2.33 The term "lease" means to rent out or contractually give the use of a property in return for a monetary or other remuneration.

2.34 The term "library" means a place where books, manuscripts, films, tapes, records, musical scores, or other literary, scientific or artistic writings or materials are kept for use but not for sale.

2.35 The term "literary" means of, relating to, or having the characteristics of letters, humane learning or literature.

2.36 The term "literary hall" means a place regularly used as a library or for reading, writing or instruction in literature or literary subject matter.

2.37 The term "livestock" means farm animals or farm fowl raised for profit. Livestock shall not include cats, rabbits, dogs, rats, mice, raccoons, groundhogs, deer, squirrels, crows, bears, exotic animals, parrots, parakeets, swans, peafowl, tropical or wild or exotic birds or fish or any animal commonly kept as, or thought of as a pet, or any game animal or wild animal, so long as such animal or fowl is not kept or raised for profit.

2.38 The term "lunatic asylum" means an institution for the housing, care, feeding and treatment of the insane on a long-term residential basis.

2.39 The term "money" as used in these regulations shall mean and include cash, personal and business checks, cashiers' checks and express checks, bank credit cards (MasterCard, VISA, etc.) sales drafts or sales slips held by a merchant or other party for deposit with a bank, and other items commonly thought of and understood to be money. It does not include notes, bonds, bills and accounts receivable, stock and any other similar intangible personal property. See 48 Op. Att'y. Gen. 63 (1959).

2.40 The term "non-profit" and the term "not-for-profit" mean used with a view to producing no profit on total aggregate operations other than that which is used or held for current or planned future use in furtherance of the charitable purposes of the organization. Charities and others operating property not used for profit are not precluded from exacting charges upon beneficiaries for services rendered, nor are they precluded from deriving profits from total aggregate operations or from individual beneficiaries on a case by case basis so long as total aggregate annual operations produce no significant economic benefit or inurement to private individuals or entities apart from those which are necessarily incorporated into the operation of the charitable activity.

2.41 The term "notes" means and includes any writing signed on behalf of a church or religious society, containing an unconditional promise to pay a sum certain in money, on demand or at a definite time,. The term "note" does not include money, documents of title or investment securities.

2.42 The term "orphan asylum" means an institution for the housing, care, and feeding of children whose parents are dead, or who are unwanted, rejected, judicially removed from family, abused or otherwise unable to obtain housing, care or feeding in a workable family or adoptive relationship.

2.43 The term "parsonage" means the house, houses or living quarters which are provided by a church for its pastor, or pastors.

2.44 The term "pastor" means a minister, priest, rabbi, clergyman, or other

recognized religious leader who has charge of a congregation, parish or like following.

2.45 The term "person" means the State and its political subdivisions, and any individual, firm, partnership, joint venture, joint stock company, the United States and its agencies, public or private corporation, municipal corporation, cooperative, estate, trust, business trust, receiver, executor, administrator, any other fiduciary, any representative appointed by order of any court or otherwise acting on behalf of others, or any other group or combination acting as a unit, and the plural as well as the singular number.

2.46 The term "personal effects" means articles and items of personal property commonly worn on or about the human body, or carried by a person and normally thought to be associated with the person. "Personal effects" includes firearms and ammunition held for personal use and not for profit.

2.47 The term "place of divine worship," as used in these regulations shall refer to a church, synagogue, temple or other meeting place in which any religion, denomination, sect or religious society congregates to engage in the worship of that religion's, denomination's, sect's or religious society's deity or deities.

2.48 The term "primary use" is use which is chief, main or principal.

2.48.1 Whenever property is required to be "used" for stated purposes in order to qualify for exemption under W. Va. Code § 11-3-9, the stated purpose must be the primary or immediate use of the property, and not a secondary or remote use. The property may be used for purposes which are ancillary to the stated purpose, but the ancillary use must further the stated, primary use.

2.48.2 Whenever property is required to be "used exclusively" for stated purposes in order to qualify for exemption under West Virginia Code § 11-3-9, the stated purposes must be the primary and immediate use, and not a secondary or remote use. The property may not be used for purposes which are ancillary to the stated purpose.

2.49 The term "property belonging exclusively to" shall refer to property in which the stated owner is the person who is possessed of the freehold, whether in fee or for life. A person seized or entitled in fee subject to a mortgage or deed of trust securing a debt or liability shall be deemed the owner until the mortgagee or trustee takes possession, after which such mortgagee or trustee shall be deemed the owner. A person who has an equitable estate of freehold, or is a purchaser of a freehold estate who is in possession before transfer of legal title shall also be deemed to be property belonging exclusively to the beneficial owner.

2.50 The term "property belonging to" shall refer to real property in which the person, association, corporation, or other legal entity entitled to the exemption has the fee interest, or any type of reversionary interest when the present possessory interest is in another, or the current possessor of the property is a lessee of the exempt person, association, corporation or entity. This term shall refer to personal property in which the person, association, corporation or other legal entity entitled to the exemption holds legal title to the property or who is a lessee of the property, or if it has been mortgaged or pledged, the personal property shall be deemed to be the property of the person who has possession.

2.51 The term "property on hand to be used in the subsistence of livestock" means all personal property primarily, actually and directly used for, and reasonably necessary for the care or feeding of livestock. Only personal property is subject to this exemption. Real property is not subject to the exemption authorized by W. Va. Const. Art. X, § 1.

2.52 The term "public" means for the use or benefit of the people in general.

2.53 The term "real property" includes lands, tenements and hereditaments, all rights thereto and interest therein except chattel interest, and includes the buildings or structures erected thereon unless such buildings or structures are owned by another. See W. Va. Code §§ 11-4-10 and 2-2-10(p).

2.54 The term "relief society or association" means a society or association of persons typically sharing the same or similar calling or employed in a single industry or by a single employer and formed for the purpose of establishing a worker's relief fund serviced by periodic contributions from members or jointly from members and employers for the purpose of providing relief to members and their families in the event of work related injury or death.

2.55 The term "scientific" means of, relating to, or exhibiting the methods or principles of natural science, or knowledge covering the operation of natural laws, especially as obtained and tested through the scientific method: for example, physics, chemistry, or biology.

2.56 The term "seminary" means an institution of secondary or higher education ordinarily for the training of candidates for the priesthood, ministry, or rabbinate.

2.57 The term "Tax Commissioner" or "Commissioner" shall mean the Tax Commissioner of the State of West Virginia or his delegate.

2.58 The term "tenant" means the one who has the temporary use and occupation of real property owned by another person (called the landlord) the

duration and terms of such temporary use or occupation being fixed by an instrument called a lease.

§ 110-3-3. Constitutional Authority.

3.1 West Virginia Constitution article X, § 1 mandates that ad valorem property taxation shall be equal and uniform throughout this State. It then empowers the Legislature to, by general law, exempt the following property:

- 3.1.1 Property used for educational, literary, scientific, religious or charitable purposes;
- 3.1.2 All cemeteries;
- 3.1.3 Public property;
- 3.1.4 Personal property, including livestock, employed exclusively in agriculture, including horticulture and grazing; and
- 3.1.5 Products of agriculture, including horticulture, and grazing, while owned by the producers thereof.

3.2 West Virginia Constitution article X, § 1 exempts household goods to the value of two hundred dollars from ad valorem property taxes.

3.3 West Virginia Constitution article X, § 1a provides the following exemptions from ad valorem property taxation:

- 3.3.1 Household goods, if not held or used for profit;
- 3.3.2 Personal effects, if not held or used for profit;
- 3.3.3 Bank deposits and money; and
- 3.3.4 Upon implementation of the first statewide reappraisal accomplished in accordance with W. Va. Const. Art. X, § 1b, all intangible personal property shall be exempt from ad valorem property taxation unless and until the Legislature subjects by class, group or type such intangible personal property to such taxation.

3.3.4.a If intangibles are once again subjected to ad valorem property taxation, the applicable levy rate is the Class I levy rate for the county and levying body within whose jurisdiction the intangible has its situs.

3.3.4.b If after the reappraisal is implemented, the Legislature decides to tax intangible personal property, the intangible personal property subject to ad valorem property taxation shall not include money, bank

deposits or other investments determined by the Legislature to be in the nature of deposits in a bank or other financial institution, or upon pensions, monies or investments determined by the Legislature to be in lieu of or otherwise in the nature of pensions.

3.3.5 The value of all tangible and intangible property subject to ad valorem property taxation and which was acquired or created subsequent to any statewide reappraisal shall be allocated and phased-in over a period of years in the same manner as property valued during the statewide reappraisal.

3.4 West Virginia Constitution Article X, § 1b provides the following:

3.4.1 Until such time as the statewide reappraisal is implemented, current statutory law governing assessments remain in effect. As a result, the assessed value of utility property is whatever the Board of Public Works determines, and the assessed value of all other property cannot be less than sixty percent nor more than one hundred percent, by class, of the Tax Commissioner's appraised value of property in each county. Upon implementation of the statewide reappraisal, all property subject to ad valorem property taxation shall be assessed at sixty percent of its appraised value. The Legislature may, by general law agreed to by two-thirds of the members elected to each house, establish a higher percentage but such percentage shall not be more than one hundred percent of appraised value. Therefore, a maximum of forty percent of the value of all such property is exempt from ad valorem property taxation.

3.4.2 The first twenty thousand dollars of assessed valuation of any real property, or of personal property in the form of a mobile home, used exclusively for residential purposes and occupied by the owner or one of the owners thereof as his residence who is a citizen of this state and who is sixty-five years of age or older or is permanently and totally disabled as that term may be defined by the Legislature, shall be exempt from ad valorem property taxation, subject to such requirements, limitations and conditions as shall be prescribed by general law.

3.5 West Virginia Constitution Article X, § 1b permits the Legislature to provide by general law as follows:

3.5.1 "[A]n amount not to exceed twenty thousand dollars of value of any real property, or of personal property in the form of a mobile home, used exclusively for residential purposes and occupied by the owner or one of the owners thereof as his residence who is a citizen of this state, and who is under sixty-five years of age and not totally and permanently disabled" may by general law be exempted from ad valorem property taxes.

3.5.2 In no event shall any one person and his spouse, or one homestead be entitled to more than one exemption.

3.6 West Virginia Constitution article X, § 1c provides provides the following:

3.6.1 Tangible personal property which is moving in interstate commerce through or over West Virginia, or which was consigned from a point of origin outside of West Virginia to a public or private warehouse in this State for storage in transit to a final destination outside this State shall be exempt from ad valorem property taxation; Provided, That such out-of-state destination is specified in time to allow for a determination of exempt status in accordance with W. Va. Code § 11-3-1 et seq.

3.6.2 The exemption shall be allowed if the property, while in the warehouse, is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged for out-of-state delivery so long as the activity does not result in a new or different article, product, substance or commodity, or one of different utility.

3.6.3 Personal property of inventories of natural resources shall not be exempt from ad valorem property taxation unless such exemption is required by paramount federal law.

§ 110-3-4. Statutory Exemptions From Ad Valorem Property Taxes.

4.1 Exemptions provided by W. Va. Code § 11-3-9. - Section 11-3-9 of the West Virginia Code exempts specific property from ad valorem property taxation, pursuant to the grant of authority in W. Va. Const. Art. X, § 1. It therefore is necessary that each exemption provided in W. Va. Code § 11-3-9 be authorized by the West Virginia Constitution. This list of exemptions includes the following property:

4.1.1 Property belonging to the United States, other than property permitted by the United States to be taxed under state law.

4.1.2 Property belonging exclusively to the State of West Virginia.

4.1.3 Property belonging exclusively to any county, district, city, village or town of the State of West Virginia, and used for public purposes.

4.1.4 Property located in this State belonging to any city, town, village, county or any other political subdivision of another state, and used for public purposes.

4.1.5 Property used exclusively for divine worship.

4.1.6 Parsonages, and the household goods and furniture pertaining thereto.

4.1.7 Mortgages, bonds and other evidences of indebtedness in the hands of bona fide owners and holders and issued and sold by churches and religious societies for the purpose of securing money to be used in the erection of church buildings used exclusively for divine worship, or for the purpose of paying indebtedness thereon.

4.1.8 Cemeteries.

4.1.9 Property belonging to or held in trust for, colleges, seminaries, academies and free schools, if used for educational, literary or scientific purposes, including books, apparatus, annuities and furniture.

4.1.10 Property belonging to, or held in trust for, colleges or universities located in West Virginia, or any public or private nonprofit foundation or corporation which receives contributions exclusively for such college or university, if the property or dividends, interest, rents or royalties derived therefrom are used or devoted to educational purposes of such college or university.

4.1.11 Public and family libraries.

4.1.12 Property used for charitable purposes, and not held or leased out for profit.

4.1.13 Property used for the public purposes of distributing water or providing sewer services by a duly chartered nonprofit corporation when such property is not held, leased out, or used for profit.

4.1.14 Property used for area economic development purposes by nonprofit corporations when such property is not leased or held out for profit.

4.1.15 All real estate not exceeding one half acre in extent, and the buildings thereon, used exclusively by any college or university society as a literary hall, or as a dormitory or club room, if not leased or otherwise used with a view to profit.

4.1.16 All property of benevolent associations, not conducted for private profit.

4.1.17 Property belonging to any public institution for the education of the deaf, dumb or blind.

4.1.18 Property belonging to any hospital not held or leased out for profit.

4.1.19 House or refuge, lunatic or orphan asylum.

4.1.20 Homes for children or for the aged, friendless or infirm, not conducted for private profit.

4.1.21 Fire engines and implements for extinguishing fires, and property used exclusively for the safekeeping thereof, and for the meeting of fire companies.

4.1.22 All property on hand to be used in the subsistence of livestock on hand at the commencement of the assessment year.

4.1.23 Household goods to the value of \$200, whether or not used for profit.

4.1.24 Bank deposits and money.

4.1.25 Household goods, when not held or used for profit.

4.1.26 Personal effects when not held or used for profit.

4.1.27 Dead victuals laid away for family use.

4.1.28 Any other property or security exempted by any other provision of state or federal law.

4.2 Limitations on exemptions. - The exemptions listed in Subsection (a) of this Section are subject to three limitations:

4.2.1 No property shall be exempt from taxation if it was purchased or procured for the purpose of evading ad valorem property taxes. W. Va. Code § 11-3-9.

4.2.2 The language of W. Va. Code § 11-3-9 shall not be construed to exempt from taxation any property owned by or held in trust for, educational, literary, scientific, religious or other charitable corporations or organizations, including any public or private nonprofit foundation or corporation existing for the support of any college or university located in West Virginia, unless such property, or the dividends, interest, rents or royalties derived therefrom, is used primarily and immediately for the purposes of such corporations or organizations.

4.2.3 Exemption shall be allowed only in conformity with these regulations which are issued to provide assessors with guidelines to ensure uniform assessment practices statewide to effect the intent of W. Va. Code § 11-3-9.

4.3 Split-listing of property.

4.3.1 Split-listing of property, as authorized by W. Va. Code §§ 11-4-2 and 11-4-3, is only applicable in those instances where property is partially used by the owner thereof exclusively for residential purposes and partially used for exempt purposes.

§ 110-3-5. Ruling By The County Assessor.

5.1 All property, real or personal, exempt or nonexempt must be returned to the assessor and annually assessed. W. Va. Code §§ 11-3-1 and 11-3-2.

5.2 The assessor shall begin the work of assessment on July 1 of each year and by the following January 31 shall complete such work and complete entering all information in the land and personal property books.

5.2.1 The assessor shall obtain from each person in the county who is liable to assessment a full and correct listing of the description of all personal property of which he was the owner or the person in possession on July 1 of the current year. The listing shall include what the taxpayer deems to be the true and correct value of each item of personal property.

5.2.2 The assessor shall also obtain from each person a separate but equally complete listing of all property, real and personal, which is held, possessed or controlled by him as executor, administrator, guardian, trustee, receiver, agent, partner, attorney, president or accounting officer of a corporation, consignee, broker, or in any representative or fiduciary character.

5.3 The list required by the foregoing Section 5.2 and by W. Va. Code § 11-3-2 shall be made and information furnished by the following:

5.3.1 With respect to property of a minor, by his guardian, if he has one, and if he has none, by his father, if living, or, if not, by his mother, if living, and if neither be living or a resident of this State, by the person having charge of the property;

5.3.2 With respect to the separate property of a married woman, by herself or her husband in her name;

5.3.3 With respect to the property of a husband, who is out of the State or incapable of listing such property, by his wife;

5.3.4 With respect to the property held in trust, by the trustee, if in possession thereof, otherwise by the party for whose benefit it is held;

5.3.5 With respect to personal property of a deceased person, by

the personal representative;

5.3.6 With respect to the property of an insane person, or a person sentenced to confinement in the penitentiary, by his committee;

5.3.7 With respect to the property of a company, whether incorporated or not, whose assets are in the hands of an agent, factor or receiver, by such agent, factor or receiver, otherwise by the president or property accounting officer, partner or agent within the State;

5.3.8 With respect to credits or investments, in the possession or under the charge of a receiver or commissioner, by such receiver or commissioner; and,

5.3.9 With respect to shares in a banking institution or national banking association, by the cashier, secretary or principal accounting officer of such banking institution or national banking association.

5.4 All real property, even if exempt, shall be entered upon the assessor's books, together with the true and actual value thereof, but no taxes shall be levied upon such exempt real property or extended upon the assessor's books. Failure to enter real property on the land books may result in forfeiture of such property. W. Va. Const. Art. XIII, § 6.

5.5 The assessor shall complete his assessment and make up his official copy of the land and property books in time to submit the same to the Board of Equalization and Review not later than February 1 of the assessment year.

5.6 Any issue relating to the description or value of real or personal property shall be determined by the county commission sitting as a Board of Equalization and Review. W. Va. Code § 11-3-24.

5.7 Any time after property has been returned for taxation and up to and including the time the property books are before the county commission for equalization and review, and if a taxpayer disagrees with the classification of property assessed to him, or believes that the property is exempt or not otherwise subject to taxation, he shall file his objections, in writing, with the assessor. W. Va. Code § 11-3-24a.

5.8 If the assessor sustains the taxpayer's objections, he must make the necessary corrections in the property books. W. Va. Code § 11-3-24a.

5.9 If the assessor does not agree with the taxpayer's objections he must state his reasons for doing so to the taxpayer. If the taxpayer requests, the assessor must put his reasons in writing and furnish them to the taxpayer. W. Va. Code § 11-3-24a.

5.10 The assessor may certify the question to the Tax Commissioner. If the taxpayer requests, the assessor must certify the question to the State Tax Commissioner. W. Va. Code § 11-3-24a.

5.11 If the Tax Commissioner disagrees with the decision of the assessor as to the assessment of any property on the property books, the Tax Commissioner may appear before the county commission and contest the decision.

§ 110-3.6. Tax Commissioner's Ruling.

6.1 Information provided by the assessor. - The assessor must furnish the following information to the State Tax Commissioner.

6.1.1 The legal description of the property as it is listed in the land books.

6.1.2 A written statement setting forth his reasons why the taxpayer's claim was denied. The reasons of the assessor must be particular, e.g., "the property is used for the sale of merchandise," not general; e.g., "the property is not used for charitable purposes."

6.1.3 A statement of all uses of the property of which he is aware. This list of uses shall include all sporadic, temporary, seasonal or part-time uses; any use which involves only a part of the property; and any use by an individual, corporation, association or entity that is not the owner of record.

6.1.4 All information furnished by the assessor must be in the form of an affidavit. W. Va. Code § 11-3-24a. Any information not sworn to will be presumed to be false unless substantiated by the taxpayer.

6.2 Information provided by the taxpayer. - The taxpayer must furnish the following information to the State Tax Commissioner.

6.2.1 A description of the property which is the subject of the ruling.

6.2.2 The reason why the taxpayer believes the property to be exempt from taxation or erroneously classified. This shall include the particular statutory exemption(s) enumerated in W. Va. Code § 11-3-9. A statement such as "religious use" is not sufficient. The statutory exemption must be set forth with particularity, e.g., "property used exclusively for divine worship." See W. Va. Code § 11-3-9.

6.2.3 A statement of all uses of the property. This statement shall include any use that is temporary, seasonal, sporadic or part-time; any use that involves only part of the property; and any use by an individual, corporation, association or entity that is not the owner of record.

6.2.3.1 When any use is not a full-time use of the property, the taxpayer must state how often the property is put to that particular use, and must state the method used to determine how that portion of the use was determined.

6.2.3.2 When part of the property is put to one use and part is put to another use, the taxpayer must state what part of the property is put to each use, and must provide the area of the property that is put to each use.

6.2.3.3 When two different individuals, corporations, associations or entities use the property, the taxpayer must state the use to which each is putting the property. The taxpayer must also state what interest each has in the property, i.e., life estate, leasehold, etc.

6.2.4 The taxpayer must provide a copy of the written statement which was filed with the assessor.

6.2.5 All information filed by the taxpayer must be in affidavit form, or incorporated by reference into the affidavit and shall have attached thereto the form provided by the Tax Commissioner, such form being completed in full by the taxpayer. W. Va. Code § 11-3-24a. Any information not sworn to will be presumed to be false unless substantiated by the assessor.

6.2.6 The Tax Commissioner if he deems it pertinent, may request additional information in order to render an appropriate determination. For example, in order to determine whether a home for the elderly or handicapped qualified for exemption, the following information should be provided.

6.2.6.1 A copy of the articles of incorporation of the corporation which owns the property and, if different from the owner the same documents from the corporation which operates and manages the property, including any amendments or proposed amendments thereto.

6.2.6.2 A copy of the bylaws of said corporation(s), including any amendments or proposed amendments thereto.

6.2.6.3 A statement evidencing the nonprofit corporation's ties to the community and support from local community groups.

6.2.6.4 A statement as to whether any officer or director does or will receive any compensation from the nonprofit corporation for his or her services. If compensation is or will be received, describe the amount and the basis thereof.

6.2.6.5 A statement as to whether any officer or director has any financial interest in any contract with the nonprofit corporation, or in any

firm or corporation which has a contract with the nonprofit corporation. If such exists, it must be fully described.

6.2.6.6 As statement as to when the property was placed in use, the status of the property and the number, if any, of residents as of July 1 of the year during which application for exemption was submitted. Additionally, what will be the total number of residents in the property?

6.2.6.7 Copies of balance sheets and statements of income and expense for each of the last three (3) fiscal years that the nonprofit corporation has been in existence.

6.2.6.8 Copies of balance sheets and statements of income and expense for each of the last three (3) fiscal years, for the parcel(s) or item(s) from which exemption from ad valorem property taxes is requested.

6.2.6.9 A narrative description of how construction and operation of the facility is financed, including for example: (a) whether a federal loan was obtained under 12 U.S.C. § 1701; (b) the source of start-up funds; and (c) who will pay for operating deficits.

6.2.6.10 A narrative describing the facilities, including: (a) number and types of structures; (b) number of stories; (c) number of units by size (number of bedrooms); (d) special amenities or features of the units; (e) number of units with such features; (f) dining rooms; (g) health and physical therapy facilities; (h) community rooms or buildings; (i) recreational facilities; (j) workshops; and (k) any other essential service facility.

6.2.6.11 Does the project provide any services to the occupants such as health care, continuing education, welfare information, recreational, homemaker, and counseling services, referral services, and transportation? If yes, please describe each service and indicate whether or not a charge is made for the service, whether it be separately stated or included in the monthly rental charge to the occupants. Additionally, if a charge is made, how is it determined; i.e., on a profit basis, to recover cost or at less than cost, and whether the charge is based on providing the service at the lowest feasible cost to the occupants.

6.2.6.12 A narrative description of the occupancy of the facility (elderly and/or handicapped, including physically handicapped or developmentally disabled, i.e., mentally retarded, cerebral palsy, or epilepsy).

6.2.6.13 What are the criteria, if any, which an eligible tenant must meet?

6.2.6.14 Are the apartments furnished or unfurnished?

6.2.6.15 What is the monthly rental charge for the different apartments? How is it determined and how does it compare to rental charges for similar public apartments in the surrounding community?

6.2.6.16 The number of units for which Section 8 Housing Assistance Payments are made by the Federal government, and the number of units for which no such assistance is received.

6.2.6.17 Do residents separately pay for electricity, cable television, telephone or other utilities?

6.2.6.18 Will any residents be accepted without paying rent and, if so, how many and what are the distinguishing criteria?

6.2.6.19 Will residents be evicted if they are unable to pay their monthly rental or pay for services?

6.2.6.20 Is any portion of the facility leased to another for use in business? If yes, then describe the portion so leased, the annual rental and identify the lessee.

6.3 Information submission date. - All information should be mailed in such a manner so as to allow the Tax Commissioner sufficient time to provide a ruling. It is recommended that all information be mailed to the Tax Commissioner by January 31 of the assessment year.

6.4 Tax Commissioner ruling issuance date. - The Tax Commissioner shall issue his ruling on or before February 28 of the assessment year. W. Va. Code § 11-3-24a.

§ 110-3-7. Appeal.

7.1 Assessor or taxpayer appeal. - The ruling of the Tax Commissioner shall be binding on both the assessor and the taxpayer unless either shall appeal the decision to the circuit court of the county in which the assessment is issued, such appeal to be filed within thirty (30) days after adjournment sine die of the county commission sitting as a Board of Equalization and Review. W. Va. Code §§ 11-3-24a and 11-3-25.

7.2 Tax Commissioner appeal. - In any case in which the Tax Commissioner has appeared before the county commission and contested the assessment of any property on the property books in any county and the county commission has upheld the decision of the assessor, the Tax Commissioner may appeal such county commission determination to the circuit court of the county in which the assessment is issued, such appeal to be filed within thirty (30) days after adjournment sine die of the county commission sitting as a board of equalization and review.

7.3 Notice to the State Tax Commissioner. - Upon appeal by either the taxpayer or the assessor, the prosecuting attorney of the county who would represent the interest of the state, county and district shall be given at least ten (10) days notice prior to a hearing on the matter. The prosecuting attorney shall provide no less than five (5) days notice to the Tax Commissioner.

§ 110-3-8. Property Belonging To The United States.

8.1 All real and personal property belonging to the United States of America, other than property permitted by the United States to be taxed under state law, is exempt from ad valorem property taxation.

8.2 This exemption applies to public corporations and other agencies created by the federal government for executing national objects and purposes, so long as exemption is provided in the legislation establishing the federal agency or public corporation.

8.3 This exemption does not extend to a private corporation employed by the government.

8.4 Congress may exempt private corporations from taxation which will prevent or impede services which such private corporations provide but such exemption must be specifically stated by Congress in legislation. Absent such legislation, no exemption may be claimed.

8.5 Federal lands sold to private persons with title retained by the government to secure future payments of the purchase money remain exempt so long as the government's lien remains unsatisfied.

8.6 Property owned by private persons but leased to or used by the federal government is not exempt to the owner.

8.7 The leasehold interest in property belonging to the United States and which is owned by a private or otherwise nonpublic entity is not exempt from ad valorem property taxation.

§ 110-3-9. Property Belonging Exclusively To The State.

9.1 All real and personal property belonging exclusively to the State of West Virginia is exempt from ad valorem property taxation.

9.2 This exemption does not extend to private persons employed by the State.

§ 110-3-10. Property Belonging Exclusively To Any County, District, City, Village Or Town In This State And Used For Public Purposes.

10.1 All real and personal property belonging exclusively to any county, district, city, village or town in the State of West Virginia and used for public purposes is exempt from ad valorem property taxation.

10.2 Property belonging exclusively to any county, district, city, village or town in this State which is rented or leased to a private or nonpublic entity is not being used for public purposes and therefore is subject to ad valorem property taxation.

10.3 The exemptions set forth in Section 13-2C-15 of the West Virginia Code relating to bonds issued under the Industrial Development and Commercial Development Bond Act shall apply as set forth in Section 35.16 of these regulations.

§ 110-3-11. Property Located In This State Belonging To Any City, Town, Village, County Or Other Political Subdivision Of Another State, And Used For Public Purposes.

11.1 Property located in the State of West Virginia belonging to any city, town, village, county or other political subdivision of another State, and used for public purposes is exempt from ad valorem property taxation.

11.2 Property belonging exclusively to any county, district, city, village or town of another state which is rented or leased to a private or nonpublic entity is not being used for public purposes and therefore, is subject to ad valorem property taxation.

§ 110-3-12. Places Of Divine Worship.

12.1 Section 11-3-9 of the West Virginia Code exempts from ad valorem property tax only that property which is used exclusively for divine worship. Property will not be exempt from ad valorem property tax as "property used exclusively for divine worship" if it is used for any other purpose.

12.2 The term "divine worship" as used in these regulations, shall include the following:

12.2.1 Religious services, e.g., regular periodical worship, weddings, funerals.

12.2.2 Educational activities in furtherance of religious knowledge, e.g., Sunday school or Hebrew school classes.

12.2.3 Meetings in furtherance of the religious activities of the religion, sect, denomination or society, e.g., a meeting to decide on a new minister or choir practice.

12.2.4 Any other activity, the sole purpose of which is the furtherance of the religious activities of the religion, sect, denomination or society.

12.3 The term "divine worship," as used in these regulations, shall not include the following:

12.3.1 Activities designed to raise funds, either for the religion, sect, denomination or society, or for an organization associated therewith, e.g., a ladies club rummage sale or a teen club car wash.

12.3.2 Meetings which are not for the sole purpose of furthering the religious activities of the religion, sect, denomination or society, e.g., an organizational meeting of a church league basketball team.

12.3.3 Educational activities not solely in furtherance of religious activities, e.g., church organized driver's education classes.

12.3.4 All other activities, the purposes of which are not solely the furtherance of religious activities.

12.4 Use of property for religious purposes may be, and typically is, a charitable use.

12.5 Property not used exclusively for divine worship will not qualify for exemption under this Section. However, such property may still be exempt if the other activities are such as to qualify under Section 19 of these regulations.

12.5.1 Where a portion of the property is used exclusively for divine worship and the remainder of the property is used for other purposes which are primary and immediate, and are educational, literary, scientific or charitable in nature, the property will be exempt under W. Va. Code § 11-3-9. Example: A church which has the sanctuary on the first floor and a multi-use basement. The fact that the church holds weekly bingo games under the authority of W. Va. Code § 47-20-1 et seq. will not destroy the exemption because: (1) only charitable bingo is legally authorized; (2) only charitable or public service organizations may hold a bingo license; and (3) the net proceeds from charitable bingo may only be used for charitable or public service purposes.

12.5.2 Where a portion of the property is used for divine worship and the remainder is not being used primarily and immediately for purposes which may be classified as exempt purposes under W. Va. Code § 11-3-9, the property is fully and completely taxable like any other taxable property. Example: A church has its sanctuary on the first floor of the structure and a basement immediately below the sanctuary. As a result of the location and construction of the structure, a portion of the basement is used as a neighborhood coffee shop where

food is sold. Due to the fact that the sale of food on a continuing basis and in an on-going business environment is not an exempt purpose, the entire structure is subject to property taxation.

12.6 The trustees of a church, parish or congregation may only own four (4) acres of land in a municipality and sixty (60) acres in a rural area. See W. Va. Code § 35-1-8. Only that portion of the property used exclusively for purposes of divine worship shall be exempt under this Section. This exemption is applicable to the structure used for divine worship with any parking area for vehicles. This may not necessarily include the entire four (4) or sixty (60) acres, and nothing herein shall be construed to sanction split-listings. If a portion of a tract of church property is not used for divine worship, it is necessary for the trustees of the church to apply to the county commission of the county wherein the property is situated for the property to be divided in order that the property not used for the exempt purposes will be taxed according to its use. See W. Va. Code § 11-4-18. If a church holds title to property in excess of that authorized by W. Va. Code § 35-1-8, such title is voidable and only the State may attack such excess holdings.

12.7 Property, a portion of which is used exclusively for divine worship and a portion of which is used for other purposes, is not in total used exclusively for divine worship. In order for that portion used exclusively for divine worship to be exempt from ad valorem property taxation, the owner thereof may by application request the county commission to divide such portion from the remainder of the property; Provided, That the division requested is one which the owner would make for the separate conveyance of portions of the property and in no case may a single structure be divided. See W. Va. Code § 11-4-18. The use of the remaining property will determine its classification.

12.8 Property which while owned by a church is used for non-religious purposes during the week is not exempt. For example, if a church leases or rents for private use parking spots on the church's parking lot during the week, the church would lose the exemption which otherwise would be available if the parking lot was only used by worshipers attending church services.

12.9 Even though W. Va. Code § 35-1-8 restricts the quantity of property which a church may hold, title to property in excess of the stated amounts is not void but is only voidable until the time the State may attach and take the title.

§ 110-3-13. Parsonages, Household Goods And Furniture.

13.1 Parsonages, and the household goods and furniture pertaining thereto, are exempt from ad valorem property taxation.

13.2 In order to qualify for exemption from ad valorem property tax, the parsonage must be owned by the trustees of the church, and must be used as a

place of residence by the pastor, priest, bishop, minister, clergyman or other similar leader-of the said church.

13.3 In order to qualify for exemption from ad valorem property tax the parsonage must be available to a new pastor upon the termination of the services of the old pastor. Thus, the benefit is to the church, not the individual pastor.

13.4 The household goods must be owned by the church and not by the pastor in order to be exempt under this Section. However, household goods owned by the resident of the parsonage would otherwise be exempt under W. Va. Const. Art. X, § 1a and W. Va. Code § 11-3-9.

13.5 A church, parish or congregation may only own four (4) acres of land in a municipality and sixty (60) acres in a rural area. See W. Va. Code § 35-1-8. Only that portion of property used as a parsonage is exempt under this section from taxation. This will not necessarily include the entire four (4) or sixty (60) acres, and nothing herein shall be construed to sanction split-listings.

13.6 Unless there is a position of Assistant Pastor, or a position similarly titled, and the position is regularly occupied by a qualified person, a church shall be allowed only one (1) exemption for a parsonage.

§ 110-3-14. Mortgages, Bonds, And Other Evidence Of Indebtedness In The Hands Of Bona Fide Owners And Holders Sold By Churches And Religious Societies For The Purpose Of Securing Money To Be Used In The Erection Of Church Buildings Used Exclusively For Divine Worship.

14.1 Mortgages, bonds, and other evidences of indebtedness in the hands of bona fide owners and holders sold by churches and religious societies for the purpose of securing money to be used in the erection of church buildings used exclusively for divine worship, or for the purpose of paying indebtedness thereon, are exempt.

14.2 Upon implementation of the First Statewide Reappraisal of property which is required pursuant to W. Va. Code § 11-1A-1 et seq., no intangible personal property shall be subject to ad valorem property taxes unless such taxation is subsequently provided for by an act of the Legislature. Therefore, the question as to whether the intangible personal property addressed under this section is exempt from ad valorem property tax will become moot at that time.

§ 110-3-15. Cemeteries.

15.1 The Constitution specifically allows the exemption of cemeteries. W. Va. Constitution, art. X, § 1.

15.2 The Legislature has specifically exempted cemeteries from ad valorem property tax. W. Va. Code § 11-3-9.

15.3 Land which has been acquired of future use as gravesites is exempt from ad valorem property tax. The exemption is predicated on good faith and the quantity of property must not be disproportionate to the size of the community to be serviced. Mountain View Cemetery v. Massey, 109 W. Va. 473 155 S.E. 547 (1930).

15.4 Property belonging to a cemetery is not a cemetery. Therefore, property belonging to a cemetery is not exempt for ad valorem property tax purposes. In Re Hillcrest Memorial Gardens, Inc., 146 W. Va. 337, 119 S.E.2d 753 (1961). Property belonging to a cemetery shall include, but not be limited to the following:

15.4.1 Office furniture and equipment used for business purposes.

15.4.2 Notes or accounts receivable representing proceeds of the sale of burial lots in such cemetery.

15.4.3 Real estate held by the cemetery which is not being used, or may not reasonably be used, for actual burial plots, except real estate occupied by property specified in paragraph 15.5.

15.4.4 Office buildings, storage buildings, chapels and other buildings, parking lots, and roads owned by the cemetery.

15.5 Property which can be classified as "cemetery" is property wherein a deceased person's remains are permanently buried or otherwise permanently interred, tombstones, and those access roads which directly service such property. Such properties are exempt.

15.6 Family owned cemeteries are exempt from ad valorem property tax. However, when a family cemetery is part of a larger parcel of property, the parcel shall not be exempt from tax unless the primary and immediate use of the parcel, as a whole, is as a cemetery.

§ 110-3-16. Property Belonging To, Or Held In Trust For, Colleges, Seminaries, Academies And Free Schools, If Used For Educational, Literary Or Scientific Purposes, Including Books, Apparatus, Annuities And Furniture.

16.1 Property used for educational, literary, scientific, religious or charitable purposes under this section must be property in actual direct use, and such use must be primary and immediate and not secondary or remote.

16.1.1 For example: If a college were to purchase a tract and initiate the construction of a building which is to be used for educational,

literary or scientific purposes, the property would not be exempt from taxation until the exempt use actually occurred. If, however, those purposes were not to be the end use of the building, the property would not be exempt.

16.2 If a college owning a tract of property with a building on it were to lease the property to a commercial business, reserving a basement room for use as a classroom, the property would not be exempt from taxation. The primary and immediate use of the property would be commercial leasing. The educational use would be secondary and remote.

16.3 If a college, seminary, academy or free school were to lease a tract of property to a commercial user and apply the rents thereby derived for educational purposes, the property would not be exempt from taxation. The primary and immediate use of the property would be commercial leasing. The educational use would be secondary and remote because it would be use of income rather than the property itself.

16.3.1 The term "education" as used in these regulations does not include courses of study not reasonably calculated to develop knowledge or skills resulting in actual gainful employment of students upon completion of training. However, this Subsection should be read in conjunction with Subsection 2.20.

16.3.2 For example: Academies providing traditional formal education or vocational training in bookkeeping, automotive repair, electrical appliance repair, meat cutting, or electrical wiring are "for the purpose of education" within the meaning of this section because such training is reasonably calculated to develop knowledge or skills resulting in actual gainful employment of students upon completion of training.

16.4 A college, seminary, academy or free school offering a program reasonably calculated to develop knowledge or skills resulting in actual gainful employment of students upon completion of training may offer incidental or ancillary courses in subjects not directly related to such programs so long as the predominant course of study is educational as defined in these regulations.

16.4.1 For example: An academy offering a traditional formal educational program of literature, mathematics, art, physical education, composition, languages and similar subjects will not lose its exempt status if it offers ancillary courses in frisbee throwing, hang gliding, horsemanship, or similar nontraditional or nonvocational courses so long as the traditional course of study remains predominant.

16.5 All real property exemptions under this Section apply to individual, discrete tracts. There shall be no split-listings or allocations of use on a pro rata or other basis exempting part of a tract and making the remainder of the tract subject to taxation.

16.5.1 For example: If a college using a building for educational purposes should lease twenty-five percent (25%) of the floor space of the building to a commercial business, no allocation may be made whereby seventy-five percent (75%) of the building is treated as exempt and twenty-five percent (25%) is subject to taxation. A determination must be made as to whether educational use of the property is primary and immediate. Since seventy-five percent (75%) of the property is used for educational purposes, the chief, main or principal use of the property is educational. The property, therefore, in its entirety, would be exempt. If, however, fifty percent (50%) or more of the floor space available for commercial and exempt use is not used for educational, literary or scientific purposes, the property would not be exempt.

16.6 Property used by a commercial (for profit or private gain) college, seminary, academy or free school is exempt if used for educational, literary or scientific purposes.

§ 110-3-17. Property Belonging To, Or Held In Trust For Colleges Or Universities Located In West Virginia, Or Any Public Or Private Nonprofit Foundation Or Corporation Which Receives Contributions Exclusively For Such College Or University, If The Property Or Dividends, Interest, Rents Or Royalties Derived Therefrom Are Used Or Devoted To Educational Purposes Of Such College Or University.

17.1 In order for this exemption to apply the property in question must:

17.1.1 belong to or be held in trust for a college or university which is located in West Virginia; or

17.1.2 belong to or be held in trust for any public or private nonprofit foundation or corporation which receives contributions exclusively for a college or university which is located in West Virginia but only if the property or the dividends, interest, rents or royalties which are derived from the use of such property is used or devoted to the educational purposes of the college or university.

17.2 Property belonging to a college or university must belong exclusively to that institution; otherwise, the entire property value may not be exempt. Likewise, property held in trust for a college or university must be held in trust exclusively for such institution. No proceeds of the trust may inure to the benefit of other person, public or private.

17.3 Property belonging to or held in trust for a public or private nonprofit foundation or a public or private nonprofit corporation must belong exclusively to or be held in trust exclusively for such entity; otherwise, the entire property value may not be exempt.

17.3.1 Partial ownership or beneficiary status shared with any other person will destroy the exemption insofar as it concerns the value of the property not owned or held in trust for such public or private nonprofit foundation or public or private nonprofit corporation.

17.3.2 The public or private foundation or the public or private corporation must be organized and operated on a nonprofit basis in accordance with W. Va. Code § 31-1-1 et seq.

17.3.3 The public or private nonprofit foundation or the public or private nonprofit corporation must be a resident of West Virginia.

17.4 Only the value of the property, as determined by the extent to which the property, or the dividends, interest, rents or royalties derived therefrom is used for the educational purposes of the colleges or university, may be exempt from tax.

17.4.1 Example. Property may belong to a university but be leased to a mining company for coal mining purposes. The interest of the mining company is subject to taxation.

17.4.2 Example. Property may belong to a private nonprofit corporation which receives contributions exclusively for a college or university. West Virginia Code § 11-3-9 envisions the property will be used in such a manner that the proceeds derived from such use will be devoted to or used for the educational purposes of the college or university. In order to comply with the constitutional requirement that the property be used for educational purposes in order to be exempt, it is necessary to identify and distinguish the value of the exempt use and the total value of all uses to which the property is subject, with the result that the value of all nonexempt uses will be subject to tax.

17.4.2.1 It is irrelevant to the question of exempting the entire value of the property that the private nonprofit corporation or foundation receives nominal or minimal contributions exclusively for a college or university located in West Virginia, or that such college or university receives such contributions directly from another source. The property value exempt from taxation shall not include the value of the nonexempt uses.

17.4.2.2 It is irrelevant that the private nonprofit corporation or foundation, or the college or university located in West Virginia, is paid nominal or minimal dividends, interest, rents or royalties from the use of the property. Only that portion of the value of the property as represented by the amount the dividends, interest, rents and royalties received and used or devoted to the educational purposes of the college or university bears to the total value of the property may be exempt from ad valorem property taxation.

§ 110-3-18. Public And Family Libraries.

18.1 A parcel of realty and the buildings thereon are exempt from ad valorem property taxation if the primary and immediate use of the parcel, as a whole, is as a public or family library.

18.2 All books, manuscripts, musical scores, or other literary, scientific or artistic writings or materials and all desks, chairs, tables, cabinets, shelves, bookcases, audio-visual machines, counters, cases, racks and other personal property reasonably necessary to the maintenance or operation of a public or family library are exempt from ad valorem property taxation.

18.3 The exemption applies to a family library only if the materials housed in the physical structure are available for use by the general public.

18.4 A library will not lose its tax exempt status because it offers a book rental service for a nominal fee, makes a charge for overdue books, charges a nominal fee for copies of materials, etc. It is inherent in the tax exempt status that the library not be organized and operated for profit.

§ 110-3-19. Property Used For Charitable Purposes, And Not Held Or Leased Out For Profit.

19.1 Charities must be operated on a not-for-profit basis, must directly benefit society, must be for the benefit of an indefinite number of people, and must be exempt from federal income taxes under 26 U.S.C. §§ 501(c)(3) or 501(c)(4). Moreover, in order for the property to be exempt, the primary and immediate use of the property must be for one or more exempt purposes.

19.2 The beneficiaries of a charity may be limited to a class of beneficiaries bearing a rational relationship to the purpose of the charity.

19.2.1 For example: A charity for the purpose of assisting persons suffering with cancer may limit the class of beneficiaries to cancer victims and their families. Despite the limitation of the class, beneficiaries constitute an indefinite class, and society is generally benefited by the charity.

19.2.2 Charities for combating heart disease, tuberculosis, or multiple sclerosis may likewise limit the classes of beneficiaries receiving their bounty.

19.3 A purported charity may not, however, limit the class of beneficiaries in such a way as to violate the definition of a charity.

19.3.1 For example: A purported charity may not limit the class of beneficiaries to members of a particular family. Such a classification would not constitute an indefinite number of people and society would not be generally

benefited by such an organization.

19.3.2 Property of a non-profit community dramatic corporation or children's theatre is exempt as a charity for the promotion of educational welfare.

19.4 Payment of reasonable salaries or wages to administrative staff and employees of a charitable organization will not constitute disqualifying private gain if such salaries or wages closely approximate typical pay rates for comparable positions and are not for the purpose of siphoning-off earnings of the organization.

19.5 Realization of a surplus, or of positive net earnings, may not constitute a disqualifying private gain. So long as any such surplus or earnings are used in furtherance of the charitable activities of the organization, no disqualifying gain can be said to inure to the benefit of any private person.

§ 110-3-20. Property Used For Area Economic Development Purposes By Nonprofit Corporations When Such Property Is Not Leased For Profit.

20.1 Property used for area economic development purposes by nonprofit corporations is property used by nonprofit corporations meeting the definition of 42 U.S.C. § 9802 of a community development corporation, or property used by nonprofit corporations having as their purpose the development of special programs by which the revenues of urban or rural low-income areas may, through self-help and mobilization of the community at large, improve the quality of the economic and social participation in community life in such a way as to contribute to the elimination of poverty and the establishment of permanent, economic and social benefits.

20.2 In order for property used for area economic development purposes by nonprofit corporations to be exempt, it is essential that the use of the property be a use which is exempt under W. Va. Const. Art. X, § 1; thus, it must be "property used for educational, literary, scientific, religious or charitable purposes." Therefore, while property may be owned by a public organization and leased to a private party, the leasehold will be subject to tax unless it can be shown that the property is being used for an exempt purpose. Such property may be exempt if used for training, public service and employment programs or related services for unemployed or low-income persons. The foregoing are examples. Because the exemption question is dependent upon whether the leasehold interest is used primarily as a public service or as a private enterprise for profit, each case will be determined on an individual basis, dependent upon the facts thereof.

20.3 Such property, to be exempt from ad valorem property taxation, must conform to one or more of the exemptions set forth in Article X, § 1 of the

Constitution of West Virginia. For example: Property used for area economic development purposes will typically conform to the criteria defining a charitable use. Such property may, however, sometimes come under the public property exemption or the exemption for educational, literary or scientific use.

20.4 Property used for area economic development purposes by nonprofit corporations and not leased out for profit is exempt from ad valorem property taxation if such property is used for charitable purposes in accordance with Section 9 of these regulations, is an educational, literary or scientific institution in accordance with these regulations, but nonprofit in nature, or in state, county or municipal property or property of the United States or otherwise exempt public property in accordance with these regulations.

20.5 Upon implementation of the statewide reappraisal, this exemption, to the extent it applies to intangible personal property, will be moot because W. Va. Const. Art. X, § 1b removes intangible personal subjects such property to property taxation unless the Legislature thereafter subjects such property to such taxation.

§ 110-3-21. Real Estate Not Exceeding One Half Acre In Extent, And The Buildings Thereon, And Used Exclusively By Any College Or University Society As A Literary Hall, Or As A Dormitory Or Club Room If Not Leased Or Otherwise Used With A View To Profit.

21.1 All real estate not exceeding one-half acre in extent and the buildings thereon, used exclusively by any college or university society as a literary hall, or as a dormitory or club room and not leased or otherwise used with a view to profit is presumed to be exempt from ad valorem property taxation. If the tract exceeds one-half acre in extent, the owner thereof must demonstrate the use is exempt.

21.2 In order for the property to be exempt, the college or university society must be using the property in the required manner; that is to say, that any revenues generated through the use of the property shall not exceed the cost of maintaining the property and the reasonable operating costs of the society, if the revenues generated through the use of the property are specifically designated for such purposes.

21.3 In order for the property to be exempt, the college or university with which the society is associated must be accredited by the accrediting organization recognized by the State.

21.4 The college or university society may not be organized on a for-profit basis.

21.5 If the college or university society is itself leasing the property in question from another, the lessor may not realize a profit from the lease. If

the property is being used for the above stated exempt purpose by the lessee, the leasehold will be exempt from ad valorem property taxation. If the revenue received by the lessor exceeds the actual cost of maintaining the property, exclusive of any interest on any mortgages, notes of indebtedness or similar financial item entered into for the purpose of purchasing the property, the fee interest will be subject to ad valorem property taxation.

21.6 If the college or university society leases or subleases rooms to others, it may not realize a profit from the leases; the question of profit is to be determined over the entire period of the lease.

§ 110-3-22. Property Belonging To Benevolent Associations, Not Conducted For Private Profit.

22.1 All property which belongs to a fraternal, benevolent, or relief society, or association and which is not used for private profit is exempt from ad valorem property taxes. Therefore, a lodge or meeting hall which is actually used a greater percentage of the time as a place for socializing, dancing, etc., is not being used for charitable purposes.

22.2 Exemptions from ad valorem property taxation in favor of clubhouses, halls, lodges, and similar properties of fraternal, benevolent, or relief societies, or associations shall be extended only where such property is primarily and immediately used for charitable purposes.

22.3 Use of the property of a fraternal, benevolent, or relief society, or association is not exempt if the primary use of the property is for social purposes for the enjoyment of its members or others, rather than for charitable purposes.

22.4 Licensed fraternal benefit societies authorized under Section 33-23-1 et seq. of the W. Va. Code are addressed in Section 35.39 of these regulations.

§ 110-3-23. Property Belonging To Any Public Institution For The Education Of The Deaf, Dumb, Or Blind.

23.1 Property belonging to any public institution for the education of the deaf, dumb or blind is exempt from ad valorem property taxation if such property is primarily and immediately used for charitable purposes in accordance with Section 19 of these regulations, or for educational purposes in accordance with Section 16 of these regulations.

§ 110-3-24. Charitable Hospitals.

24.1 In general.

24.1.1 Section 11-3-9 of the West Virginia Code provides:

All property, real and personal, described in this section, and to the extent herein limited, shall be exempt from taxation, that is to say: . . . property belong to any . . . hospital not held or leased out for profit. . . .

24.1.2 Except as otherwise provided in these regulations, health care organizations and hospitals will not qualify for exemption from property tax if they are operated, in any way, for the private gain of physicians, officers, or members of the board of a hospital or other private individuals. For purposes of this regulation, private gain is any economic benefit accruing to any individual or entity other than the charitable hospital: Provided, That economic benefit does not include payments for the receipt of reasonable goods and services which are provided to the hospital under valid arms-length contracts, as that phrase is generally defined.

24.1.3 Payment by a hospital of salaries to administrative and medical staff, or the realization of a surplus or positive net earnings does not necessarily constitute such disqualifying private gain. Payment of salaries commensurate with services rendered is simply a cost of operating a charitable organization. As long as any surplus of the organization is used to continue its charitable activities, no disqualifying gain can be said to inure to the benefit of any private individual. For purposes of these regulations, surplus is the excess of the gross earnings over the expenditures incurred producing such gross earnings.

#### 24.2 Restriction of beneficiaries.

24.2.1 Hospital administration policies that discriminate on the basis of race, color, sex, or national origin will disqualify a hospital from tax exempt status.

24.2.2 The effect of other kinds of beneficiary restrictions on a hospital's tax exempt status depends on the particular restriction. Certain types of restrictions on patient admissions are permissible because of the specialized nature of the medical care provided by some hospitals. For example, children's hospitals provide care exclusively for children, and the Shriners' Hospital specializes in the care of burn victims. Such restrictions rarely threaten a hospital's tax exempt status, if they are applied in a nondiscriminatory manner, because their purpose is to provide better patient care.

24.2.3 Restrictions that limit admissions to members of a society, religious order, or association that founded the hospital or to paying patients are not acceptable. The West Virginia statute exempts only institutions that are "pure public charity" or those that fulfill truly "charitable purposes."

24.3 Ownership of property.

24.3.1 Section 11-3-9 of the West Virginia Code requires that property belonging to the hospital not be held or leased out for profit.

24.3.2 In West Virginia a lease of real estate is a chattel real that is taxed as personal property. If a lease has a separately determinable market value, it is proper to assess the value of the lease to the lessee and the value of the remainder to the lessor.

24.3.3 A leasehold interest held by a charity as the lessee would constitute personal property exempt from ad valorem taxation as to that charity if it were separately assessable.

24.4 Office space for staff physicians.

24.4.1 For purposes of Section 24, "staff physicians" are physicians who may be employed by the hospital on more than a half-time basis, radiologists, pathologists, anesthesiologists and similar positions, or, if the hospital is a teaching hospital, are members of the teaching faculty or administration; i.e., dean of the faculty, department head, etc. Physicians who do not qualify to be classified as a staff physician are classified as "affiliated physicians."

24.4.2 Hospitals may provide space for use by physicians in connection with hospital related responsibilities such as medical staff and committee meetings, medical record keeping and charting, locker room for changing clothes, or similar activities.

24.4.3 A hospital may provide free office space to members of its staff as an enticement to qualified medical personnel. The hospital may not provide free office space to some of its staff members and charge others. Furthermore, if office space is available, a hospital may not deprive some staff physicians of office space when others receive free office space. Such offices may not be so used as to cause the primary and immediate use of the hospital property to be other than charitable. For instance, staff physicians holding office space on an exempt hospital tract may examine and treat paying, for profit patients in such offices, but such use of the property may not be so extensive as to make the primary and immediate use of the tract as a whole a profit making operation rather than a charitable one in accordance with section 19 of these regulations.

24.4.4 Hospitals frequently make part of their property available for staff physician's offices. Such office space may be rented to a physician at nominal commercial rates, or provided free, or it may be considered compensation for administrative duties such a physician performs in the hospital.

24.4.5 The private use of hospital office space by affiliated physicians is not viewed favorably. Such offices are primarily for the convenience or profit of the physician. The exclusive use of a hospital office for a physician's own private gain is inconsistent with the charitable use requirement of the Constitution and the exemption statute. Rental of office space to a physician at a market rate is a strong indication that the property is being used for the sole benefit of the physician.

24.5 Recreational facilities.

24.5.1 Use of charitable property for tennis courts, playgrounds and parks for employees or other nonpatient beneficiaries may not be considered reasonably necessary or incidental to the primary functions of a hospital. Unlike food and retail concessions, however, recreation may be recognized for its therapeutic value to patients, the intended beneficiaries of the hospital's services. So long as the primary use of such facilities is for direct patient care, incidental use by hospital personnel will not destroy the charitable nature of those facilities. However, use of such recreational facilities by members of the general public who are not patients of the hospital, especially if these are charges for such use, is not consistent with charitable use.

24.6 Categories of hospitals.

24.6.1 General. - There are three generally recognized categories of hospital: for profit, governmental, and nonprofit or not-for-profit.

24.6.2 Taxability.

24.6.2.1 For-profit hospital. - A hospital held or operated for profit is not exempt from ad valorem property taxes.

24.6.2.2 Government owned hospital.

24.6.2.2.a A hospital owned and operated by the United States (or an agency or instrumentality thereof) is exempt from ad valorem property taxes on its real and personal property unless federal law permits it to be taxed in accordance with Section 8 of these regulations.

24.6.2.2.b A hospital owned and operated by the State of West Virginia (or one of its agencies or institutions) is exempt from ad valorem property taxes on its real and personal property in accordance with Section 9 of these regulations.

24.6.2.2.c A hospital owned and operated by any county, municipality or other political subdivision of this State is exempt from ad valorem property taxes if the hospital is used for public purposes in accordance

with Section 10 of these regulations.

24.6.2.2.d A hospital owned by any county, municipality or other political subdivision of the State but operated as a separate corporation pursuant to a lease may be taxable depending upon the nature of the lessor and whether the property is being used for charitable purposes.

24.6.2.3 Nonprofit or not-for-profit hospital. - A hospital owned and operated, or leased and operated, by a nonprofit or not-for-profit corporation may be exempt from ad valorem property taxation if the primary and immediate use of the property is for charitable purposes. If in the situation where the hospital is leased to such a corporation and the lease is not a below market lease, the leaseholder would not be taxable but the fee interest would be taxable to the lessor.

#### 24.7 Hospitals.

24.7.1 The term "hospital," does not include institutions regularly licensed by the West Virginia Department of Human Services (formerly Department of Welfare), such as child caring institutions, day nurseries, child-care centers and foster boarding homes. However, institutions having dual functions, one of which is clearly subject to hospital licensure by the West Virginia Department of Health, are "hospitals" within the meaning of these regulations, if such institutions are so licensed.

24.7.2 The term "hospital" as used in these regulations does not include homes or institutions regularly licensed by the West Virginia Nursing Home Licensing Board.

24.7.3 The term "hospital" as used in these regulations, does not include first aid stations and emergency care facilities or other facilities which do not provide reception and care of persons for a continuous period longer than twenty-four hours, for the purpose of providing room, board, nursing service and hospital facilities for use in diagnosis and treatment of medical conditions or infirmities; Provided, That such a facility may be included under the term "hospital" if it is actually owned by a hospital, is operated on a charitable basis, and is primarily used for such patient care activities as outpatient surgery, physical therapy and rehabilitation, drug and alcohol abuse counseling, and mental health counseling.

24.7.4 Under the Constitution of this State, property used for charitable purposes may be exempted from taxation. Property used for a hospital cannot be exempted from taxation under the Constitution of this State unless it is used for charitable purposes. W. Va. Const. art. X, § 1. Reynolds Memorial Hospital et al. v. County Court of Marshall County, 78 W. Va. 685, 90 S.E. 238 (1916); State ex rel. Cook v. Rose, 299 S.E.2d 3 (W. Va. 1982).

24.7.5 Hospital property, in order to be exempt from ad valorem property taxation, must not be held or leased out for profit. W. Va. Code § 11-3-9.

24.7.6 Under W. Va. Const. art. X, § 1, the exemption of property from taxation depends on its use. To warrant such exemption for a purpose there stated, the use must be primary and immediate, not secondary or remote. State ex rel. Farr v. Martin, 105 W. Va. 600, 143 S.E. 356 (1928).

24.7.7 The fact that a hospital is incorporated as a nonstock, nonprofit hospital does not make it charitable, even though some operating funds are derived from private, voluntary contributions; only the nature of its activities can determine if it is operated in a charitable manner.

24.7.8 Any Internal Revenue Service determination as to exemption of a hospital from Federal taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code [26 U.S.C. §§ 501(c)(3) or 501(c)(4)] shall not be determinative of the issue of whether property is exempt for ad valorem property tax purposes.

24.7.9 If the hospital ceases to be used for charitable purposes, it will lose its tax exempt status.

#### 24.8 Admissions and ability to pay.

24.8.1 In order for a hospital to be charitable it must serve a general public interest, not a private interest. Therefore, the services of the hospital must be made available to the general public and charity care must be made available in accordance with the charity care policy which must be developed by and approved by the hospital's board of trustees: Provided, That such charity care policy actually provides for charity care at a level consistent with the charitable classification of the hospital.

24.8.2 The most important single element in determining whether a hospital is charitable is its charity care policy on the admission of patients who are unable to pay. For purposes of this Section 24, charity care should not include bad debts.

24.8.3 The admission policy of a hospital, in order to be considered charitable, at a minimum must reflect the following standards:

24.8.3.1 The hospital may not arbitrarily restrict admission to certain individuals or groups. Admission may be restricted to certain groups, so long as the restriction reflects a definite benefit to the general public interest, e.g., restricting admission to children, burn victims or heart patients.

24.8.3.2 A hospital may not insist that patients provide assurance that all of their bills will be paid as a condition of admission for the purpose of obtaining emergency medical care or medical care for the treatment of a life threatening condition.

24.8.3.3 A hospital may develop reasonable rules and regulations which require that those patients who are financially able so to do to pay the charges incurred for the care provided. However, medical care cannot be withheld until a patient, or a person seeking such care, demonstrates that charges incurred will be paid. Failure to provide such medical care may be sufficient cause to deny tax exempt status to the hospital. A hospital may also develop reasonable rules and regulations which allow persons, including infants, who are referred by a court to the hospital to be given a priority for receiving hospital services over those services to be provided to indigent or charity patients. State ex rel. Cook v. Rose, 299 S.E. 3 (W. Va. 1982).

24.8.4 A hospital, to be charitable, must be operated in such a manner so as to provide necessary care to those who are not able to pay for the services rendered, not exclusively for those who are able and expected to pay. To the extent of its actual financial ability, a hospital, to be classified as charitable, must provide free and below cost service to those who are unable to pay so long as such service is consistent with its charity care policy.

24.8.5 A hospital will not be considered charitable and, therefore, will not be granted tax exempt status if it does not provide a reasonable volume of free and below cost services to those who request such medical services but who are unable to pay for those services; the reasonableness of the volume of services provided shall be determined by the character and nature of the community which the hospital services and the actual financial ability of the hospital to provide such free or below cost services: Provided, That at the time free or below cost medical care is sought:

24.8.5.1 the hospital routinely provides such medical services,

24.8.5.2 capability presently exists within the hospital to render the service requested,

24.8.5.3 the care requested is medically appropriate,

24.8.5.4 the hospital in providing such care will not be sanctioned by a professional standards review board, and

24.8.5.5 the rendering of such medical services is consistent with the charity care policy of the hospital.

24.8.6 Governmental or nonprofit hospitals must establish procedures and maintain records which demonstrate compliance with the provisions

of this Section 24.8. Such hospitals shall plainly post in the emergency and admitting areas a notice containing a statement of the existence of their obligation to provide free and below cost care and of the criteria and mechanism for receiving such care. Such hospitals shall provide written notification of the existence, criteria and mechanism for receiving such care, at a minimum, to each person admitted or treated who does not demonstrate payment coverage under governmental programs or private insurance. Such hospitals shall create and maintain records demonstrating that such required criteria and mechanisms are established, that such required policies have been posted and distributed, and which record any and all requests for free or below cost care, the disposition of such request, and the rationale for such disposition.

#### 24.9 Private gain or benefit.

24.9.1 Unless certain conditions are met, no property or activity of a hospital which is exempt from taxation shall cause any economic benefit to inure to any private individual(s) or business(es) other than the charitable hospital. No economic benefit shall inure to any employee, staff member, trustee, director or other person associated with the hospital: Provided, That economic benefit does not include payments for the receipt of reasonable goods and services, which are provided to the hospital under valid arms-length contracts, as that phrase is generally defined.

24.9.1.1 Provided such an agreement is entered into on an arms length basis, as that phrase is generally defined, a hospital may lease a portion of its space to private business for the purpose of furnishing necessary segments of the normal hospital operation; e.g., leasing space to a third party to operate a for-profit pharmacy. Total leased areas shall not be more than ten percent (10%) of the available floor space of the hospital; available floor space shall be all floor space exclusive of maintenance areas or common areas such as hallways and stairways.

24.9.1.2 A hospital complex may include more than one building or structure. If the primary use of one or more structures is for nonexempt purposes, such structures and the land upon which they are situated must be divided from the remaining structures in order for the remaining structures to continue as exempt property. The division of property shall be accomplished in accordance with W. Va. Code § 11-4-18.

24.9.2 A hospital may pay salaries to its employees and staff. The salaries paid must be commensurate with the value of the services rendered. The salaries paid to employees and staff members must not be excessive when compared with other salaries for similar services in the community. For the purpose of these regulations and because of the rural nature of West Virginia, "community" may be determined on a state-wide basis; Provided, That when developing salary comparisons, the salaries paid at hospitals outside of West Virginia may be used so long as such hospitals are not in excess of 100 miles from the borders of

West Virginia. No hospital shall pay a salary that is designed to siphon off hospital funds.

24.9.3 A hospital may accumulate and aggregate a surplus of revenue over expenses; provided, such surplus is reasonable and is as a result of an existing written policy which specifies that such surplusage is to be used in the furtherance of the hospital's charitable activities, that such use actually occurs, and that such surplusage is not to be used to the economic benefit of any private person.

24.9.3.1 A hospital may not pay out any surplus operating funds to any individual or organization. This prohibition applies to payments in the form of dividends and excessive salaries; however, bonuses and similar employee incentive plans are not necessarily inconsistent with the charitable use basis for the exemption where it is shown that such plans are not merely a device for diverting profits and that they contribute directly and immediately to the charitable purpose.

24.9.3.2 Any excess operating funds shall be used only for hospital purposes. Such purposes may include the payment of reasonable salaries, the purchase of new or replacement equipment, and the cost of capital improvements.

24.9.4 The funds that a hospital collects may not be used to pay off a mortgage against the hospital if, when the debt is paid off, the ownership of the hospital will vest in a private individual, noncharitable corporation or association or other noncharitable entity.

24.9.5 If a hospital is transferred from proprietary ownership to ownership which will operate the hospital as a charitable hospital, no economic benefit shall inure to any of the former owners, directors, trustees, staff members, or any other person subsequent to the time of transfer as a direct or indirect result of the transfer.

24.9.6 When a hospital is transferred from proprietary ownership to an ownership for charitable operation, and the former owners are the only members or a substantial number of the members of the medical staff, the hospital may be exempt from ad valorem property tax. However, the hospital will be subject to close scrutiny so as to determine whether or not it is operating in the interest of the former owners.

24.10 Open medical staff.

24.10.1 A hospital must not restrict access to the use of hospital facilities by any qualified, competent physician who is licensed to practice medicine in West Virginia: Provided, That such competency and qualification is determined by the hospital in accordance with its published by-laws, policies,

etc.

24.10.2 A hospital may restrict its medical staff to a limited number of members, based upon the service needs of the hospital. However, any restrictions of the hospital's medical staff will be closely scrutinized in determining whether or not the hospital is exempt from ad valorem taxation.

24.11 Charges and fees.

24.11.1 A hospital may charge reasonable fees for the services that it provides to a patient. These charges may include a reasonable amount above the actual cost of service for the future use of the hospital.

24.11.2 Any revenue that the hospital realizes from its charges shall be used solely for the maintenance and support of the hospital.

24.11.3 If a hospital's expenses exceed its revenue, voluntary contributions may be used to make up the difference.

24.12 Voluntary contributions and other revenue.

24.12.1 Any hospital may receive voluntary contributions. Any voluntary contributions received by a hospital may be used for the following purposes:

24.12.1.1 To defray the expense of providing free or below cost service to patients who cannot afford to pay for it. Any funds from unrestricted voluntary contributions must be used to provide free or below cost services before being used for any other purpose. Restricted contributions shall be used for the specified purposes. However, if specialized equipment is needed and the hospital's financial condition is such that the funds necessary to complete the purchase are not available, the hospital may utilize up to 50% of the unrestricted contributions available and otherwise not budgeted at the beginning of the hospital's fiscal year to complete the purchase; this procedure should be considered the exception to the general rule because sound management practices dictate that necessary purchases should be identified during the annual budget development process and appropriate purchase planning should occur at that time.

24.12.1.2 To purchase equipment to be used in the provision of medical treatment.

24.12.1.3 To purchase real estate for capital expansion.

24.12.1.4 To cover the cost of construction of capital improvements, so long as they are to be used directly in the provision of medical services.

24.12.2 If a hospital receives funds for capital improvement under the Hill-Burton Act (42 U.S.C. § 291 et seq.), it is required, as a condition of receipt of the funds, to provide a reasonable amount of free or below cost services to those who are unable to afford such services. So long as the hospital continues to provide such services to those who are unable to pay for services rendered, free or below cost services shall continue to be considered as charitable; Provided, however, That the hospital's actual financial ability allows the provision of such services.

24.13 Ancillary functions.

24.13.1 A hospital may engage in certain non-medical activities, so long as these activities are designed to serve hospital staff, employees, patients and visitors and are not such as to cause the primary and immediate use of the property to be other than charitable use in accordance with Section 19 of these regulations. These activities include, but are not limited to:

24.13.1.1 The operation of a parking facility,

24.13.1.2 The operation of a pharmacy,

24.13.1.3 The operation of a cafeteria or coffee shop, and

24.13.1.4 The operation of a gift shop.

24.14 Leasing.

24.14.1 A hospital may lease part of a tract out for any legal use and retain the tax exemption described under this Section so long as the primary and immediate use of the tract is charitable in accordance with Section 19 of these regulations and other restrictions in these regulations are not violated.

24.15 Vacant land and construction.

24.15.1 When a hospital purchases land which it intends to use for capital improvements, which will be used for charitable purposes, the land shall not be exempt so long as the land is vacant. So long as the land is vacant, it can be sold and used for noncharitable purposes.

24.15.2 Vacant tracts owned by a hospital will remain subject to taxation, even if plans are made which show that the land will be used for tax exempt purposes.

24.15.3 If construction is begun on a tract for the purpose of making improvements to be used for hospital purposes, such property shall not be exempt under this Section until it has been put to such actual use as to make

the primary and immediate use of the property charitable in accordance with Section 19 of these regulations.

24.15.4 If construction is begun on a tract exempt under this Section from ad valorem taxation at the time construction is initiated, such construction shall not void the pre-existing exemption if the proposed use of the improvements so constructed is to be a charitable use consistent with the provisions of this Section.

24.15.5 Construction of improvements, the proposed use of which is not charitable, shall not void a pre-existing exemption under this section until such time as the primary and immediate use of the property is no longer charitable in accordance with this Section and Section 19 of these regulations.

24.16 Hospital owned housing.

24.16.1 Property which a hospital owns and uses for housing for doctors, nurses, interns, technicians and other hospital personnel may be exempt from ad valorem property tax. It is necessary for the housing to be located on the same tract of property as the hospital. Also, it is incumbent upon the hospital to prove that the housing is being used in a way which directly and immediately relates to the charitable purposes. Otherwise, such housing would be used for purposes which would put it in competition with generally available commercial housing; such a use would not be primarily and immediately charitable.

24.17 Education facilities on hospital property.

24.17.1 Possession by a hospital of property used as a place of education shall not void the exemption provided under this Section so long as the primary and immediate use of the property is for charitable purposes under Section 19 of these regulations. If education is the primary and immediate use of the property, then the exemption provided under this Section will typically no longer apply. However, the exemption provided under Section 16 of these regulations may apply.

24.17.2 Any property owned by a hospital which is used as a place of residence for medical or nursing students, or other students who are studying in a medical related field at the hospital shall not be exempt from ad valorem property tax unless such property is exempt under Section 21 of these regulations.

24.17.3 Recreational facilities shall not be considered property used primarily and immediately for charitable purposes unless such facilities are designed for and primarily and immediately used by patients of the hospital.

24.18 Hospital service corporations, medical service corporations,

dental service corporations and health service corporations.

24.18.1 Hospital service corporations, medical service corporations, dental service corporations and health service corporations are exempt from ad valorem property taxation. See W. Va. Code § 33-24-4. See Section 35.40 of these regulations.

24.19 Health care corporations.

24.19.1 All health care corporations are exempt from ad valorem property tax. See W. Va. Code § 33-25-3. See Section 35.41 of these regulations.

§ 110-3-25 House of Refuge and Lunatic and Orphan Asylums.

25.1 House of refuge.

25.1.1 A house of refuge is exempt from ad valorem property taxation if such house of refuge is operated for charitable purposes in accordance with Section 19 of these regulations or is exempt state, county or municipal property or property of the United States or otherwise exempt public property in accordance with these regulations.

25.1.2 For example: A community shelter for battered or abused women is a house of refuge within the meaning of this section.

25.1.3 A Salvation Army mission providing food and living quarters to destitute people is a house of refuge within the meaning of this section.

25.2 Lunatic or orphan asylum.

25.2.1 A lunatic asylum is exempt from ad valorem property taxation if such lunatic asylum is operated for charitable purposes in accordance with Section 19 of these regulations or is exempt state, county or municipal property or property of the United States or otherwise exempt public property in accordance with these regulations.

25.2.2 An orphan asylum is exempt from ad valorem property taxation if such orphan asylum is operated for charitable purposes in accordance with Section 19 of these regulations, is an educational institution in accordance with Section 16 of these regulations or is exempt state, county or municipal property or property of the United States or otherwise exempt public property in accordance with these regulations.

§ 110-3-26 Homes for Children or for the Aged, Friendless, or Infirm, not Conducted for Private Profit.

26.1 A home for children or for the aged, friendless, or infirm not conducted for private profit is exempt from ad valorem property taxation if such home is for charitable purposes in accordance with Section 19 of these regulations, or an educational institution in accordance with Section 16 of these regulations or is exempt state, county or municipal property or property of the United States or otherwise exempt public property in accordance with these regulations.

26.2 A home for the aged will not qualify for this exemption if in order to gain admittance a person must deposit a substantial amount of money which can be equated to the prepayment of rent, must pay an application fee, must pay a damage deposit or must agree to pay a room charge unless the charge is substantially less than market value and the difference is not subsidized through a government program. It is necessary that the exempt activity meet the constitutional requirement of charitable use.

§ 110-3-27 Fire Engines and Implements for Extinguishing Fires, and Property Used Exclusively for the Safekeeping Thereof, and for the Meeting of Fire Companies.

27.1 All fire engines, implements for extinguishing fires, all equipment which is used by firemen in conjunction with their job and all real estate upon which fire houses are located is exempt from ad valorem property tax if such property is used exclusively for a charitable purpose in accordance with Section 19 of these regulations or is exempt state, county or municipal property or property of the United States or otherwise exempt public property in accordance with these regulations.

27.2 To the extent that a private corporation maintains at a manufacturing facility, or other facility of business, a separate structure which houses one or more fire engines and to the extent that such structure and only that structure has been divided from the remainder of the business facility, such structure is exempt.

27.3 If a private person, whether an individual, a corporation or otherwise, is in the business of selling, leasing, repairing or servicing equipment used for extinguishing fires, the exemption provided herein shall not apply to any such equipment which is intended to be used by a client or customer of the business.

§ 110-3-28 Property on Hand to be Used in the Subsistence of Livestock on Hand at the Commencement of the Assessment Year.

28.1 All personal property on hand which is to be used in the subsistence of livestock on hand at the commencement of the assessment year is exempt from ad valorem property taxation.

28.2 For example: Feed troughs and water troughs not permanently affixed to realty, portable coops, horse trailers and portable livestock pens are exempt to the extent that they are actually and directly used for, and reasonably necessary for the care or feeding of livestock on hand at the commencement of the year. Feed troughs and water troughs, coops and livestock pens which are affixed to realty and fences, gates, barns and outbuildings are not subject to the exemption, notwithstanding the fact that they are necessary for the care and feeding of livestock.

28.3 Livestock includes, but is not limited to: cattle, horses, sheep, chickens, domestic ducks, domestic geese, domestic turkeys, catfish, rabbits, buffalo, mink, foxes, otters, pigs, mules, donkeys, domestic goats, ponies and earthworms when raised for profit or consumption or use on the farm.

§ 110-3-29 Household Goods and Personal Effects.

29.1 Household goods and personal effects if not held or used for profit are exempt from ad valorem property taxation. W. Va. Const. art. X, § 1b.

29.2 Household goods to the value of two hundred dollars, if used for profit, are exempt from ad valorem property taxation.

29.3 Household goods, if used for profit, shall be valued at current market value.

29.4 Household goods in excess of the value of two hundred dollars, when held or used for profit, shall be valued at current market value.

§ 110-3-30 Bank Deposits and Money.

30.1 All bank deposits and money (including cash) are exempt from ad valorem property tax. W. Va. Const. art. X, § 1a.

30.2 Individual coin collections are treated as cash and exempt, unless the collection is being held or maintained for the purpose of future profit. In such case, the collection is valued as tangible personal property and only the value in excess of face value of coins which are U.S. Money is subject to taxation.

§ 110-3-31 Household Goods not Held or Used for Profit.

31.1 Household goods not held or used for profit are exempt from ad valorem taxation.

§ 110-3-32 Personal Effects not Held or Used for Profit.

32.1 Personal effects not held or used for profit are exempt from ad

valorem taxation.

§ 110-3-33 Dead Victuals.

33.1 All dead victuals which are owned by individuals and intended for their use and consumption are exempt from taxation.

33.2 Dead victuals which are being, or have been, processed for sale to others are to be considered inventory, and are subject to ad valorem property tax. These shall include, but are not limited to the following:

33.2.1 Foodstuffs which are being processed for distribution to outlets for sale to the ultimate consumer.

33.2.2 The inventory held by retail food outlets.

33.2.3 The inventory of a restaurant and other food service establishments.

§ 110-3-34 Property Used for the Public Purposes of Distributing Water or Providing Sewer Services by a Duly Chartered Nonprofit Corporation When Such Property is not Held, Leased Out, or Used for Profit.

34.1 Property which is used for the public purposes of distributing water or providing sewer services by a duly chartered nonprofit corporation when such property is not held, leased out, or used for profit is exempt.

§ 110-3-35 Other Property Exempt by Law.

35.1 Bonds for cost of real estate and public buildings and issued under section 7-3-1 et seq. of the West Virginia Code are exempt from ad valorem property taxation. See W. Va. Code § 7-3-7.

35.2 Negotiable revenue bonds for acquiring, equipping, operating or otherwise supporting or improving certain medical and long-term care facilities issued under section 7-3-1 et seq. of the West Virginia Code are exempt from ad valorem property taxation. See W. Va. Code § 7-3-14.

35.3 Property of any parks and recreation commission created by a county commission in accordance with Section 7-11-1 et seq. of the W. Va. Code is exempt from ad valorem property taxation. Bonds, notes, debentures and other evidences of indebtedness of such parks and recreation commission are exempt from ad valorem property taxation. See W. Va. Code § 7-11-2.

35.4 Property of county development authorities established in accordance with section 7-12-1 et seq. of the West Virginia Code are exempt from ad valorem property taxation. Bonds, notes, debentures and other evidence of indebtedness

of such authorities are exempt from ad valorem property taxation. See W. Va. Code § 7-12-10.

35.5 Property of emergency ambulance authorities created under Section 7-15-1 et seq. of the West Virginia Code is exempt from ad valorem property taxation. Interest on obligations and all evidences of indebtedness of any such authority are exempt from ad valorem property taxation. See W. Va. Code § 7-15-13.

35.6 Property of urban mass transportation authorities created under section 8-27-1 et seq. of the West Virginia Code is exempt from ad valorem property taxation. See W. Va. Code § 8-27-20.

35.7 All real and personal property acquired, held and used by an adjoining state in this State pursuant to the provisions of Section 8-28-9 of the West Virginia Code for acquisition, establishment, construction, lease, equipment, improvement, maintenance or operation of an airport exclusively for nonprofit public use is exempt from ad valorem property taxation in accordance with section 11 of these regulations. See W. Va. Code § 8-28-9.

35.8 Property of regional airport authorities created under Section 8-29-1 et seq. of the West Virginia Code is exempt from ad valorem property taxation. Bonds, notes, debentures and other evidences of indebtedness of such authorities are exempt from ad valorem property taxation. See W. Va. Code § 8-29-13.

35.9 Property of county airport authorities created under Section 8-29A-1 et seq. of the West Virginia Code is exempt from ad valorem property taxation. Bonds, notes, debentures and other evidences of indebtedness of such authorities are exempt from ad valorem property taxation. See W. Va. Code § 8-29A-13.

35.10 Property of municipal building commissions, county building commissions or municipal-county building commissions created under Section 8-33-1 et seq. of the West Virginia Code is exempt from ad valorem property taxation. Bonds, notes, debentures and other evidences of indebtedness of such commissions are exempt from ad valorem property taxation. See W. Va. Code § 8-33-7.

35.11 Grants of all classes of welfare assistance received under the provisions of Chapter 9 of the West Virginia Code are exempt from ad valorem property taxation. See W. Va. Code § 9-5-1.

35.12 Bonds for payment of costs associated with athletic establishments created or acquired in accordance with Section 10-2A-1 et seq. of the West Virginia Code are exempt from ad valorem property taxation. See W. Va. Code § 10-2A-10.

35.13 All bonds of the State of West Virginia or any political

subdivision thereof issued for original indebtedness and not for payment of current expenses under Section 13-1-1 are exempt from ad valorem property taxation. See W. Va. Code § 13-1-33.

35.14 All bonds of the State of West Virginia or of any political subdivision thereof issued under Section 13-2-1 et seq. of the West Virginia Code for the purpose of refunding bonds are exempt from ad valorem property taxation. See W. Va. Code § 13-2-8.

35.15 Refunding bonds issued under Section 13-2A-1 et seq. of the West Virginia Code and the income therefrom are exempt from ad valorem property taxation. See W. Va. Code § 13-2A-10.

35.16 Industrial Development and Commercial Development Bond Act.

35.16.1 Revenue bonds for industrial and commercial development issued pursuant to Section 13-2C-1 of the West Virginia Code and the income therefrom are exempt from ad valorem property taxation. See W. Va. Code § 13-2C-15.

35.16.2 The real and personal property which a county commission or a municipality may acquire to be leased, sold or otherwise disposed of, according to the provisions of Section 13-2C-1 et seq. of the West Virginia Code is exempt from ad valorem property taxation. See W. Va. Code § 13-2C-15.

35.17 Airport Development Bond Act.

35.17.1 Revenue bonds issued pursuant to the Airport Development Bond Act, section 13-2D-1 et seq. of the West Virginia Code, and the income therefrom are exempt from ad valorem property taxation. See W. Va. Code § 13-2D-12.

35.17.2 Real and personal property which a county commission may acquire for an airport according to the provisions of Section 13-2D-1 et seq. of the West Virginia Code is exempt from ad valorem property taxation. See W. Va. Code § 13-2D-12.

35.18 Refunding bonds issued pursuant to the Revenue Bond Refunding Act, section 13-2E-1 et seq. of the West Virginia Code, and the income therefrom are exempt from ad valorem property taxation. See W. Va. Code § 13-2E-12.

35.19 Armories or any property acquired or used by the State Armory Board under the provisions of Section 15-6-1 et seq. of the West Virginia Code and the bonds issued thereunder and the income therefrom, including any profit made on the sale thereof, are exempt from ad valorem property taxation. See W. Va. Code § 15-6-18.

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35.20 Any supplies or equipment purchased by the West Virginia Sheriff's Bureau (created under Section 15-8-1 et seq. of the West Virginia Code) through the special fund created under Section 15-8-7 of the West Virginia Code are exempt from ad valorem property taxation. See W. Va. Code § 15-8-12.

35.21 Sewerage works.

35.21.1 Revenue bonds issued under Section 16-13-1 et seq. of the West Virginia Code, relating to sewerage works of municipal corporations and sanitary districts, and the interest thereon are exempt from ad valorem property taxation. See W. Va. Code §§ 16-13-22f and 16-13-10.

35.21.2 All properties and facilities of municipalities addressed under Section 16-13-1 et seq. of the West Virginia Code owned or used in connection with sewerage systems are exempt from ad valorem property taxation. See W. Va. Code § 16-13-22f.

35.21.3 All monies, revenues, and other income of municipalities addressed under Section 16-13-1 et seq. of the West Virginia Code derived from sewerage systems are exempt from ad valorem property taxation. See W. Va. Code § 16-13-22f.

35.22 Public service districts for water and sewerage services.

35.22.1 All property and income of public service districts for water and sewerage services established in accordance with Section 16-13A-1 et seq. of the West Virginia Code are exempt from ad valorem property taxation. See W. Va. Code § 16-13A-21.

35.22.2 Bonds issued by public service districts for water and sewerage services established under Section 16-13A-1 et seq. of the West Virginia Code are exempt from ad valorem property taxation. See W. Va. Code § 16-13A-21.

35.23 The property, bonds, notes, debentures and other evidences of indebtedness of a housing authority established under Section 16-15-1 et seq. of the West Virginia Code are exempt from ad valorem property taxation. See W. Va. Code § 16-15-14.

35.24 Property of urban renewal authorities.

35.24.1 Property of an urban renewal authority created under Section 16-18-1 of the West Virginia Code is exempt from ad valorem property taxation. See W. Va. Code § 16-18-15(b).

35.24.2 The ad valorem property tax exemption for urban renewal authority property shall terminate when the authority sells, leases or otherwise

disposes of any property used in a redevelopment project to a redeveloper for redevelopment. See W. Va. Code § 16-18-15(b).

35.25 Any property acquired or used by the Solid Waste Disposal Authority created under Section 16-26-1 et seq. of the West Virginia Code and the income therefrom and any solid waste disposal project and the bonds and notes issued by such authority and all interest and income thereon are exempt from ad valorem property taxation. See W. Va. Code § 16-26-19.

35.26 Property acquired or used by the West Virginia Turnpike Commission under the provisions of Section 17-16A-1 of the West Virginia Code and the income therefrom, and the bonds issued under the provisions of the aforesaid code sections, and the income therefrom are exempt from ad valorem property taxation. See W. Va. Code § 17-16A-14.

35.27 Revenue bonds issued for West Virginia University under Section 18-11-1 et seq. of the West Virginia Code and the interest thereon are exempt from ad valorem property taxation. See W. Va. Code § 18-11-25.

35.28 Revenue bonds for university capital improvements issued under Section 18-11A-1 et seq. of the West Virginia Code are exempt from ad valorem property taxation. See W. Va. Code § 18-11A-7.

35.29 Revenue bonds for university facilities, buildings and structures issued under Section 18-11B-1 et seq. of the West Virginia Code and the interest thereon are exempt from ad valorem property taxation. See W. Va. Code § 18-11B-11.

35.30 Revenue bonds for Marshall University capital improvements issued under section 18-12A-1 et seq. of the West Virginia Code are exempt from ad valorem property taxation. See W. Va. Code § 18-12A-7.

35.31 Revenue bonds for state institutions of higher education issued under section 18-12B-1 et seq. of the West Virginia Code and the interest thereon are exempt from ad valorem property taxation. See W. Va. Code § 18-12B-4.

35.32 Monies and property acquired by, retained by or used by the West Virginia Board of Regents or its agents under the provisions of the West Virginia Education Loan Bond Program under Section 18-27-1 et seq. of the West Virginia Code and the income therefrom are exempt from ad valorem property taxation. See W. Va. Code § 18-27-22.

35.33 All bonds issued by the Blennerhassett Historical Park Commission under the provisions of Section 29-8-1 et seq. of the West Virginia Code are exempt from ad valorem property taxation. See W. Va. Code § 29-8-10.

35.34 Any property acquired or used by the West Virginia Railroad Maintenance Authority, established under Section 29-18-1 et seq. of the West Virginia Code, and the income therefrom, and all bonds, notes and all interest and income thereon are exempt from ad valorem property taxation. See W. Va. Code § 29-18-19.

35.35 Property of any credit union organized under Section 31-10-1 et seq. of the West Virginia Code, or any other credit union act, except any real property and any tangible personal property owned by an such credit union, is exempt from ad valorem property taxation. Any real property and any tangible personal property owned by any such credit union is subject to taxation to the same extent as other similar property is taxed. See W. Va. Code § 31-10-33.

35.36 Any economic development project or any property acquired or used by the West Virginia Economic Development Authority, established under W. Va. Code § 31-15-1 et seq., and the income therefrom, and bonds and notes issued under Section 31-15-1 et seq. of the West Virginia Code and all interest and income thereon are exempt from ad valorem property taxation. See W. Va. Code § 31-15-20.

35.37 The West Virginia Housing Development Fund.

35.37.1 Property, other than real property, of the West Virginia Housing Development Fund, and obligations for other evidences of indebtedness and any monies, funds, revenues or other income held or received by the said Housing Development Fund, and the notes and bonds of the said Housing Development Fund and the income therefrom are exempt from ad valorem property taxation. See W. Va. Code § 31-18-18.

35.37.2 All real property of the West Virginia Housing Development Fund is subject to ad valorem property taxation. See W. Va. Code § 31-18-18.

35.38 The West Virginia Community Development Authority.

35.38.1 All property, other than real property, of the West Virginia Community Development Authority, created under Section 31-19-1 et seq. of the West Virginia Code, and its obligations for other evidences of indebtedness issued pursuant to the provisions of Section 31-19-1 et seq. of the West Virginia Code and any monies, funds, revenues or other income held or received by the said community development authority and the income therefrom are exempt from ad valorem property taxation. See W. Va. Code § 31-19-20.

35.38.2 All real property of the West Virginia Community Development Authority is subject to ad valorem property taxation. See W. Va. Code § 31-19-20.

35.39 Licensed fraternal benefit societies.

35.39.1 Property, except real property and office equipment, of fraternal benefit societies licensed under Section 33-23-1 et seq. of the West Virginia Code is exempt from ad valorem property taxation. See W. Va. Code § 33-23-9(b).

35.39.2 All real property and office equipment of fraternal benefit societies licensed under Section 33-23-1 et seq. of the West Virginia Code is subject to ad valorem property taxation. See W. Va. Code § 33-23-29(b).

35.40 Property of hospital service corporations, medical service corporations and dental service corporations created in accordance with Section 33-24-1 et seq. of the West Virginia Code are exempt from ad valorem property taxation. See W. Va. Code § 33-24-4.

35.41 The property of all health care corporations created in accordance with Section 33-25-1 et seq. of the West Virginia Code is exempt from ad valorem property taxation. See W. Va. Code § 33-25-5.

35.42 Although the West Virginia Insurance Guaranty Association, created under Section 33-26-2 et seq. of the W. Va. Code, is exempt from payment of most fees and taxes levied by this State and its subdivisions, real and personal property of the said association is subject to ad valorem property taxation. See W. Va. Code § 33-26-15.

35.43 Although the West Virginia Life and Health Insurance Guaranty Association, created under Section 33-26A-1 et seq. of the West Virginia Code, is exempt from most fees and taxes levied by this State and its subdivisions, all real property of the said association is subject to ad valorem property taxation. The personal property of the said association is exempt from ad valorem property taxation. See W. Va. Code § 33-26A-16.