EXEMPTIONS FOR ORGANIZATIONS (FAQS)

FAQs on Exemptions for Charitable, Religious, Veterans and Fraternal Organizations G.L. c. 59, § 5

Frequently asked questions (FAQs) published by the Division of Local Services (DLS) within the Department of Revenue provide general information about Massachusetts municipal tax and finance laws and DLS policies and procedures in effect when published. They do not answer all questions or address complex issues about their topics. FAQs are not public written statements of the Department. They are informational only as described in 830 CMR 62C.3.1(10)(c), and do not supersede, alter or otherwise change any Massachusetts General Law, Department public written statement or other source of law.

Charitable Organization FAQs

1. Does state law exempt charitable or religious organization from real and personal property taxes?

Yes. Institutions and organizations, such as hospitals, schools, churches and cultural facilities, may qualify for exemption from local taxes on real and personal property they own on July 1, the beginning of the fiscal year. These exemptions are found in G.L. c. 59, § 5, Clause 3 (real and personal property of charitable organizations), Clause 10 (personal property of religious organizations) and Clause 11 (houses of worship and parsonages of religious organizations). However, a religious or charitable organization is not automatically exempt from local taxation when it organizes or acquires property. It must meet specific eligibility criteria and follow certain procedures to obtain an exemption.

2. What property of a charitable organization qualifies for a property tax exemption?

The following property of a charitable organization is exempt from local property taxes:

1) All personal property regardless of use.
2) Real property:
   a) Owned by, or held in trust for, the charitable organization and occupied by it, or another charitable organization, for charitable purposes;
   b) Purchased by the charitable organization with the intention of future relocation and charitable use for no more than two years from the acquisition; and
   c) Upon local acceptance, owned by, or held in trust for, a charitable organization for the purpose of creating community housing, as defined in G.L. c. 44B, § 2, if it was purchased from an entity that acquired it by a mortgage foreclosure sale, until it is rented or sold, but for not more than seven years after the purchase.

G.L. c. 59, § 5, Clause 3.

3. What is the qualification date for a charitable organization property tax exemption?

Exempt status is determined as of July 1, which is the first day of the fiscal year. To qualify for an exemption from the taxes assessed for that fiscal year, the charitable organization must meet all eligibility criteria as of that date. G.L. c. 59, § 5. It is not entitled to a pro-rata exemption for property

acquired after July 1 and should ensure that any taxes for that fiscal year are addressed when closing on the acquisition.

4. What is a charitable organization?

A charitable organization for property tax exemption purposes is a corporation or trust established for literary, benevolent, charitable, or temperance purposes. A limited liability company (LLC), disregarded entity or other non-corporate entity is not eligible for exemption as a charitable organization under G.L. c. 59, § 5, Clause 3.

The actual work done by the organization must be consistent with its stated charitable purposes and must benefit a sufficiently large or indefinite class such that society at large benefits, *i.e.*, it must operate as a public charity. *Harvard Community Health Plan, Inc. v. Board of Assessors of Cambridge*, 384 Mass. 536 (1981) and *Cummington School of the Arts, Inc. v. Board of Assessors of Cummington*, 373 Mass. 597 (1977). Its status as a non-profit corporation under G.L. c. 180 or exemption from federal taxes under sec. 501(c)(3) of the Internal Revenue Code is, without more, insufficient to satisfy this requirement. *Western Mass. Lifecare Corp. v. Assessors of Springfield*, 434 Mass. 96, 102 (2001).

In addition, the organization cannot distribute its income or assets to officers, directors or shareholders while it operates, or use them for non-charitable purposes, *i.e.*, there can be no private inurement. If the organization dissolves, its assets must be distributed to another charity.

5. What purposes are charitable for property tax exemption purposes under G.L. c. 59, § 5, Clause 3?

"A charity …may be more fully defined as a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves in life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government." *Boston Symphony Orchestra, Inc. v. Assessors of Boston*, 294 Mass. 248, 254-255 (1936), quoting *Jackson v. Phillips*, 96 Mass. 539 (1867). It includes more than almsgiving and assistance to the needy. It includes a wider field of activities for the improvement of man. *Massachusetts Medical Society v. Assessors of Boston*, 340 Mass. 327, 331 (1960).

Traditional charitable purposes include relief for low-income individuals, medical care, religious works, natural resource conservation, education, and public works. Less traditional charitable purposes include advancement of arts and sciences, promotion of culture, and providing an essential function for a charity. The further away an organization's purposes are from the traditional understanding of charitable activities, the more strictly it is held to the requirement that its operations primarily benefit a sufficiently large and indefinite class of the public.

An "auxiliary" organization created to raise funds for a related charitable organization, or to reduce the overall cost of operation of that related charitable organization by performing a necessary function for it, may qualify as a public charity for exemption purposes. *Children's Hospital Medical Center v. Board of Assessors of Boston*, 353 Mass. 35 (1967).

6. Can an organization that does charitable work as an incidental or secondary aspect of its mission qualify for a charitable exemption?

No, the dominant purpose of the organization must come within the definition of "charitable." Providing commendable, laudable and socially useful services is not sufficient. *Western Massachusetts Lifecare*

Corp. v. Board of Assessors of Springfield, 434 Mass. 96 (2001); *Jewish Geriatric Services Inc. v. Board of Assessors of Longmeadow*, 61 Mass. App. Ct. 73 (2004). In addition, if the organization is created and operated primarily for the mutual improvement of its members, or for social and recreational purposes, it is not a public charity for exemption purposes, even if there is some incidental benefit to the public. *Massachusetts Medical Society v. Assessors of Boston*, 340 Mass. 327 (1960), *Boston v. Boston Pilots' Relief Society*, 311 Mass. 232 (1942) and *Newton Centre Woman's Club v. City of Newton*, 258 Mass. 326 (1927). The dominant purpose of the work governs.

7. Can organizations that do not serve a large and indefinite class of the public (*e.g.*, due to high fees or user costs or limited membership) be exempt under G.L. c. 59, § 5, Clause 3?

An organization with purposes and methods close to the traditional understanding of charitable activity is less likely to forfeit charitable status because it serves a relatively small number of beneficiaries.

There is no precise number of persons who must be served, and at any given moment a small number may be served, but generally membership in the class served must be fluid and must be drawn from a large segment of society or all walks of life. *Massachusetts Lifecare Corp. v. Board of Assessors of Springfield*, 434 Mass. 96 (2001). The benefit does not have to be to the people in the community granting the exemption, but to the public generally. *Board of Assessors of City of Quincy v. Cunningham Foundation*, 305 Mass. 411 (1940).

A class may be considered limited if it is stable and consists of the same members for a relatively extended period of time, especially where the stability is a result of a membership policy of the organization.

8. Under what circumstances might private inurement occur for a Chapter 180 non-profit corporation?

A non-profit corporation may pay reasonable salaries for services rendered. However, if payment of salaries or provision of fringe benefits to officers or professional employees operates merely as a device to benefit the officers or distribute profits, a non-profit corporation claiming charitable status would be ineligible for the exemption. *Fisher School v. Assessors of Boston*, 325 Mass. 529 (1950); *Sturdy Memorial Foundation, Inc. Board of Assessors of North Attleborough*, 47 Mass. App. Ct. 519 (1999); (on remand, 60 Mass. App. Ct. 573 (2004).

9. What information is relevant in determining if an organization is a charitable organization?

Whether an organization is charitable under G.L. c. 59, § 5, Clause 3 depends upon the specific facts. Assessors may require whatever additional information is reasonably relevant to determining whether the organization's purposes and activities are charitable.

Relevant characteristics include the entity's form of organization, stated purposes, actual operation, persons served and how its income or revenue is spent or distributed. Generally, the purposes of an organization are set forth in its articles of organization and bylaws. A description of its activities and information about its officers and employees can also be derived from the information contained in its public charity filing (Form PC) with the Office of the Attorney General. Generally, the information the assessors will want to review would include, but is not limited to:

1) Articles of incorporation, charter or declaration of trust,
2) Organization by-laws,
3) Identification of officers, directors or trustees,

4) Description of charitable activities,
5) Description of the use of the property, including use by all lessees or other occupants,
6) Information about compensation arrangements for officers and key employees, and
7) Whether the organization has a federal tax exemption under sec. 501(c)(3) of the Internal Revenue Code.

10. Whose obligation is it to demonstrate qualification for a charitable exemption under G.L. c. 59, § 5, Clause 3?

The burden is on the applicant. "Exemption statutes are strictly construed, and the burden lies with the party seeking an exemption to demonstrate that it qualifies according to the express terms or the necessary implication of a statute providing the exemption." *New England Forestry Foundation, Inc. v. Board of Assessors of Hawley, 468 Mass. 138, 148 (2014).*

11. What is required for a charitable organization to occupy real property for property tax exemption purposes?

As a general rule, real property owned by, or held in trust for, a charitable organization must also be occupied by the charitable organization or its officers in furtherance of its charitable purposes to qualify for exemption. G.L. c. 59, § 5, Clause 3. Officers are not necessarily limited to persons holding corporate offices, but can include employees of the organization. *Trustees of Thayer Academy v. Board of Assessors of Braintree*, 232 Mass. 402 (1919).

Occupancy "means something more than that which results from simple ownership and possession. It signifies an active appropriation to the immediate uses of the charitable cause for which the owner was organized. The extent of the use, although entitled to consideration, is not decisive. But the nature of the occupation must be such as to contribute immediately to the promotion of the charity and physically to participate in the forwarding of its beneficent objects." *Board of Assessors of Boston v. The Vincent Club*, 351 Mass. 10, 14 (1966).

Assessors must determine how the property is actually used by the charity. Charitable use must be the principal use of the property. The occasional and incidental use of the property by a non-charitable organization does not impact the exemption.

The use does not have to be intensive and the officers generally have broad latitude to determine the amount of real estate needed to carry out the organization's mission. *New England Forestry Foundation, Inc. v. Board of Assessors of Hawley*, 468 Mass. 138 (2014); *Assessors of Dover v. Dominican Fathers Province of St. Joseph*, 334 Mass. 530 (1956). However, the use must be substantial enough for the property to be considered dedicated to the charitable purposes of the organization.

12. Is real property owned by, or held in trust for, a charitable organization but not occupied and used by that organization eligible for exemption?

The following real property owned by, or held in trust for, a charitable organization and not currently occupied by the organization to further its charitable purposes is also eligible for exemption:
1) Real property leased to or occupied by another charitable organization or its officers in furtherance of that organization's charitable purposes.
2) Real property acquired by a charitable organization with the intention of future relocation and charitable use may qualify for up to two years from acquisition. The organization has that time to construct a facility, or renovate the property, and occupy it. If the property is not occupied for charitable use within that period, the property is taxable until it is occupied.

a) The organization must intend to relocate from its current facility to a new one located at the site. If acquisition is for expansion purposes, actual occupancy is required. *Wheaton College v. Norton*, 232 Mass. 141, 147 (1919); 7 *Op. A.G.* 1925, p. 572 ("removal" means "change in the situs" of the organization to another parcel). But see *Mount Auburn Hospital v. Board of Assessors of Watertown*, 55 Mass. App. Ct. 611 (2002) (Purchase of property by a hospital to alleviate space constraints at existing facility and relocate outpatient services in about 50% of new site, which was substantial portion of its operations, was sufficient to establish acquisition was for the purpose of removal).
b) The grace period is not automatic. There must be a present intent to relocate at the time of the acquisition. This may have to be established by reference to all of the surrounding facts and circumstances. In addition, there must be a continuing intent to relocate as of the qualification date for the second fiscal year of the grace period.

3) In a city or town that accepts a provision of G.L. c. 59, § 5, Clause 3, real property acquired by a charitable organization for the purpose of creating community housing, as defined in G.L. c. 44B, § 2, may qualify for exemption if it was purchased from an entity that acquired it by a mortgage foreclosure sale. The exemption applies until the property is rented or sold, but for not more than seven years after the purchase.
4) Real property occupied by a governmental entity with congruent purposes qualifies for exemption, *i.e.*, the property is occupied by the governmental agency in furtherance of the charity's charitable purposes. In that case, the governmental occupancy is tantamount to occupancy by the charity. See *Bridgewater State University Foundation v. Board of Assessors of Bridgewater*, 463 Mass. 154 (2012) and *CIL Realty of Massachusetts, Inc. v. Board of Assessors of the Town of East Longmeadow*, ATB Docket No. F314815 (July 2013).

13. Is residential property owned by a charity and occupied by an officer or employee exempt?

A residence may be exempt if the occupancy by the organization's officer or employee is consistent with the charitable purposes of the organization. To qualify, the organization must establish that (1) the housing is provided as a means of adjusting the employee's compensation so that any rent paid is nominal and not intended to produce income for the organization, (2) the residency is a condition of employment, and (3) the residency is essential to the success and efficiency of the institution. See *Board of Assessors of New Braintree v. Pioneer Valley Academy, Inc.*, 355 Mass. 610 (1969) (Rent free living quarters at secondary school where faculty members were required to live were tax exempt because residency essential to the education of the students); *South Lancaster Academy v. Inhabitants of the Town of Lancaster*, 242 Mass. 553 (1922) (Student residential cottage also occupied by principal as a condition of employment who paid nominal amount for heating and lighting was tax exempt because residency essential to education of the students); *Wheaton College v. Norton, 232 Mass. 141* (1919) (Houses supplied rent free to chief engineer and building superintendent who were required to live there were tax exempt because use was consistent with educational purpose of school). Compare *President and Trustee of Williams College v. Assessors of Williamstown*, 167 Mass. 505 (1897) (House owned and leased by college to professor was not occupied for college purposes but solely for private purposes and was not tax exempt).

14. What procedures must a charitable organization follow to obtain a local property tax exemption?

A charitable organization must make an initial application to the assessors in the first fiscal year it claims exempt status for its personal property, or for a particular parcel of real property. The organization may use a charitable exemption application form (State Tax Form 1-B-3) or an abatement application (State Tax Form 128) to apply. The application deadline for any year is the same as the

deadline for property tax abatement applications, i.e., the date the first actual tax installment for the year is due.

> *For example, a charitable organization buys a parcel of real property in January 2018 and begins operating there in June 2018. To receive an exemption for fiscal year 2019 beginning on July 1, 2018, it must apply to the assessors for exemption of that parcel, and any personal property it owns, on or before the deadline for applying for abatement of fiscal year 2019 taxes.*
>
> *If the organization buys another parcel in December 2018, it would have to apply to establish an exemption for that parcel for fiscal year 2020, beginning on July 1, 2019. That application would be due on or before the deadline for fiscal year 2020 abatement applications.*

Once an exemption is established for personal property, or a particular parcel of real property, no further application is required, provided there is no change in ownership, occupancy or other eligibility criteria.

In addition, however, every charitable organization that owns real and personal property on January 1 for which it claims exemption for the fiscal year that begins on the next July 1 must file a property return (Form 3ABC) with the assessors in order to receive or continue an exemption for that year. G.L. c. 59, § 5, Clause 3(b). If the charitable organization is required to register and file an annual report (Form PC) with the Public Charities Division of the Attorney General's Office, it must attach a copy of its most recent Form PC to its Form 3ABC.

> *For example, a charitable organization buys a parcel of real property in January 2018 and begins operating there in April 2018. To receive an exemption for fiscal year 2019 beginning on July 1, 2018, it must apply to the assessors, but it would not have to have filed a Form 3ABC because it did not own the property for which an exemption is claimed on January 1. However, if the organization had bought the property in September 2017 and moved there in December 2017, it would have to have filed a Form 3ABC in addition to its exemption application in order to receive an exemption for fiscal year 2019. In both cases, the organization would have to file a Form 3ABC for subsequent fiscal years so long as it owns real and personal property on January 1.*

15. What information must a charitable organization include with its exemption application?

A charitable organization must include with its exemption application whatever supporting information is reasonably required by the assessors to establish eligibility. This information may include, but is not limited to:

1) Articles of incorporation, charter or declaration of trust.
2) Organization by-laws.
3) Identification of officers, directors or trustees.
4) Description of charitable activities.
5) Description of the use of the property, including use by all lessees or other occupants.
6) Information about compensation arrangements for officers and key employees.

16. What is the due date for filing the Form 3ABC and may it be extended or waived by the asssessors?

The Form 3ABC must be received in the assessors' office on or before March 1. However, the assessors can extend the March 1 deadline if the charitable organization makes a written request and demonstrates

a good reason for not filing on time. The latest the filing deadline can be extended to is the last day for applying for abatement of the tax for the fiscal year to which the return relates (the date the first actual tax installment for the year is due). G.L. c. 59, § 29.

The requirement to file the return is a jurisdictional prerequisite to an exemption for any property owned by the charitable organization on January 1. An organization that fails to file the return is not exempt for the year. G.L. c. 59, § 5, Clause 3(b); *Children's Hospital Medical Center v. Assessors of Boston*, 388 Mass. 832 (1983). No exemption can be granted by the assessors or appeal reviewed by the Appellate Tax Board (ATB).

Religious Organization FAQs

17. What property of a religious organization qualifies for a property tax exemption?

The following property of a religious organization is exempt from local property taxes:

1) The personal property (a) owned by or (b) held in trust within Massachusetts by a religious organization of any denomination if the principal or income is used for religious or charitable purposes. G.L. c. 59, § 5, Clause 10.
2) The pews and furniture of a religious organization. G.L. c. 59, § 5, Clause 11.
3) A church, synagogue, mosque or other house of religious worship (a) owned by, or (b) held in trust for the exclusive benefit of, a religious organization of any denomination. G.L. c. 59, § 5, Clause 11.
4) A parsonage (a) owned by, or (b) held in irrevocable trust for the exclusive benefit of, a religious organization of any denomination. G.L. c. 59, § 5, Clause 11.

18. What is the qualification date for a religious organization exemption?

Exempt status is determined as of July 1, which is the first day of the fiscal year. To qualify for an exemption from the taxes assessed for that fiscal year, the religious organization must meet all eligibility criteria as of that date. G.L. c. 59, § 5. It is not entitled to a pro-rata exemption for property acquired after July 1 and should ensure that any taxes for that fiscal year are addressed when closing on the acquisition.

19. What is a house of worship?

A house of worship is a building or structure which is owned by, or held in trust for, a religious organization, which uses and occupies it for purposes of religious services or instruction. It includes the land under the building, land accessory to the use of the building, such as parking lots, and halls used for religious classes and other religious activities. Incidental or occasional use of the property for other purposes does not affect the exemption, as long as the dominant purpose is connected with religious worship or instruction, i.e., it accompanies and supplements the religious work of the organization. *See Our Lady of La Sallette, Inc. v. Assessors of Attleboro, 476 Mass. 690 (2017).* However, any part of the property regularly leased or occupied for other purposes is taxable. *See Evangelical Baptist Benevolent and Missionary Society v. City of Boston*, 204 Mass. 28 (1910); *All Saints Parish v. Brookline*, 178 Mass. 404 (1901); *Boston Society of Redemptorist Fathers v. City of Boston*, 129 Mass. 178 (1880).

20. Is property acquired by a religious organization for a future house of worship exempt?

Property acquired and held by a religious organization for a future house of worship is not exempt unless construction or renovation is underway on the July 1 exemption qualification date. See *All Saints*

Parish v. Inhabitants of Town of Brookline, 178 Mass. 404 (1901) (Land acquired for future house of worship is not exempt where construction had not begun); *Trinity Church v. Boston*, 118 Mass. 164 (1875) (Land for future house of worship upon which construction was underway by driving piles for the foundation is exempt). There is no grace period found in G.L. c. 59, § 5, Clause 11 as there is in G.L. c. 59, § 5, Clause 3 for real property acquired by a charity for purposes of relocation.

21. What is a parsonage?

A parsonage is a ministerial residence used in connection with a house of worship of any denomination. It must be occupied by the religious leader, pastor or other clergy person, who regularly officiates at or conducts religious services in a house of worship. *Assessors of Boston v. Old South Society in Boston*, 314 Mass. 364 (1943); *Worcester District Stewards New England Conference of Methodist Episcopal Church v. Assessors of Worcester*, 321 Mass. 482 at 486 (1947) ("…the residence of a minister used in connection with his duties in a house of religious worship.").

22. Is a residence owned by a religious organization and rented to the organization's religious education director, or other employee, exempt?

The exemption under G.L. c. 59, § 5, Clause 11 applies only to houses of worship and ancillary facilities, parsonages, and certain other ecclesiastical residences. Therefore, a house owned by a religious organization is not exempt as a parsonage if someone other than its religious leader, pastor, or other active clergy person for the congregation, occupies it as of the July 1 exemption qualification date.

However, if the religious organization separately qualifies as a charitable organization under G.L. c. 59, § 5, Clause 3, the residence may be exempt if the occupancy by the organization's officer or employee is consistent with the charitable purposes of the organization. To qualify, the organization must establish that (1) the housing is provided as a means of adjusting the employee's compensation so that any rent paid is nominal and not intended to produce income for the organization, (2) the residency is a condition of employment, and (3) the residency is essential to the success and efficiency of the institution. See *Board of Assessors of New Braintree v. Pioneer Valley Academy*, 355 Mass. 610 (1969) (Rent free living quarters at secondary school where faculty members were required to live were tax exempt because residency essential to the education of the students); *South Lancaster Academy v. Inhabitants of the Town of Lancaster*, 242 Mass. 553 (1922) (Student residential cottage also occupied by principal as a condition of employment who paid nominal amount for heating and lighting was tax exempt because residency essential to education of the students); *Wheaton College v. Norton, 232 Mass. 141* (1919) (Houses supplied rent free to chief engineer and building superintendent who were required to live there were tax exempt because use was consistent with educational purpose of school). Compare *President and Trustee of Williams College v. Assessors of Williamstown*, 167 Mass. 505 (1897) (House owned and leased by college to professor was not occupied for college purposes but solely for private purposes and was not tax exempt).

23. Is a religious organization required to file an annual Form 3ABC to obtain a property tax exemption?

No, unless it is seeking an exemption as a charitable organization for real property it owns and uses for other than a house of worship or parsonage, for example, a school, health care or social service facility. In that case, it must follow the same procedures as a charitable organization to obtain the exemption.

A religious organization does not have to file any specific application form to establish exempt status for a house of worship or parsonage. If it is claiming exemption for the first time, or for property not previously exempt as a house of worship or parsonage, however, it would want to contact the assessors'

office and provide the information needed to establish exempt status and have the property removed from the tax rolls. If a tax bill is issued for any fiscal year, however, the organization must apply on or before the due date for abatement applications for that year in order for the assessors to grant the exemption. Abatement applications are due the same day as the first installment payment of the actual, not preliminary, tax bill for the fiscal year. Applications may be made using State Tax Form 128 (abatement application).

Veterans' Organization FAQs

24. What property of a veterans' organization qualifies for a property tax exemption?

An incorporated organization of veterans is exempt from local property taxes up to a dollar amount of the fair cash valuation of the following property:

1) The personal property that it owns or is held in trust for its benefit if the net income is used for charitable purposes. G.L. c. 59, § 5, Clauses 5, 5A, 5B and 5C.
2) The real property that it owns or is held in trust for its benefit if it is actually used and occupied by the organization and the net income is used for charitable purposes. G.L. c. 59, § 5, Clauses 5, 5A, 5B and 5C.

25. What is the amount of the exemption for which a veterans' organization is eligible?

It depends on the specific clause that operates in the city or town. The basic exemption is for $200,000 worth of property. G.L. c. 59, § 5, Clause 5. If the city or town has accepted G.L. c. 59, § 5, Clause 5A, the exemption amount rises to $400,000. If the city or town has accepted G.L. c. 59, § 5, Clause 5B, the exemption amount rises to $700,000. Acceptance of G.L. c. 59, § 5, Clause 5C increases the amount of the exemption to $1,500,000.

26. What is the qualification date for a veterans' organization exemption?

Exempt status is determined as of July 1, which is the first day of the fiscal year. To qualify for an exemption from the taxes assessed for that fiscal year, the veterans' organization must meet all eligibility criteria as of that date. G.L. c. 59, § 5. It is not entitled to a pro-rata exemption for property acquired after July 1 and should ensure that any taxes for that fiscal year are addressed when closing on the acquisition.

27. Is a veterans' organization required to file an annual return (Form 3ABC) to obtain a property tax exemption?

Yes. Every veterans' organization that owns real and personal property on January 1 for which it claims exemption for the fiscal year that begins on the next July 1 must file a property return (Form 3ABC) with the assessors in order to receive or continue an exemption for that year. G.L. c. 59, § 5, Clauses 5, 5A, 5B and 5C.

> *For example, a veterans' organization buys a parcel of real property in January 2018 and begins operating there in April 2018. To receive an exemption for fiscal year 2019 beginning on July 1, 2018, it must apply to the assessors, but it would not have to have filed a Form 3ABC because it did not own the property for which an exemption is claimed on January 1. However, if the organization had bought the property in September 2017 and moved there in December 2017, it would have to have filed a Form 3ABC in order to receive an exemption for fiscal year 2019. In both cases, the*

organization would have to file a Form 3ABC for subsequent fiscal years so long as it owns real and personal property on January 1.

28. Does a veterans' organization have to attach a report to the Public Charities Division of the Attorney General's Office (Form PC with federal form 990) to its annual return to obtain a property tax exemption?

No. Veterans' organizations are not required to register and file an annual report (Form PC) with the Public Charities Division of the Attorney General's Office.

29. What is the due date for filing the Form 3ABC and may it be extended or waived by the assessors?

The **Form 3ABC** must be received in the assessors' office on or before March 1. However, the assessors can extend the March 1 deadline if the veterans' organization makes a written request and demonstrates a good reason for not filing on time. The latest the filing deadline can be extended to is the last day for applying for abatement of the tax for the fiscal year to which the return relates (the date the first actual tax installment for the year is due). G.L. c. 59, § 29.

The requirement to file the return is a jurisdictional prerequisite to an exemption for any property owned by the veterans' organization on January 1. An organization that willfully fails to file the return is not exempt for the year. G.L. c. 59, § 5, Clauses 5, 5A, 5B and 5C. No exemption can be granted by the assessors or appeal reviewed by the ATB.

Fraternal Organization FAQs

30. What is a fraternal organization?

A fraternal organization is a society, order or association of members who share a similar calling, avocation, profession or cultural background or have banded together to aid and assist one another and promote a common cause. Fraternal societies, orders, or associations often have ritualized forms of meetings and work. They typically operate under the lodge system, or for the exclusive benefit of the members of a fraternity that operates under the lodge system, and they provide life, sick, accident or other benefits for the members or their dependents. See generally G.L. c. 176.

31. Does a fraternal organization qualify for a property tax exemption?

Yes. The following property of a fraternal organization is exempt from local property taxes:

1) The personal property owned by a fraternal organization operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing life, sick, accident or other benefits for the members or their dependents. G.L. c. 59, § 5, Clause 7.
2) The real property owned by an incorporated fraternal organization, or held in trust for a fraternal organization, if (1) the organization is organized for charitable purposes and actually operates as a public charity and (2) the real estate is occupied by the organization for its charitable purposes, or another charitable organization for its charitable purposes. G.L. c. 59, § 5, Clause 3.

32. Is a fraternal organization required to file an exemption application or annual return in order to obtain a property tax exemption?

A fraternal organization is not required to file an exemption application or annual return (Form 3ABC**)** unless it is seeking an exemption as a charitable organization under G.L. c. 59, § 5, Clause 3 for real property it owns and uses for its charitable purposes. If a tax bill is issued for any fiscal year, however, the organization must apply on or before the due date for abatement applications for that year in order for the assessors to grant the exemption. Abatement applications are due the same day as the first installment payment of the actual, not preliminary, tax bill for the fiscal year. Applications may be made using State Tax Form 128 (abatement application).

If the fraternal organization is claiming a charitable exemption for its real property under G.L. c. 59, § 5, Clause 3, it must meet the same standards and follow the same procedures as a charitable organization to obtain the exemption.

Specifically, the organization must make an initial application to the assessors in the first fiscal year it claims exempt status for a particular parcel of real property it owns on July 1. The organization may use a charitable exemption application form (State Tax Form 1-B-3) or an abatement application (State Tax Form 128) to apply. The application deadline for any year is the same as the deadline for property tax abatement applications, *i.e*., the date the first actual tax installment for the year is due.

In addition, if the organization owns real property on January 1 for which it claims a charitable exemption for the fiscal year that begins on the next July 1, it must file a property return (Form 3ABC) with the assessors in order to receive or continue an exemption for that year. G.L. c. 59, § 5, Clause 3(b).

33. Does a fraternal organization have to attach a report to the Public Charities Division of the Attorney General's Office (Form PC with federal form 990) to its annual return to obtain a property tax exemption?

Not as a general rule. The Public Charities Division of the Attorney General's Office does not consider most fraternal organizations to be charities subject to registration and annual reporting (**Form PC**) because they are primarily member benefit organizations.

Appeal Procedures and Deadlines FAQs

34. If an organization receives a tax bill even if it had applied for exemption for the year, or been granted an exemption in a prior year, must it apply to the assessors for an abatement?

If a tax bill is issued in any fiscal year, the organization would have to do one of the following to obtain the exemption:

1) Apply for abatement to the assessors on or before the due date for abatement applications for that fiscal year. G.L. c. 59, § 59. Abatement applications are due the same day as the first installment payment of the actual, not preliminary, tax bill for the fiscal year. Applications may be made using State Tax Form 128 (abatement application). If the assessors deny the application, the organization may appeal to the ATB within three months of the date the assessors denied the exemption, or it was deemed denied. To maintain the appeal, the organization must pay at least one-half of the personal property tax it is contesting. If the appeal involves a real estate parcel with a tax over $5,000, it must pay all preliminary and actual tax installments on time or, alternatively, pay an amount equal to the average tax assessed, reduced by abatements, for the preceding three years. G.L. c. 59, §§ 64 and 65.

2) Pay the tax and bring suit to recover the amount within 90 days. G.L. c. 60, § 98. *See* *New England Legal Foundation v. City of Boston*, 423 Mass. 602 (1996).

In addition, if the organization is claiming exemption as a charitable organization, it may appeal directly to the ATB within three months of the assessors' determination that its property is not eligible for a charitable exemption. The issuance of a tax bill on the property is considered a determination of non-eligibility for purposes of a direct appeal. Payment of the tax is not required to take a direct appeal. G.L. c. 59, § 5B.