

In the
Supreme Court of Ohio

250 Shoup Mill, LLC,

Appellant,

v.

Joseph W. Testa,
Tax Commissioner of Ohio,

Appellee.

Case No. 2015-0340

On Appeal from the Ohio Board of Tax
Appeals

Case No. 2011-2226

APPENDIX OF APPELLEE TAX COMMISSIONER OF OHIO

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Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served upon the following by regular U.S. Mail and e-mail on this 9th day of November, 2015:

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R.C. § 5709.07

Baldwin's Ohio Revised Code Annotated Currentness

Title LVII. Taxation

Chapter 5709. Taxable Property—Exemptions (Refs & Annos)

Miscellaneous Exemptions

Effective:

5709.07 Exemption of schools, churches, and colleges

(A) The following property shall be exempt from taxation:

(1) Public schoolhouses, the books and furniture in them, and the ground attached to them necessary for the proper occupancy, use, and enjoyment of the schoolhouses, and not leased or otherwise used with a view to profit;

(2) Houses used exclusively for public worship, the books and furniture in them, and the ground attached to them that is not leased or otherwise used with a view to profit and that is necessary for their proper occupancy, use, and enjoyment;

(3) Real property owned and operated by a church that is used primarily for church retreats or church camping, and that is not used as a permanent residence. Real property exempted under division (A)(3) of this section may be made available by the church on a limited basis to charitable and educational institutions if the property is not leased or otherwise made available with a view to profit.

(4) Public colleges and academies and all buildings connected with them, and all lands connected with public institutions of learning, not used with a view to profit, including those buildings and lands that satisfy all of the following:

(a)

(a) The buildings are used for housing for full-time students or housing-related facilities for students, faculty, or employees of a state university, or for other purposes related to the state university's educational purpose, and the lands are underneath the buildings or are used for common space, walkways, and green spaces for the state university's students, faculty, or employees. As used in this division, "housing-related facilities" includes both parking facilities related to the buildings and common buildings made available to students, faculty, or employees of a state university. The leasing of space in housing-related facilities shall not be considered an activity with a view to profit for purposes of division (A)(4) of this section.

(b)

(b) The buildings and lands are supervised or otherwise under the control, directly or indirectly, of an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended, and the state university has entered into a qualifying joint use agreement with the organization that entitles the students, faculty, or employees of the state university to use the lands or buildings;

(c)

(c) The state university has agreed, under the terms of the qualifying joint use agreement with the organization described in division (A)(4)(b) of this section, that the state university, to the extent applicable under the agreement, will make payments to the organization in amounts sufficient to maintain agreed-upon debt service coverage ratios on bonds related to the lands or buildings.

(B) This section shall not extend to leasehold estates or real property held under the authority of a college or university of learning in this state; but leaseholds, or other estates or property, real or personal, the rents, issues, profits, and income of which

is given to a municipal corporation, school district, or subdistrict in this state exclusively for the use, endowment, or support of schools for the free education of youth without charge shall be exempt from taxation as long as such property, or the rents, issues, profits, or income of the property is used and exclusively applied for the support of free education by such municipal corporation, district, or subdistrict. Division (B) of this section shall not apply with respect to buildings and lands that satisfy all of the requirements specified in divisions (A)(4)(a) to (c) of this section.

(C) For purposes of this section, if the requirements specified in divisions (A)(4)(a) to (c) of this section are satisfied, the buildings and lands with respect to which exemption is claimed under division (A)(4) of this section shall be deemed to be used with reasonable certainty in furthering or carrying out the necessary objects and purposes of a state university.

(D) As used in this section:

(1) "Church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

(2) "State university" has the same meaning as in section 3345.011 of the Revised Code.

(3) "Qualifying joint use agreement" means an agreement that satisfies all of the following:

(a)

(a) The agreement was entered into before June 30, 2004;

(b)

(b) The agreement is between a state university and an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended; and

(c)

(c) The state university that is a party to the agreement reported to the Ohio board of regents that the university maintained a headcount of at least twenty-five thousand students on its main campus during the academic school year that began in calendar year 2003 and ended in calendar year 2004.

CREDIT(S)

(2005 H 66, eff. 6-30-05; 1988 S 71, eff. 5-31-88; 1953 H 1; GC 5349)

UNCODIFIED LAW 2005 H 66, § 553.02.03, eff. 6-30-05, reads: (A) The amendment by this act of section 5709.07 of the Revised Code first applies with respect to tax year 2005. (B) Notwithstanding that buildings and lands described in division (D) of section 5709.07 of the Revised Code, as amended by this act, may qualify for an exemption from real property taxation under a provision of another section of the Revised Code that specifically applies to such buildings and lands, the buildings and lands are nevertheless entitled to the exemption allowed under division (A)(4) of section 5709.07 of the Revised Code, as amended by this act. 1999 H 27, § 3, eff. 9-24-99, reads: As used in this section, "qualified property" means real and tangible personal property that satisfies the qualifications for tax exemption under the terms of section 3313.44, 5709.07, 5709.08, 5709.10, 5709.12, 5709.121, or 5709.14 of the Revised Code. Notwithstanding section 5713.081 of the Revised Code, when qualified property has not received tax exemption due to a failure to comply with Chapter 5713. or section 5715.27 of the Revised Code, the owner of the property, at any time on or before six months after the effective date of this section, may file with the Tax Commissioner an application requesting that the property be placed on the tax exempt list and that all unpaid taxes, penalties, and interest on the property be abated. The application shall be made on the form prescribed by the Tax Commissioner under section 5715.27 of the Revised Code and shall list the name of the county in which the property is located; the property's legal description; its taxable value; the amount in dollars of the unpaid taxes, penalties, and interest; the date of acquisition of title to the property; the use of the property during any time that the unpaid taxes accrued; and any other information required by the commissioner. The

county auditor shall supply the required information upon request of the applicant. Upon request of the applicant, the county treasurer shall determine if all taxes, penalties, and interest that became a lien on the qualified property before it first was used for an exempt purpose and all special assessments charged against the property have been paid in full. If so, the county treasurer shall issue a certificate to the applicant stating that all such taxes, penalties, interest, and assessments have been paid in full. Prior to filing the application with the Tax Commissioner, the applicant shall attach the county treasurer's certificate to it. The commissioner shall not consider an application filed under this section unless such a certificate is attached to it. Upon receipt of the application and after consideration of it, the Tax Commissioner shall determine if the applicant meets the qualifications set forth in this section, and if so shall issue an order directing that the property be placed on the tax exempt list of the county and that all unpaid taxes, penalties, and interest for every year the property met the qualifications for exemption described in section 3313.44, 5709.07, 5709.08, 5709.10, 5709.12, 5709.121, or 5709.14 of the Revised Code be abated. If the commissioner finds that the property is not now being so used or is being used for a purpose that would foreclose its right to tax exemption, the commissioner shall issue an order denying the application. If the Tax Commissioner finds that the property is not entitled to tax exemption and to the abatement of unpaid taxes, penalties, and interest for any of the years for which the owner claims an exemption or abatement, the commissioner shall order the county treasurer of the county in which property is located to collect all taxes, penalties, and interest due on the property for those years in accordance with law. The Tax Commissioner may apply this section to any qualified property that is the subject of an application for exemption pending before the commissioner on the effective date of this section, without requiring the property owner to file an additional application. The commissioner also may apply this section to any qualified property that is the subject of an application for exemption filed on or after the effective date of this section and on or before six months after that effective date, even though the application does not expressly request abatement of unpaid taxes. 1994 H 715, § 6, eff. 4-22-94, reads: Notwithstanding Chapter 5713. of the Revised Code, when real and tangible personal property satisfies the qualifications for tax exemption under the terms of section 3313.44, 5709.07, 5709.08, 5709.10, 5709.12, or 5709.14 of the Revised Code, but has not received tax exemption as authorized by that section due to a failure to comply with Chapter 5713. or section 5715.27 of the Revised Code, the owner of the property may, at any time prior to six months after the effective date of this section, file with the Tax Commissioner an application requesting that the property be placed on the tax exempt list and that all unpaid taxes, penalties, and interest thereon be abated. The application shall list the name of the county in which the property is located, the property's legal description, its taxable value, the amount in dollars of unpaid taxes, penalties, and interest charged against the property, the date of acquisition of title to the property, the use of the property during any time that such taxes accrued, and any other information required by the Commissioner. The required information shall be supplied by the county auditor upon request of the applicant. If all taxes, penalties, and interest that became a lien before the property was first used for an exempt purpose and all special assessments charged against the property have been paid in full, the county treasurer, upon request of an applicant, shall execute a certificate showing that all such taxes, penalties, and interest have been paid in full. The Commissioner shall not consider an application filed under this section unless the application has attached to it such a certificate. Upon receipt of an application and after consideration thereof, the Commissioner shall, if he determines the applicant meets the qualifications set forth in this section, issue an order directing that the property be placed on the tax exempt list of the county and order the abatement of all unpaid taxes, penalties, and interest for every year he finds the property met the qualifications for exemption described in section 3313.44, 5709.07, 5709.08, 5709.10, 5709.12, or 5709.14 of the Revised Code, as applicable. If he finds that the property does not meet the qualifications for exemption or is being used for a purpose that forecloses its right to tax exemption, he shall issue an order denying the application. If the Commissioner finds that the property is not entitled to tax exemption and to the abatement of unpaid taxes, penalties, and interest for any of the years for which the owner claims an exemption or abatement, the Commissioner shall order the county treasurer of the county in which property is located to forthwith collect all taxes, penalties, and interest due thereon for those years in accordance with law. The Commissioner may apply this section to any property described in section 3313.44, 5709.07, 5709.08, 5709.10, 5709.12, or 5709.14 of the Revised Code that is the subject of an application for exemption pending before him on the effective date of this section, without requiring the property owner to file an additional application. The Commissioner also may apply this section to any such property that is the subject of an application for exemption filed during the period beginning on the effective date of this section and ending six months after the effective date of this section, even though the application does not expressly request abatement of unpaid taxes. 1992 S 190, § 3, eff. 4-16-93, reads: As used in this section, "qualified property" means real property owned and operated by a church, as defined in section 5709.07 of the Revised Code, that is used primarily for church retreats or church camping, and that is not used as a permanent residence, as

described in division (A)(3) of that section. Notwithstanding section 5713.081 of the Revised Code, when qualified property has not received tax exemption as authorized by section 5709.07 or 5709.12 of the Revised Code due to a failure to comply with Chapter 5713. or section 5715.27 of the Revised Code, the owner of the property may, at any time prior to May 31, 1993, file with the Tax Commissioner an application, on the form prescribed by the Tax Commission under section 5715.27 of the Revised Code, requesting that the property be placed on the tax exempt list and that all unpaid taxes, penalties, and interest thereon be abated. The application shall list the name of the county in which the property is located, the property's legal description, its taxable value, the amount in dollars of the unpaid taxes, the penalties, and interest, the date of acquisition of title to the property, the use of the property during any time that such unpaid taxes accrued, and such other information as may be required by the Commissioner. The information required shall be supplied by the county auditor upon request of the applicant. Upon receipt of such application and after consideration thereof, the Tax Commissioner shall, if he determines the applicant meets the qualifications set forth in this act, issue an order consenting to and directing that the property be placed on the tax exempt list of the county and order the abatement of all unpaid taxes, penalties, and interest for every year he finds the property met the qualifications [sic] for exemption described in section 5709.07 or 5709.12 of the Revised Code. If he finds that the property is not now being so used or is being used for a purpose that would foreclose its right to tax exemption, he shall issue an order denying the application. If the Tax Commissioner finds that the property is not entitled to tax exemption and to the abatement of unpaid taxes, penalties, and interest for any of the years for which the owner claims an exemption or abatement, the Commissioner shall order the county treasurer of the county in which property is located to forthwith collect all taxes, penalties, and interest due thereon for those years in accordance with law. The Tax Commissioner may apply this section to any qualified property that is the subject of an application for exemption pending before the Commissioner on the effective date of this act, without requiring the property owner to file an additional application. The Tax Commissioner may also apply this section to any qualified property that is the subject of an application for exemption filed on or after the effective date of this act and on or before May 31, 1993, even though the application does not expressly request abatement of unpaid taxes. The remission of taxes, penalties, and interest charged against qualified property described in division (A) of this section is remedial in nature, and represents a finding of the General Assembly that the qualified property was entitled to exemption from taxation under section 5709.12 of the Revised Code prior to the effective date of Senate Bill 71 of the 117th General Assembly, and that the decision of the Ohio Supreme Court in *Moraine Hts. Baptist Church v. Kinney* (1984), 12 Ohio St. 3d 134, does not foreclose the right of such property to exemption under section 5709.12 of the Revised Code prior to the effective date of Senate Bill 71 of the 117th General Assembly nor the right of remission set forth in this act even if the property previously was denied exemption. 1991 H 399, § 4, eff. 11-28-91, reads: Notwithstanding Chapter 5713. of the Revised Code, when real and tangible personal property satisfies the qualifications for tax exemption under the terms of section 3313.44, 5709.07, 5709.08, 5709.12, or 5709.14 of the Revised Code, but has not received tax exemption as authorized by that section due to a failure to comply with Chapter 5713. or section 5715.27 of the Revised Code, the owner of the property may, at any time prior to March 31, 1992, file with the Tax Commissioner an application requesting that the property be placed on the tax exempt list and that all unpaid taxes, penalties, and interest thereon shall be abated. The application shall list the name of the county in which the property is located, the property's legal description, its taxable value, the amount in dollars of unpaid taxes, penalties, and interest charged against the property, the date of acquisition of title to the property, the use of the property during any time that such taxes accrued, and such other information as may be required by the Commissioner. The information required shall be supplied by the county auditor upon request of the applicant. If all taxes, penalties, and interest that became a lien before the property was first used for an exempt purpose and all special assessments charged against the property have been paid in full, the county treasurer, upon request of an applicant, shall execute a certificate showing that all such taxes, penalties, and interest have been paid in full. The Tax Commissioner shall not consider an application filed under this act unless the application has attached to it such a certificate. Upon receipt of such application and after consideration thereof, the Tax Commissioner shall, if he determines the applicant meets the qualifications set forth in this act, issue an order consenting to and directing that the property be placed on the tax exempt list of the county and order the abatement of all unpaid taxes, penalties, and interest for every year he finds the property met the qualifications for exemption described in section 3313.44, 5709.07, 5709.08, 5709.10, 5709.12, or 5709.14 of the Revised Code, as applicable. If he finds that the property is not now being so used or is being used for a purpose that would foreclose its right to tax exemption, he shall issue an order denying the application. If the Tax Commissioner finds that the property is not entitled to tax exemption and to the abatement of unpaid taxes, penalties, and interest for any of the years for which the owner claims an exemption or abatement, the Commissioner shall order the county treasurer of the county in which

property is located to forthwith collect all taxes, penalties, and interest due thereon for those years in accordance with law. The Tax Commissioner may apply this section to any property described in section 3313.44, 5709.07, 5709.08, 5709.10, 5709.12, or 5709.14 of the Revised Code that is the subject of an application for exemption pending before the Commissioner on the effective date of this act, without requiring the property owner to file an additional application. The Tax Commissioner may also apply this section to any such property that is the subject of an application for exemption filed on or after the effective date of this act and on or before March 31, 1992, even though the application does not expressly request abatement of unpaid taxes.

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 Treatises and Practice Aids
 Hastings, Manoloff, Sharb, Sheeran, and Jaffe, Ohio School Law § 49:42, Exemption from State Taxes.
LAW REVIEW AND JOURNAL COMMENTARIES
 Churches And Their Enviably Tax Status, Wendy Gerzog Shaller. 51 U Pitt L Rev 345 (Winter 1990).
 Faith Fellowship Ministries, Inc v Limbach—A Watershed in the Continuing Controversy Over The Tax Exemption of Property Used for Public Worship, Donald C. Haley. 22 Ohio Tax Rev 4 (March/April 1988).
 God is Great, Garvey is Good: Making Sense of Religious Freedom, Michael Stokes Paulson. (Ed. note: The author discusses Prof. John Garvey's argument that the First Amendment was intended to protect religious freedom for the sake of religion, not simply for the sake of freedom.) 72 Notre Dame L Rev 1343 (July 1997).
 Ohio Property Tax And Sales Tax Exemptions For Religious Entities, G. Peter Augus and Donnita Carrol. 22 Ohio Tax Rev 2 (March/April 1988).
 Real Property Tax Exemptions for Religious Institutions in Ohio: Bishop Ordains a Faulty Progeny. Note. 47 Ohio St L J 535 (1986).
 The Taxation of Family Religious Orders, Albert Feuer. 6 U Dayton L Rev 19 (1981).
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 121. Constitutional issues
 Amendment of O Const Art XII §2, effective January 1, 1931, did not change or enlarge the meaning of either GC 5349 (RC 5709.07) or GC 5353 (RC 5709.12), both of which sections were enacted prior to such amendment. *Ursuline Academy of Cleveland v. Board of Tax Appeals* (Ohio 1943) 141 Ohio St. 563, 49 N.E.2d 674, 26 O.O. 152. In pursuance of the authority contained in O Const Art XII §2, general laws have been passed exempting from taxation the different classes of property enumerated in said section. Such exemptions are set out in GC 5349 (RC 5709.07).
Trustees of Cincinnati Southern Ry. v. Roth (Hamilton 1913) 27 Ohio C.D. 43, 17 Ohio C.C.(N.S.) 562, 2 Ohio App. 195.
 Government may and at times must accommodate religious practice, and a law is not unconstitutional simply because it allows churches to advance religion, which is their very purpose; thus government, by raising and removing a regulation that burdens the exercise of religion, acts with a proper purpose and need not at the same time bestow any benefits upon secular bodies. *Corporation of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos* (U.S. Utah 1987) 107 S.Ct. 2862, 483 U.S. 327, 97 L.Ed.2d 273.
 Former GC 5349 (RC 5709.07) held unconstitutional to the extent that it attempts to exempt from taxation property not used exclusively for charitable purposes although the income arising from such use is devoted wholly to the purpose of charity. *State ex rel. Boss v. Hess* (Ohio 1925) 113 Ohio St. 52, 148 N.E. 347, 3 Ohio Law Abs. 361, 23 Ohio

Law Rep. 302.RC 5709.07 is adequately specific in its terms to give fair warning to those to whom it applies, and therefore it is not unconstitutionally vague. *First Baptist Church of Medina, Ohio, Inc v Kinney*, No. 1312 (9th Dist Ct App, Medina, 6-6-84). Tax Commissioner properly ruled that he did not have jurisdiction to consider constitutional issues raised in application for real property tax exemption filed by Indian nation. *Munsee Delaware Indian Nation USA v. Wilkins*, BTA 2006-M-1231, 2007 WL 2460205 (8-17-07). Penalties and late filing charges for unpaid sales tax concerning the operation of the taxpayer's tavern are proper, despite the existence of economic hardships; sales tax is actually paid by the taxpayer's customers and the proceeds are held in trust for subsequent remission to the state. *Masich v Tracy*, BTA 94-P-556 (10-12-94). 2. In general Board of tax appeals may not consider application for exemption of property under GC 5349 (RC 5709.07) or GC 5353 (RC 5709.12), unless application for exemption has attached to it a certificate or affidavit executed by county treasurer certifying that taxes, assessments, penalties and interest levied and assessed against property sought to be exempted have been paid in full to date upon which application for exemption is filed, or are such as may be remitted under proviso in GC 5570-1 (RC 5713.08). *Ursuline Academy of Cleveland v. Bd. of Tax Appeals (Ohio 1943)* 141 Ohio St. 559, 49 N.E.2d 680, 26 O.O. 151. If the board of tax appeals has (1) no application for tax exemption before it for decision or (2) it has an application for tax exemption before it for decision but finds that the property is not entitled to tax exemption for the current year, then the board has no jurisdiction to consider, or pass on its merits, an application for tax remission for prior years. *In re Application of Parkwood Villa, Inc*, 13 Misc 191 (1967), affirmed sub nom *Parkwood Villa, Inc v Cuyahoga County Auditor*, 13 OS(2d) 111, 235 NE(2d) 130 (1968). An assessment becomes a lien from the date of the passage of the assessing ordinance, and where a board of education has purchased real estate upon which assessments are partially unpaid, such unpaid assessments would continue to be a lien upon such property, regardless of who was the owner. 1920 OAG p 808. Tax Commissioner lacks jurisdiction to entertain real property tax exemption application where tax lien attached prior to acquisition of property by appellant. *Sylvania Church of God v. Wilkins*, BTA 2006-B-48, 2007 WL 1366327 (5-4-07). An appeal is properly denied where the taxpayer seeks to exempt a residence and contiguous acres of land, but elects not to attend the merit hearing to elicit testimony and evidence from the parties; the notice of appeal and correspondence from the taxpayer's counsel is not a substitute for reliable evidence. *Springfield Bd of Ed v Tracy*, BTA 93-P-318 (12-27-94). If a single owner uses land for both exempt and nonexempt purposes, the listing of the property may be split so that the portion used exclusively for an exempt purpose can be regarded as a separate entity and be listed as exempt; the balance used for a nonexempt purpose will be listed at its taxable value and taxed accordingly. *Strongsville v Cuyahoga County Bd of Revision*, BTA 85-C-199 (11-10-87). 3. Public learning institution Privately owned buildings can be "connected with" a college and can thus qualify for statutory tax exemption for public colleges and academies. *Athens Cty. Aud. v. Wilkins (Ohio, 10-05-2005)* 106 Ohio St.3d 293, 834 N.E.2d 804, 2005-Ohio-4986. Taxation ☞ 2347 Private, for-profit owner of dormitories rented to students of technical college did not qualify for tax exemption under statute providing that public colleges and academies and all buildings connected with them shall be exempt from taxation, even though technical college provided some administrative and marketing support to dormitories, where technical college did not own or lease the dormitories, was not contractually obligated to pay the taxes on the dormitories, and had not applied for and would not benefit from the tax exemption sought by owner of dormitories. *Athens Cty. Aud. v. Wilkins (Ohio, 10-05-2005)* 106 Ohio St.3d 293, 834 N.E.2d 804, 2005-Ohio-4986. Taxation ☞ 2347 Sorority's right to the exclusive use of private university's sorority house was not an educational use which entitled university to property tax exemption for buildings connected with public colleges and lands connected with public institutions of learning; purpose of exemption was for buildings used with reasonable certainty in furthering and carrying out the necessary objects and purposes of the college, and building was not used by university to house its students but rather was used by private organization to house sorority members. *Case W. Res. Univ. v. Wilkins (Ohio, 04-20-2005)* 105 Ohio St.3d 276, 825 N.E.2d 146, 2005-Ohio-1649. Taxation ☞ 2347 Private university was a "public college" within meaning of property tax exemption statute for public colleges and all building connected with them not used for profit, as university was conducted in a lawful manner without any view to profit and open to all members of the public without regard to race, creed or nationality. *Case W. Res. Univ. v. Wilkins (Ohio, 04-20-2005)* 105 Ohio St.3d 276, 825 N.E.2d 146, 2005-Ohio-1649. Taxation ☞ 2352 Real property, not currently being used, can qualify for an exemption under RC 5709.07 as land connected with a public institution of learning, if the evidence shows that the needs of the institution make present use of the land impractical and that there is an intent to use the land at some reasonable time in the future for the purposes and objectives of the institution. *Ohio Operating Engineers Apprenticeship Fund v. Kinney (Ohio 1980)* 61 Ohio St.2d 359, 402 N.E.2d 511, 15 O.O.3d 440. Taxation ☞ 2347 A college fraternity house constructed and paid for by the fraternity on land owned in fee simple by a university and leased to the fraternity is not exempt from taxation. *Denison University v. Board of Tax*

Appeals (Ohio 1962) 173 Ohio St. 429, 183 N.E.2d 773, 20 O.O.2d 63. Taxation ☞ 2341 Land conveyed to public institution of learning, wherein grantors retained a life estate, which life estate prevented the use of the property by the university while life estate was outstanding, is not exempt from taxation under GC 5351 and 5349 (RC 5709.08 and 5709.07). *President and Trustees of Miami University v. Evatt* (Ohio 1945) 144 Ohio St. 434, 59 N.E.2d 366, 30 O.O. 35. A turnverein is neither a public institution of learning nor an institution used exclusively for charitable purposes and therefore is not entitled to tax exemption of its property. *Socialer Turnverein v. Board of Tax Appeals* (Ohio 1942) 139 Ohio St. 622, 41 N.E.2d 710, 23 O.O. 117. A radio station cannot be considered a house of public worship for tax exemption purposes. *Jimmy Swaggart Evangelistic Assn v Kinney*, No. WD-82-64 (6th Dist Ct App, Wood, 3-18-83). Real property tax exemptions in ORC 3357.14 and 5709.07 for property owned by public technical college districts were not available to limited liability company which was actual owner of college dormitories, for which technical college district served as mere "leasing agent." *Athens County Auditor v Zaino*, BTA 2002-A-1152, 2004 WL 767062 (3-19-04). A private organization which owns a residential student housing complex located near a university and leases directly to international graduate students without any participation, ownership, or connection to a university is not eligible for the tax exemption under RC 5709.07. *Cleveland Student Housing Assn. v Tracy*, BTA 93-P-1182 (5-19-95). A building is a house of public worship under RC 5709.07(A)(2), and is thus entitled to a real property tax exemption, when (1) the building is used by an organization with specific religious beliefs to hold open and free services observing the organization's rites and including Christian teaching and messages, despite the fact that music by nationally known performers is part of these services; (2) the attendees of the services join as a common group in prayer and belief, although they may also belong to different churches; (3) the services are free, although attendees are required to call or write ahead for a reservation to secure a seat and requested to make a minimal donation to deter insincere reservation making; and (4) the organization is not merely the alter ego of its founder, although he is the single energizing force in forming and guiding the organization, the beliefs of which are accepted by a group of followers. *King's Place, Inc v Limbach*, BTA 90-E-1476 (8-21-92). The tax exemption under RC 5709.07 for real property connected with public institutions of learning is broader than the traditional classroom facility and includes institutions that are involved in the nonprofit collection and dissemination of knowledge. *American Chemical Society v Kinney*, BTA 77-B-152 and 77-B-153 (1979). 4. Future intended use Diocese's planned use of real property as a school qualified the property for tax exemption under the prospective-use doctrine, where the property was acquired for the express purpose of being developed into a school that would qualify for exemption as a public schoolhouse or as a charitable use of property, and the diocese and its trustees had taken substantial steps to secure financing to renovate the building, had hired a principal, were reviewing teacher applications, and had announced the school's opening. *Episcopal School of Cincinnati v. Levin* (Ohio, 03-12-2008) 117 Ohio St.3d 412, 884 N.E.2d 561, 2008-Ohio-939. Taxation ☞ 2347 Diocese's failure to realize its intention to build a school, which would be a tax exempt use of real property, did not make prospective use tax exemption unavailable to the diocese for year in which the standards for the exempt use were satisfied on January 1, the tax lien date, where the diocese pursued the exempt use of the property as a school as of the beginning of the tax year. *Episcopal School of Cincinnati v. Levin* (Ohio, 03-12-2008) 117 Ohio St.3d 412, 884 N.E.2d 561, 2008-Ohio-939. Taxation ☞ 2347 Tax exempt status, under the prospective use doctrine, for property planned for use as a public schoolhouse, was determined only as of tax lien date, which was January 1 of tax year, and not as of the date on which application for exemption was filed. *Episcopal School of Cincinnati v. Levin* (Ohio, 03-12-2008) 117 Ohio St.3d 412, 884 N.E.2d 561, 2008-Ohio-939. Taxation ☞ 2347 Where an entity, which under the law is entitled to have its property exempted from taxation, acquires real property with the intention of devoting it to an exempt use, such property is entitled to be exempted from taxation even though actual physical use of the property for the exempt purpose has not yet begun. *Carney v. Cleveland City School Dist. Public Library of Cuyahoga County* (Ohio 1959) 169 Ohio St. 65, 157 N.E.2d 311, 8 O.O.2d 33. The mere fact that a church owns a piece of property does not exempt it from taxation; it must be used exclusively for public worship. *First New Jerusalem Society of Cincinnati v. Richardson* (Ohio Com.Pl. 1910) 25 Ohio Dec. 672, 10 Ohio N.P.(N.S.) 214. The crucial date for determining whether a property is tax exempt is the tax lien date, not the date of filing the application. Where the tax lien date was January 1, 2001 and the application was filed in December 2001, by which time the plan for the exempt purpose of a school had been abandoned for lack of sufficient funds, the tax commissioner's denial of an exemption for 2001 is reversed where (1) the project became more expensive and less feasible because costs had been underestimated, (2) significant funding was, however, in place by the tax lien date, including a bridge loan and a letter of credit, each in millions of dollars, (3) progress was being made on a bond levy, which was abandoned after the tax lien date, and (4) before abandoning the project, attempts were first made to scale it down. This evidence rebuts the presumption in favor of the commissioner's ruling. *Episcopal School of Cincinnati v Wilkins*,

BTA 2004-R-230, 2006 WL 3791978 (12-22-2006). Real property does not fall within the public worship exemption of RC 5709.07, where it is vacant property and its intended use is for athletic facilities, not worship, although the sports teams that will use the facilities will be part of a church league that requires church attendance; vacant property also fails to qualify for the exemption, where although the church states that it intends to use the property for expansion of its church and related parking, it offers no evidence, other than bare assertions, that it is actively engaged in such expansion pursuits. *Somerset Presbyterian Church v Tracy*, BTA 92-A-1502 (2-25-94). The word “exclusively,” as used in RC 5709.07, means “primarily” for the reason that a claim for exemption should not be denied when the primary use of the property is entitled to exemption. *Vandalia Baptist Temple v Limbach*, BTA 87-D-121 (12-22-89). Actual physical use of property for an exempt purpose need not necessarily be commenced before it is entitled to exemption under RC 5709.07. *First Baptist Church of Milford v Limbach*, BTA 87-C-1177 (11-24-89). Real property tax exemption, pursuant to RC 5709.07, will be granted where the property is acquired by a qualifying institution with the intention of devoting it to an exempt use within a reasonable time. *First Baptist Church of Milford v Limbach*, BTA 87-C-1177 (11-24-89). A church which purchases vacant land for the purpose of erecting a house of worship thereon is entitled to have the land exempted from taxation only when the institution is actively constructing the church building. Absent actual planning for construction of the church and funding of the construction, tax exemption will be denied. *First Baptist Church v Kinney*, BTA 78-B-245 (1980).

5. Exemption construction—Although it is true that statutes exempting property from taxation must be strictly construed, such construction must be reasonable. *Tri-County Baptist Church v Limbach*, BTA 84-G-1126 (2-4-87). Statutes relating to exemption from taxation are to be strictly construed and the person claiming such exemption must affirmatively establish his or her right thereto. *Corwin v Limbach*, BTA 83-A-265 (2-7-85). RC 5709.07 does not exempt from real property taxation such houses as may be used for the support of public worship, but only houses used exclusively as places of public worship. *St. Gregory Palamas Old Calendar Greek Orthodox Monastery Corp v Kinney*, BTA 81-D-616 (1982).

6. Religious institution—In general—For property owned by church to qualify for statutory exemption from real estate taxation for a tax year, based on use of the property for a house of public worship, the church had to, on the tax-lien date for that tax year, i.e., January 1, both own the property and use it for a house of public worship. *Sylvania Church of God v. Levin* (Ohio, 05-28-2008) 118 Ohio St.3d 260, 888 N.E.2d 408, 2008-Ohio-2448. Taxation ☞ 2355 Applicability of real property tax exemption for houses of public worship does not depend on whether property is used as a church. *World Evangelistic Ent. Corp. v. Tracy* (Ohio App. 2 Dist., 06-29-1994) 96 Ohio App.3d 78, 644 N.E.2d 678, dismissed, appeal not allowed 71 Ohio St.3d 1412, 641 N.E.2d 1111. Taxation ☞ 2355 For purposes of exemption from real property taxes, “public worship” means open and free celebration or observance of rites and ordinances of religious organization. *World Evangelistic Ent. Corp. v. Tracy* (Ohio App. 2 Dist., 06-29-1994) 96 Ohio App.3d 78, 644 N.E.2d 678, dismissed, appeal not allowed 71 Ohio St.3d 1412, 641 N.E.2d 1111. Taxation ☞ 2355 For the purposes of RC 5709.07, “public worship” means the open and free celebration or observance of the rites and ordinances of a religious organization. *Faith Fellowship Ministries, Inc. v. Limbach* (Ohio 1987) 32 Ohio St.3d 432, 513 N.E.2d 1340. Taxation ☞ 2355 Church which was both a charitable and a religious institution was not entitled to charitable institution tax exemption where church's land was used primarily for religious, recreational, and social activities. *Mount Calvary Evangelical Lutheran Church v. Kinney* (Montgomery 1984) 19 Ohio App.3d 267, 483 N.E.2d 1199, 19 O.B.R. 420. Taxation ☞ 2355 In absence of evidence of what, if any, activities went on in building under contract of sale to orthodox Jewish congregation besides congregation's high holy day services before congregation took full possession of property, Board of Tax Appeal's conclusion that property was not used primarily for religious purposes and that congregation was not entitled to refund of property taxes paid for that year under exemption for houses used exclusively for public worship was reasonable. *Grodna v. Kinney* (Cuyahoga 1984) 16 Ohio App.3d 89, 474 N.E.2d 658, 16 O.B.R. 94. Taxation ☞ 2394 “Exclusive use” under statute providing exemption from property taxation for houses used exclusively for public worship requires proof that property was used primarily for public worship. *Grodna v. Kinney* (Cuyahoga 1984) 16 Ohio App.3d 89, 474 N.E.2d 658, 16 O.B.R. 94. Taxation ☞ 2355 An application for the remission of real property taxes and penalties cannot be filed by the vendor of the property under a land contract with respect to years during which the property was occupied under such contract by a vendee which used it for church purposes. *In re Application of Parkwood Villa, Inc*, 13 Misc 191 (1967), affirmed sub nom *Parkwood Villa, Inc v Cuyahoga County Auditor*, 13 OS(2d) 111, 235 NE(2d) 130 (1968). Church property used exclusively for public worship since January 1921, is exempt from taxation from that date although no application was made for exemption until May 1, 1924. 1924 OAG p 590. RC 5709.07 exempts from taxation church realty which is used exclusively for public worship, but any uses which are merely supportive of public worship may not be exempted. *Navarre Baptist Temple v Limbach*, BTA 89-H-606 (8-25-90). Real property tax exemption is authorized by virtue of RC 5709.07 for property used exclusively

as places of public worship, and is not authorized for that property used in support of public worship. *Camp Sychar Assn v Limbach*, BTA 87-D-693 (1-19-90). The term “public worship,” as used in RC 5709.07, means the open and free celebration or observance of the rites and ordinances of a religious organization. *Vandalia Baptist Temple v Limbach*, BTA 87-D-121 (12-22-89). “Used exclusively for public worship,” pursuant to RC 5709.07, must be construed to mean “used primarily for public worship,” which permits exemption even where the subject property is slightly or incidentally used for nonexempt purposes. *First Baptist Church of Milford v Limbach*, BTA 87-C-1177 (11-24-89). To qualify for exemption under RC 5709.07 as a house used exclusively for public worship, the property must be used in a principal, primary, and essential way to facilitate public worship. *Province of St. John the Baptist of the Order of Friars Minor v Limbach*, BTA 86-C-343 (3-17-89). To qualify for exemption from real property taxation as a house used exclusively for public worship under RC 5709.07, property must be used principally, primarily, and essentially to facilitate public worship. *Strongsville v Cuyahoga County Bd of Revision*, BTA 85-C-199 (11-10-87). Property that is used primarily for religious purposes or public worship qualifies for tax exemption under RC 5709.07; the statute is equally applicable whether the focus of the exemption application is the whole building or a portion thereof. *Holy Resurrection Mission v Kinney*, BTA 82-A-233 (7-31-85). An exemption is allowable under RC 5709.07 for church property only if the property is used primarily for purposes of public worship. *Calvary Temple, Inc v McCartney*, BTA 83-E-319 (12-28-84). The words, “used exclusively,” in RC 5709.07 cannot be so literally interpreted as to result in the prohibition of any nonexempt use whatsoever of real property belonging to a religious institution. *Fellowship Bible Church, Inc v Kinney*, BTA 81-A-285 (1983). For the purposes of taxation, there is a distinction between property appropriated for the support of public worship and that which is appropriated as a place of public worship. The exemption authorized in RC 5709.07 is not for buildings that are used for the support of public worship, but of houses used exclusively as places of public worship. *First Baptist Church of New Richmond v Kinney*, BTA 81-D-298 (1981). RC 5709.07 does not exempt such houses as may be used for the support of public worship but only houses used exclusively as places of public worship. *Round Lake Christian Assembly, Inc v Kinney*, BTA 79-B-565 (1981). 7. — Property exempt, religious institution Christian radio broadcast facility was “house used exclusively for public worship,” within meaning of exemption from real property tax; application of exemption was not limited to structures in which members of religious society gathered in congregation to worship. *World Evangelistic Ent. Corp. v. Tracy* (Ohio App. 2 Dist., 06-29-1994) 96 Ohio App.3d 78, 644 N.E.2d 678, dismissed, appeal not allowed 71 Ohio St.3d 1412, 641 N.E.2d 1111. Taxation ☞ 2355 It was not form of religious society, but rather, fact of its existence, which determined applicability of real property tax exemption for houses of public worship. *World Evangelistic Ent. Corp. v. Tracy* (Ohio App. 2 Dist., 06-29-1994) 96 Ohio App.3d 78, 644 N.E.2d 678, dismissed, appeal not allowed 71 Ohio St.3d 1412, 641 N.E.2d 1111. Taxation ☞ 2355 “Insulation theory” exemption of land as buffer against noise requires presentation of proper evidence. *Full Gospel Apostolic Church v. Limbach* (Ohio 1989) 46 Ohio St.3d 195, 546 N.E.2d 403. Three acres of land owned by a synagogue consisting of a copse or grove of trees are exempt from taxation under RC 5709.07 where the property serves as a sound barrier and provides a wooded backdrop for outdoor services and congregational activities taking place on the property. *Congregation Brith Emeth v. Limbach* (Ohio 1987) 33 Ohio St.3d 69, 514 N.E.2d 874. To qualify for exemption from real property taxation as a house used exclusively for public worship under RC 5709.07, such property must be used in a principal, primary, and essential way to facilitate the public worship. *Faith Fellowship Ministries, Inc. v. Limbach* (Ohio 1987) 32 Ohio St.3d 432, 513 N.E.2d 1340. Taxation ☞ 2355 Where a 3.54 acre parcel owned by a church and situated next to the sanctuary is the site of a storage building containing maintenance supplies, and where the church has had plans drawn for a church school to be constructed at some future time, the church's use of the parcel is tax-exempt. *Peoples Faith Chapel, Inc. v. Limbach* (Ohio 1985) 18 Ohio St.3d 236, 480 N.E.2d 781, 18 O.B.R. 294. Places of “public worship,” as used in RC 5709.07, include property used exclusively for religious retreats. *Round Lake Christian Assembly, Inc. v. Commissioner of Tax Equalization* (Ashland 1982) 4 Ohio App.3d 189, 447 N.E.2d 132, 4 O.B.R. 292. Taxation ☞ 2355 Church was entitled to tax exemption for parish hall. *Bishop of the Roman Catholic Diocese of Cleveland v. Kinney* (Ohio 1982) 2 Ohio St.3d 52, 442 N.E.2d 764, 2 O.B.R. 594. A religious institution which purchases vacant land for the purpose of erecting a house of worship thereon is entitled to have such land exempted from taxation, where such institution is actively working toward use of such land for the public benefit: and the intent to make such a use of the land may be evidenced by a showing that plans had been prepared and funds were available, or were to be available, to effectuate actual construction of such house of worship within a reasonable time from the filing of the application for exemption. *Holy Trinity Protestant Episcopal Church of Kenwood v. Bowers* (Ohio 1961) 172 Ohio St. 103, 173 N.E.2d 682, 15 O.O.2d 173. Where a church is being torn down and rebuilt during a reasonable period of time, it does not during that period lose the benefit of tax exemption under this section. In re Application of Ohave Scholem Congregation for

Exemption of Real Property from Taxation, 156 OS 183, 101 NE(2d) 767 (1951). Where a custodian, employed to care for very extensive property, and his wife occupy an apartment (containing 2.3 per cent of the floor space area) in a church parish house adjoining the church auditorium, and such occupancy is incidental to the overall purpose for which such property is used as a place of public worship, the whole of such church property, including that part occupied as an apartment by the custodian and his wife, is exempt from taxation. *St. Paul's Evangelical Lutheran Church v Bd of Tax Appeals*, 114 App 330, 182 NE(2d) 330 (1955). The board of tax appeals errs in holding part of a parcel of land to be nonexempt where the exempt building and parking lot required the support of the nonexempt parcel in order to be structurally sound. *First Baptist Church of Medina, Ohio, Inc v Kinney*, No. 1312 (9th Dist Ct App, Medina, 6-6-84). Where church owned property used as a picnic area and playground for various church functions as well as for church bus parking has been previously considered tax exempt under RC 5709.07, a subsequent decision to change the tax status of such property is unreasonable, where the only change in the land's use was the demolition of an abandoned cabin and there had been no amendment of the statute authorizing the exemption as unreasonable. *Wooster Baptist Temple, Inc v Kinney*, No. 1777 (9th Dist Ct App, Wayne, 6-16-82). Lands attached to houses used exclusively for public worship which are necessary for the proper occupancy, use and enjoyment of such houses, are exempt from taxation. 1923 OAG p 993. An orphanage and girls' school conducted by a religious organization under the auspices of a church is exempt from taxation if the institution is not managed and conducted for profit and is open to all persons similarly situated on equal terms without respect to religious affiliations. The exemption extends to all lands and buildings directly connected with such orphanage. 1922 OAG p 184. A building facility owned by an evangelical association was entitled to a property tax exemption where, although some non-religious groups used the facility during the tax year, the principal and predominate use of the facility was for public worship and related religious purposes, a canine show, blue grass concerts, and a limited number of birthday parties and Christmas parties not changing this use. Also, while it may have been the association's intention to ultimately sell the property, and this may have been its purpose in cooperating with another corporation in the facility's improvement, during the tax year, the primary use of the property was as a house of worship, and until the property was sold or its use as a house of worship ended, the property was entitled to an exemption. *Leroy Jenkins Evangelistic Assn v Lawrence*, BTA 99-J-1089, 2001 WL 1727423 (11-9-00). Church property which had previously been "split-listed" as part exempt and part taxable due to a second floor used for residential purposes, could become fully exempt upon proof that the residence had been converted into a fellowship hall used for church dinners and meetings. *Perry v Lawrence*, BTA 99-R-955, 2000 WL 350623 (3-31-00). Where property was leased by a private individual to a church and only a modest rent charge used to offset expenses unique to the property was charged, the taxpayer is entitled to exemption. *Clair v Tracy*, BTA 97-K-306, 1998 WL 637984 (9-11-98). A church parking lot is necessary for the proper use, occupancy, and enjoyment of the church and is thus exempt from taxation under RC 5709.07, where the parking lot is not used for profit. *St. Barbara Church v Limbach*, BTA 87-B-17 (5-24-91). Vacant land which serves as a sound barrier to protect a church from the noise of a heavily travelled highway on one side and a swim club on the other side is used in a principal, primary, and essential way to facilitate public worship and is thus exempt from taxation under RC 5709.07. *St. Barbara Church v Limbach*, BTA 87-B-17 (5-24-91). Where a religious organization purchases vacant land for the purpose of building a church which would be exempt from real property tax under RC 5709.07, the land is exempt during the time before the church's completion, provided the organization is actively working toward the use of the land for public worship during this time, as evidenced by preparation of building plans, fund-raising, and commencement and completion of the church's construction within a reasonable time from the filing of the exemption application. *Mechanicsburg Mennonite Fellowship v Limbach*, BTA 89-D-835 (4-26-91). An amendment to RC 5709.07, effective May 31, 1988, now grants an exemption to church camps, and a church camp previously denied an exemption can now obtain one upon reapplication. *Church of the Brethren Northern Ohio Dist v Limbach*, BTA 87-G-709 (2-16-90). Property is exempt from real property taxation, under RC 5709.07, when a taxpayer adds aesthetic factors which improve the property and facilitate its use in a principal, primary, and essential way for public worship. *Vandalia Baptist Temple v Limbach*, BTA 87-D-121 (12-22-89). A religious organization's property is exempt from real property taxation, under RC 5709.07, where the church (1) enhances the property by draining a swampy area and adding fill dirt and trees; (2) improves the running of a creek to prevent flooding; and (3) plants trees to provide sound and privacy barriers, all of which facilitate the use of the property for religious activities which are identical to and used in a principal, primary, and essential way to assist public worship. *Vandalia Baptist Temple v Limbach*, BTA 87-D-121 (12-22-89). Property used for worship, religious education, and church-related purposes is entitled to real property tax exemption under RC 5709.07. *Vandalia Baptist Temple v Limbach*, BTA 87-D-121 (12-22-89). An amphitheater and the property upon which it sits, used primarily for purposes of public worship, are entitled to exemption from taxation under RC 5709.07. *Bath Church v Limbach*,

BTA 85-D-215 (12-2-88). A church which uses property as a place of public worship for some time, and is later unable to find a pastor for its church, but leases the property to other churches to be used as a place of public worship with no motive to make a profit, will be found to use the property primarily as a place of public worship and not as rental property, and will be entitled to an exemption from taxation pursuant to RC 5709.07. *First Baptist Church of Lone Star Texas v Limbach*, BTA 85-E-738 (8-21-87). Church-owned property used as a church parking lot is necessary for the proper occupancy, use, and enjoyment of a house of worship and accordingly is entitled to tax exempt status under RC 5709.07. *Pentecostal Assembly of Canton v Limbach*, BTA 85-F-213 (6-4-87). RC 5709.07 grants real property tax exemption to vacant land if the religious institution that owns the land is making active plans to build a church thereon. *Southside Church of God, Inc v Limbach*, BTA 85-E-692 (4-8-87). A religious institution owning vacant land for the purpose of erecting a house of worship is entitled to have the land exempted from taxation where the institution is actively working toward the use of the land for the public benefit; the intent to use land for public benefit must be evidenced by showing that plans had been prepared and funds were available, or were to be available, to construct the house of worship within a reasonable time from the filing of the application for exemption. *Tri-County Baptist Church v Limbach*, BTA 84-G-1126 (2-4-87). Those portions of a church's parish center used for the planning, arranging, and administration of religious education, church committees' and religious organizations' meetings, and for church administration offices are tax exempt. *Bishop of Cincinnati v Kinney*, BTA 81-B-190 (1-21-87). The phrase "used exclusively for public worship" in RC 5709.07 must be interpreted to permit tax exemption even when the real property is slightly or incidentally used for a nonexempt purpose, because "used exclusively for public worship" means, in essence, "used primarily for public worship"; thus, the exemption applies to a parish center used for religious classes and retreats, meetings of community and church groups, a chapel, and a food pantry. *Bishop of Cincinnati Diocese v Kinney*, BTA 81-C-109 (1-7-87). The phrase "used exclusively for public worship" in RC 5709.07 must be interpreted to permit real property tax exemption even when the property is slightly or incidentally used for the tax exempt purpose; use of a church rectory's conference and meeting rooms for church purposes provides tax exemption under RC 5709.07. *Archbishop of Cincinnati v Limbach*, BTA 83-C-939 (9-16-86). A parking lot acquired by a church to provide safe and convenient parking for those attending church functions and community events held in the church is exempt from taxation under RC 5709.07, even though some revenues are collected from the operation of the lot. *Westminster Presbyterian Church of Dayton v Limbach*, BTA 84-E-247 (3-27-86). Vacant land acquired by a congregation to provide a wooded backdrop for outdoor services and congregational activities is exempt from real property taxation under RC 5709.07. *Brith Emeth Congregation v Commr of Tax Equalization*, BTA 82-B-1209 (12-4-85). Vacant land used by a church for church parking is exempt from taxation under RC 5709.07. *Bethsaida Missionary Baptist Church v Kinney*, BTA 82-G-1213 (7-16-85). A bus maintenance garage and a maintenance shed are exempt from taxation under RC 5709.07 as necessary to the proper occupancy, use, and enjoyment of a church located on adjacent property. *High Street Baptist Church v Kinney*, BTA 81-B-176 (7-16-85). In determining exemption of real property owned by a church under RC 5709.07, the test to be applied is whether the church's property is necessary for the proper occupancy, use, and enjoyment of the church itself. *Bishop of the Russian Orthodox Church v Kinney*, BTA 82-A-1368 (10-25-83). The board of tax appeals must grant real property tax exemption when it finds that the primary use of real property is religious in nature and for public worship, even if the board finds that the property is incidentally used in nonexempt ways. *Linden Church of the Nazarene v Kinney*, BTA 81-C-170 (9-12-83). Real property qualifies for tax exemption under RC 5709.07 if it is used primarily for public worship. *Highway Tabernacle Assembly of God v Kinney*, BTA 81-E-649 (1983). There are many activities conducted in church buildings and on church land which do not constitute public worship but which are designed to encourage people to use a church for public worship; therefore vacant land adjacent to a church which is used for Bible classes, fellowship, gardening and softball is entitled to exemption from taxation under RC 5709.07. *Faith Baptist Church v Kinney*, BTA 81-E-413 (1983). A christian science reading room is entitled to tax exemption under RC 5709.07. *First Church of Christ, Scientist v Kinney*, BTA 80-E-377(A) (1982). In order for vacant land to gain tax exemption under RC 5709.07, it must be shown that the church owning the land was actively working toward the actual use of the land and that such use would be made of the land within a reasonable time. *Welch Avenue Baptist Church v Kinney*, BTA 81-A-148 (1982). RC 5709.07 exempts houses used exclusively for public worship and the grounds attached to such buildings necessary for the proper occupancy, use, and enjoyment thereof. *Greenville Baptist Temple v Kinney*, BTA 81-C-22 (1981). RC 5709.07 permits exemption for "houses used exclusively for public worship." Vacant land purchased by a religious institution for the purpose of erecting a church and attendant facilities thereon is entitled to be exempt from taxation if the institution can present evidence that it is actively working toward an actual use of the property for public worship. *Columbus Evangel Temple Assembly of God v Kinney*, BTA 80-E-70 (1981). RC 5709.07 exempts houses

used exclusively for public worship and the grounds attached to such buildings necessary for the proper occupancy, use, and enjoyment thereof. *Wooster Baptist Temple, Inc v Kinney*, BTA 80-D-379 (1981). RC 5709.07 grants tax exemption to houses used exclusively for public worship and the ground attached to such buildings necessary for the proper use and enjoyment thereof. *First Apostolic Church v Kinney*, BTA 79-D-377 (1981).8. — Property nonexempt, religious institution Evidence was insufficient to grant real property tax exemption for portion of church-owned property used for flood retention purposes, where parcel of church-owned property included some property that qualified for exemption, and some that did not qualify for exemption, and church offered no evidence as to how much of flood retention area was necessary for use of tax exempt portion of property. *Columbus Christian Center v. Zaino* (Ohio App. 10 Dist., Franklin, 12-19-2002) No. 02AP-563, 2002-Ohio-7033, 2002 WL 31839175, Unreported. Taxation ☞ 2355 Evidence did not establish that unimproved property owned by church was entitled to real property tax exemption as property necessary for occupancy, use, and enjoyment of church, where church offered testimony of witness that unimproved property was used for overflow parking when weather permitted, but witness failed to provide any indication of how often overflow parking area was needed, whether need for overflow parking arose in connection with worship services, or what portion of unimproved area, which was as large as two improved parking lots on site, was actually needed for overflow parking. *Columbus Christian Center v. Zaino* (Ohio App. 10 Dist., Franklin, 12-19-2002) No. 02AP-563, 2002-Ohio-7033, 2002 WL 31839175, Unreported. Taxation ☞ 2394 Portion of church-owned property that was unimproved, and portion of property that was used for football field, were not entitled to real property tax exemption as recreational facilities of church, where property that, at best, was supportive of religious purposes did not qualify for tax exemption, and, while church presented evidence that unimproved area was occasionally used for outdoor worship, recreation, and neighborhood block parties, church presented no evidence that area was ever used for church retreats or church camping, much less primarily used for either of those purposes, as exemption statute required. *Columbus Christian Center v. Zaino* (Ohio App. 10 Dist., Franklin, 12-19-2002) No. 02AP-563, 2002-Ohio-7033, 2002 WL 31839175, Unreported. Taxation ☞ 2355 Definition of “charity” does not encompass public worship for purposes of exempting from taxation real property used for charitable purposes; state constitution and statutes distinguish between exemptions for public worship and charitable use, and if charitable use exemption encompassed public worship, there would be no need for a separate exemption for houses of public worship, the limited scope of exemption of which could be avoided by claiming exemption under the charitable use statute, rather than the house of public worship statute. *Church of God in N. Ohio, Inc. v. Levin* (Ohio, 11-18-2009) 2009 - Ohio- 5939, 2009 WL 4067224. Taxation ☞ 2355 The denial of a tax exemption for a baseball field owned by a church as not being necessary for public worship is not controlling for zoning purposes. *Cash v. Brookshire United Methodist Church* (Franklin 1988) 61 Ohio App.3d 576, 573 N.E.2d 692. The regional headquarters of a church where general supervision of member churches, cooperative programs for religious training, establishment of new churches, staff training, and providing christian ministry on college campuses are conducted, but no public worship services are held, is not exempt from real property taxation pursuant to RC 5709.07. *Christian Church of Ohio v. Limbach* (Ohio 1990) 53 Ohio St.3d 270, 560 N.E.2d 199, rehearing denied 55 Ohio St.3d 706, 563 N.E.2d 301. Sporadic use of forty-seven acres for outdoor revivals and congregational services fails to show use in a principal, primary, and essential way to facilitate public worship pursuant to RC 5709.07. *Full Gospel Apostolic Church v. Limbach* (Ohio 1989) 46 Ohio St.3d 195, 546 N.E.2d 403. Forty-seven acres of land contiguous to a house of public worship will not be found exempt from real property tax under RC 5709.07 where use of such land for purposes of public worship is sporadic and the land is normally used for recreation and farming for profit. *Full Gospel Apostolic Church v. Limbach* (Ohio 1989) 46 Ohio St.3d 195, 546 N.E.2d 403. Church camp property consisting of residential facilities, sports facilities, and unimproved property does not qualify for the exemption for “houses used exclusively for public worship.” *Moraine Heights Baptist Church v. Kinney* (Ohio 1984) 12 Ohio St.3d 134, 465 N.E.2d 1281, 12 O.B.R. 174. Where a religious institution has hopes and expectations of improving a tract of land for religious use at an unspecified and uncertain time in the future, such institution is not actively working toward the use of such land for religious purposes; therefore, the board of tax appeals may reasonably find that the land is not “used exclusively for public worship,” within the meaning of RC 5709.07. *Welch Ave. Freewill Baptist Church v. Kinney* (Franklin 1983) 10 Ohio App.3d 196, 461 N.E.2d 19, 10 O.B.R. 268. Real property which is not used primarily for public worship does not qualify for a tax exemption under RC 5709.07. *Summit United Methodist Church v. Kinney* (Ohio 1983) 7 Ohio St.3d 13, 455 N.E.2d 669, 7 O.B.R. 406. Taxation ☞ 2355 Real property of nonprofit, charitable, educational and religious monastic order is not exempt from taxation, where such property is used as mission school in final phase of training of young men to become missionaries of gospel and to administer to needs of everyone regardless of race, creed or color, and where members of order receive no pay or compensation for their work. *Society*

of *Precious Blood v. Board of Tax Appeals* (Ohio 1948) 149 Ohio St. 62, 77 N.E.2d 459, 36 O.O. 403. Church lot used for parking which was contiguous to another church lot containing building was not necessary for the proper occupancy, use and enjoyment of the church and was taxable under this section. *Congregational Union of Cleveland v. Zangerle* (Ohio 1941) 138 Ohio St. 246, 34 N.E.2d 201, 20 O.O. 284. The board of tax appeals properly holds part of a parcel of land to be nonexempt where it is used primarily for recreational purposes, since this use does not fall within the meaning of exclusive use for public worship required by RC 5709.07. *First Baptist Church of Medina, Ohio, Inc v Kinney*, No. 1312 (9th Dist Ct App, Medina, 6-6-84). A church is not entitled to an exemption of real property from taxation based upon prospective use of the property. *In re Tax Exemption of Immanuel Evangelical & Reformed Church*, 84 Abs 138 (1959). Appeal from denial of real property tax exemption for church-owned property denied where property consisted of nonexempt residence, land used for nonexempt activities such as recreation and wildlife habitat, and land intended for future use for exempt activities such as retreat center and assisted living facility but not currently in use. *Black Run Church of God v. Wilkins*, BTA 2005-A-1472, 2007 WL 185888 (1-12-07). It has been held since *Gerke v Purcell*, 25 Ohio St. 229 (1874), that parsonages and similar church-owned residences are not used exclusively for public worship, and are therefore not tax exempt under RC 5709.07. The same principle applies to church-owned property used for athletics or recreation. *Black Run Church of God v Watkins*, BTA 2005-A-1472, 2007 WL 185888 (1-12-2007). Seventy-two acres of undeveloped land owned by a society of priests and brothers that is adjacent to a parcel containing their home and a chapel where services are conducted daily is held to not be tax exempt under RC 5709.07 where (1) the property contains Stations of the Cross along a path that also serves as access to a billboard visible from the highway, (2) an aerial photograph of the walk does not clearly show what portion of the entire parcel is used for the Stations, (3) the record does not show how often and by whom the Stations are used, (4) evidence is lacking whether members of the public take advantage of the path, (5) there is no evidence whether there is an alternative possible of making the same Stations available inside the chapel, (6) evidence is lacking on the distance from the chapel to the path, whether the path is visible from the parking lot, or is noted by signs in the chapel or a mention in a bulletin or newsletter, and (7) it is not known whether the path is insured. *Home Missioners of America*, BTA 2005-R-713, 2006 WL 3749514 (12-15-2006). Real property owned by church and used by publishing organization and as apartments was entitled neither to exemption for religious organizations under ORC 5709.07, nor to exemption for charitable activities under ORC 5709.12 and 5709.121. *First Baptist Church of Milford v McAndrew*, BTA 2004-M-143, 2005 WL 2044680 (8-12-05). A gymnasium built by a church but used 90% of the time by a nonprofit charter school started by the church, which leases the gym from the church, is not a charitable use of the property since a lease and rent are involved, notwithstanding that the gym is not a profitable enterprise nor intended to be one; the gym is also not exempt as being used in "public worship" even though the 10% use by the church involves ministries relating to child care for the poor, prayer walks, neighborhood basketball, and the like. The primary use of the gymnasium is for the school. *New Covenant Believers Church v Zaino*, BTA 2002-B-926, 2004 WL 767064 (3-12-2004). Vacant land owned by a church, upon which the church plans to erect recreational facilities and a 'family life center', is not appropriated for use exclusively for places of public worship, and is thus not entitled to the real property tax exemption under ORC 5709.07(A)(2). *First Baptist Church of Milford v Zaino*, BTA 2003-B-316, 2003 WL 22380031 (10-10-03). Portions of a church's parsonage used for counseling, study and prayer by the pastor are not used exclusively for public worship and are thus not entitled to the exemption from real property taxes in ORC 5709.07. *Eastern Star Baptist Church v Zaino*, BTA 2002-J-1264, 2003 WL 1085605 (3-7-03). Land owned by a church and currently used for recreational purposes, and land upon which recreational facilities are planned to be built, is not entitled to an exemption from real property taxes under ORC 5709.07, but a portion of the land upon which was built rooms and a hall for Sunday school classes, plans for which were in place at the time of the request for the exemption, is entitled to the exemption as being used exclusively for public worship. *Vandalia Church of the Nazarene v Zaino*, BTA 2001-N-883, 2003 WL 140847 (1-17-03). Land owned by a church, upon which church retreats or church camping were never conducted nor planned, is not entitled to exemption from real property taxes under ORC 5709.07(A)(3). *Greater Life Assembly, Inc v Zaino*, BTA 2002-A-878, 2003 WL 123666 (1-10-03). Real property owned by a church was properly denied an exemption from taxation, where the property, while used for children's and youth ministry and for "games and various activities," was primarily used for agricultural purposes (i.e., in the words of the church, "for several years a farmer has used approximately one acre of land for corn, beans or hay. The church does not rent or lease the land to the farmer. There is no financial gain for the church on the use of this one acre."). *Gospel Tabernacle Church v Zaino*, BTA 2002-R-680, 2002 WL 31430488 (10-25-02). Real property owned and operated rent free by a church and used as a temporary residence for: traveling ministers and missionaries, members of the congregation for fasting, prayer, and/or short spiritual retreats, and for individuals or families relocating to the church

community until finding their own housing is not entitled to an exemption from real property tax under RC 5709.07(A)(3). *Hope Temple, Inc v Zaino*, BTA 2001-S-1211, 2002 WL 1763927 (7-26-02). Although property upon which a church building, parking area and connecting road, septic system and leaching field is exempt from real property tax under RC 5709.07 as property used exclusively for public worship, the surrounding property which will be used for a spiritual walkway and baseball field is not necessary for the church's proper occupancy, use and enjoyment and is not eligible for tax exempt status under RC 5709.07. *First Christian Church of Medina v Zaino*, BTA 2000-N-480, 2002 WL 595207 (4-12-02). Church-owned property containing a football field and upon which basketball courts and softball fields will be built is not used exclusively for church purposes and is not entitled to an exemption from real property tax under RC 5709.07. *Columbus Christian Center v Zaino*, BTA 2000-R-669, 2002 WL 725137 (4-19-02). Church-owned building primarily used as the youth minister's private residence did not qualify for exemption despite its being used at times for Bible and youth classes. *South Norwood Church of Christ v Zaino*, BTA 00-P-487, 2001 WL 46393 (1-12-01). Church property which housed a printing shop and two live-in residents who were field representatives for the printing operations did not qualify for exemption because while the publication of Bibles and their distribution free of charge, or at cost, was a praiseworthy religious activity, it did not qualify as public worship. *First Baptist Church of Milford v Tracy*, BTA 97-B-1122, 1999 WL 354249 (5-28-99). Church which leased its parking lot to third parties during the week, generating a substantial profit, was not entitled to tax exemption despite the use of those profits for church activities, because the test for exemption is the present use of the property rather than the ultimate use of proceeds received from the property. *Columbus City School District Board of Education v Tracy*, BTA 97-J-285, 1998 WL 741918 (10-16-98). Building used in ministry was neither a place of worship nor property used primarily for charitable purposes, where taxpayer used the facilities as an office and storage space and the activities which could be characterized as charitable were only incidental to extensive evangelical activities. *True Christianity Evangelism v Tracy*, BTA 96-K-904, 1998 WL 683022 (9-25-98), reversed 87 Ohio St.3d 48 (1999). A nonprofit corporation that prints offering envelopes and pledge cards and sells them at cost to Presbyterian churches is not entitled to a real property tax exemption for the building used to print these items under RC 5709.07 when the building is used strictly for printing and not as a house of public worship, and when the company is created as a separate corporation, apart from the Presbyterian church, and thus not part of or a branch of the church. *Hubbard Press v Limbach*, BTA 87-E-730 (6-26-92). Tennis courts owned by a church are not necessary to the use of the church and the land on which they are situated is thus not exempt from taxation under RC 5709.07. *St. Barbara Church v Limbach*, BTA 87-B-17 (5-24-91). When a religious institution uses a portion of its building for marriage counseling, preparation of documents for indigent people, and the distribution of food and clothing to the poor, the uses are incidental to the institution's religious purpose, and not primarily for religious worship; thus, this portion of the building is not entitled to the real property tax exemption granted by RC 5709.07. *Welcome Friend House, Inc v Limbach*, BTA 89-D-148 (3-23-90). When a church uses a tract of land for a summer camp, baseball games, and occasional wedding receptions and picnics, the church is not entitled to a real property tax exemption for the land pursuant to RC 5709.07, because the land is used for recreational purposes and is not essential to public worship. *Community Lighthouse Church v Limbach*, BTA 86-D-1108 (2-16-90). A church camp not used exclusively for public worship is not entitled to exemption under the former version of RC 5709.07. *Church of the Brethren Northern Ohio Dist v Limbach*, BTA 87-G-709 (2-16-90). A church shall be denied a real property tax exemption, pursuant to RC 5709.07, when it fails to establish that it intends to use its real property for an exempt purpose, neglects to confirm that it has taken any concrete steps to devote the real property to an exempt purpose in the future, and presents a premature claim for exemption. *First Baptist Church of Milford v Limbach*, BTA 87-C-1177 (11-24-89). Property not used in a principal, primary, and essential way to facilitate public worship does not qualify for exemption from real property taxation under RC 5709.07. *Morris v Limbach*, BTA 86-E-161 (12-9-88). Property used as a church parsonage or a pastor's residence, although built on grounds which might otherwise be tax exempt, does not generally qualify for tax exemption under RC 5709.07. *Pentecostal Assembly of Canton v Limbach*, BTA 85-F-213 (6-4-87). A television station used to broadcast Christian television programming is not exempt from taxation under RC 5709.12, 5709.121, or 5709.07. *Christian Television of Ohio, Inc v Limbach*, BTA 85-E-157 (6-4-87). Real property is exempt from taxation under RC 5709.07 if used primarily for public worship, but vacant land used for a vacation bible school, a Christian scouting program and a teen ministry cannot be exempt from taxation under RC 5709.07. *First Church of the Nazarene of Greenville v Limbach*, BTA 85-F-449 (10-1-86). Where a church is located on eight acres of land and the ground not used by the building, a parking lot, and a storage barn is vacant except when used for picnics or volleyball games, the vacant land is not primarily used for public worship and may be denied exemption under RC 5709.07 and listed as taxable under RC 5713.04. *Millersburg United Methodist Church v Limbach*, BTA 86-F-264 (8-29-86). Real property owned by a church which

is not used for religious purposes does not qualify under RC 5709.07 for tax exemption. *Trinity Episcopal Church v Limbach*, BTA 83-C-389 (7-15-86). Residential property occupied by employees of a church is not entitled to real property tax exemption because such property is not being used primarily or exclusively for public worship under RC 5709.07. *High Street Baptist Church v Kinney*, BTA 81-B-176 (7-16-85). RC 5709.07, which grants exemption from taxation to property that is actually “used exclusively for public worship,” is construed to mean “used primarily” for public worship; thus vacant land attached to church property which is used for athletic and social activities is not exempt from taxation under RC 5709.07. *Free Will Baptist Church v Kinney*, BTA 82-C-959 (5-28-85). Ten acres of vacant land surrounding a church are not exempt from real property taxation under RC 5709.12 and 5709.07. *Mount Calvary Evangelical Lutheran Church v Kinney*, BTA 81-F-713 (10-25-83). Church property that is used as a camp for the church's youth, retreats, meetings, and socials does not qualify for real property tax exemption under RC 5709.07. *Moraine Heights Baptist Church v Kinney*, BTA 81-F-117 (9-12-83). A vacant tract of land used as a nature preserve and wildlife habitat by a church is not exempt from taxation under RC 5709.07. *Central College United Presbyterian Church v Kinney*, BTA 81-D-718 and 82-D-554 (1982). RC 5709.07 provides real property tax exemption only for property which is used exclusively for public worship; a parsonage and a barn used for Sunday school and the land attendant thereto do not qualify for tax exemption under the statute. *Calvary Baptist Church v Kinney*, BTA 80-B-380 (1982). Vacant land that is used for recreational purposes adjacent to a church is not “necessary” for the purposes of public worship under RC 5709.07. *Wooster Baptist Temple, Inc v Kinney*, BTA 80-D-379 (1981). A vacant tract of land containing only a second driveway to a church parking lot is not exempt under RC 5709.07 when the parking lot is not necessary for the proper use of the church building. *First Apostolic Church v Kinney*, BTA 79-D-377 (1981). A youth activities building upon church property is not exempt from real property taxation when the building is not used exclusively for public worship but, rather, is used primarily for youth fellowship activities at the church. *First Apostolic Church v Kinney*, BTA 79-D-377 (1981). A gymnasium owned by a church and used for athletic activities was not customarily, uniformly, or habitually used for public worship or devotional services and consequently did not fall within the real property exemption found in RC 5709.07. *First Baptist Church v Kinney*, BTA 78-B-245 (1980). There is no presumption that property owned by a church is tax exempt. Property used by a church as a place of retreat, where religious instructions and discussions, and socializing and fellowship, and other attendant youth activities are held, is not exempt as a “house used exclusively for public worship.” *The Greek Orthodox Church, “The Annunciation” v Kinney*, BTA F-962 (1978). Under primary use test, segments real property of religious organization used for its private school, used for storage, and leased to unrelated entity for head start program, do not qualify for real property tax exemption under R.C. 5709.07, as primary use was not for public worship. *Arlington Church of God v. Wilkins*, BTA 2007-H-144, 2008 WL 4917858 (11-12-08).

9. Educational institution Property leased to a university on a year-to-year basis for use as a university parking facility is exempt from real estate taxes as it is both connected with a public institution of learning and not used with a view to profit. *Bexley Village, Ltd. v. Limbach* (Franklin 1990) 68 Ohio App.3d 306, 588 N.E.2d 246. The headquarters facility of a nonprofit corporation does not constitute a public institution of public learning under RC 5709.07 where, although educational activities are conducted on the grounds, the educational activities conducted by the corporation are not accredited and a net profit is generated by the total activities conducted at the site. *American Soc. for Metals v. Limbach* (Ohio 1991) 59 Ohio St.3d 38, 569 N.E.2d 1065. An ongoing clothing exchange operated by a nonprofit school, whereby clothing is donated to the exchange and then sold for a profit, does not qualify as an educational use and is not entitled to a real property tax exemption under RC 5709.07. *Seven Hills Schools v. Kinney* (Ohio 1986) 28 Ohio St.3d 186, 503 N.E.2d 163, 28 O.B.R. 275. An institution which has as its essential purpose the summarizing of chemical research into abstracts which are then sold to interested parties is not a “public institution of learning” as that term is used in RC 5709.07. *American Chemical Soc. v. Kinney* (Ohio 1980) 62 Ohio St.2d 258, 405 N.E.2d 272, 16 O.O.3d 288. Taxation ➤ 2346 County auditor did not err in including school property in list of taxable property where the board of tax appeals had not actually consented thereto. *Board of Edn. of Canfield Local School Dist. v. Olenick* (Ohio 1976) 45 Ohio St.2d 300, 345 N.E.2d 66, 74 O.O.2d 466. The operation of a cafeteria, snack shop and restaurant by contract with a caterer by a public university in its student union is a necessary and proper university function, not constituting a use with a view to profit; and the decision of the board of tax appeals retaining on the tax duplicate such portions of the student union building as are used in connection therewith is unreasonable and unlawful. *Ohio Northern University v. Tax Commissioner* (Hardin 1970) 21 Ohio App.2d 113, 255 N.E.2d 297, 50 O.O.2d 214. Taxation ➤ 2347 All buildings connected with a public college or academy and used with reasonable certainty in furthering or carrying out the necessary objects and purposes of such academy or college, including the president's residence, and all lands connected with such public institution of learning and not used with a view to profit are exempted from taxation by RC 5709.07. *Denison University v. Board of Tax*

Appeals (Ohio 1965) 2 Ohio St.2d 17, 205 N.E.2d 896, 31 O.O.2d 10. Taxation ☞ 2347; Taxation ☞ 2349 Where an entity, which under the law is entitled to have its property exempted from taxation, acquires real property with the intention of devoting it to an exempt use, such property is entitled to be exempted from taxation even though actual physical use of the property for the exempt purpose has not yet begun. *Carney v. Cleveland City School Dist. Public Library of Cuyahoga County* (Ohio 1959) 169 Ohio St. 65, 157 N.E.2d 311, 8 O.O.2d 33. Property to be exempt from taxation by reason of its use as a public college or academy or as land connected with a public institution of learning must be owned and operated for such purpose by state or a political subdivision thereof in a governmental capacity. *American Committee of Rabbinical College of Telshe v. Board of Tax Appeals* (Ohio 1947) 148 Ohio St. 654, 76 N.E.2d 719, 36 O.O. 264. Taxation ☞ 2352 Property vested in a board of education and devoted solely to educational purposes, or the income of which is devoted solely to the endowment or support of schools for the free education of youth, shall exempt from taxation under GC 4759 and GC 5349. *Board of Education of School Dist. of City of Cincinnati, Hamilton County, v. Hess* (Ohio App. 1928) 30 Ohio App. 446, 165 N.E. 372, 27 Ohio Law Rep. 352. GC 3812 confers upon a municipality general authority to levy assessments for street improvements against property within the corporation belonging to a board of education and being used for school purposes, and no provision exists in the General Code of Ohio exempting such property from that general authority. *Jackson v. Board of Ed. of Cedarville Tp. Rural School Dist., Greene County* (Ohio 1926) 115 Ohio St. 368, 154 N.E. 247, 4 Ohio Law Abs. 789, 25 Ohio Law Rep. 88. The exemption from taxation of property belonging to colleges and academies extends to all buildings and lands that are with reasonable certainty used in furthering or carrying out the necessary objects and purposes of the institution and is not limited to property used exclusively for educational purposes. *Kenyon College v. Schnebly* (Ohio Cir. 1909) 21 Ohio C.D. 150, 12 Ohio C.C.(N.S.) 1, affirmed 81 Ohio St. 514, 91 N.E. 1138, 7 Ohio Law Rep. 451. The institution of learning known as Kenyon College is a “public college” and an “institution of purely public charity” within the meaning of this enactment. *Kenyon College v. Schnebly* (Ohio Com.Pl. 1909) 19 Ohio Dec. 432, 8 Ohio N.P.(N.S.) 160, modified 21 Ohio C.D. 150, 12 Ohio C.C.(N.S.) 1, affirmed 81 Ohio St. 514, 91 N.E. 1138, 7 Ohio Law Rep. 451. Property of a nonprofit private corporation whose activities may properly be characterized as those of a public college, academy, or institution of learning within GC 5349 (RC 5709.07), is not entitled to exemption from taxation unless property devoted to educational activities is used exclusively for charitable purposes. *In re Sisters of Mercy of Fremont* (Ohio B.T.A. 1946) 17 Ohio Supp. 88, 45 Ohio Law Abs. 421, 33 O.O. 193. Taxation ☞ 2347 A corporation not for profit affording educational facilities in art, music, and other subjects to public without distinction as to race or creed presumably on payment by students of reasonable fees for instruction given cannot be characterized as a college, academy, or institution of learning, nor its buildings as a “public school house.” *In re Sisters of Mercy of Fremont* (Ohio B.T.A. 1946) 17 Ohio Supp. 88, 45 Ohio Law Abs. 421, 33 O.O. 193. If, in the proper exercise of its statutory authority, a vocational school district acquires and operates an internet access system and provides access to individual subscribers and participating entities for a reasonable fee, the school district will retain its exemption from Ohio real and personal property taxes pursuant to RC 3313.44 and 5709.07. OAG 99-007. Oxford admissions tax is not applicable to admissions charged to events sponsored by Miami university and university is not required to collect tax thereon, but events sponsored by student organizations are not exempt from such tax. OAG 70-148. A residential dormitory owned by a private university and not made available to the student body as a whole, but rather reserved for the exclusive use of a sorority, is not used in furtherance of the public purpose of education, and thus is not entitled to an exemption from real property taxation. *Case Western Reserve University v Lawrence*, BTA 1999-L-417, 2003 WL 1828988 (4-4-03). Res judicata does not bar consideration of a state university's claim of real property tax exemption for a certain piece of its property, although a previous case involving the same parties decided the question of whether certain university property was exempt, when the property in the previous case is different from and totally unrelated to the property at issue in the present case, and when the applicability of the exemption depends on the use to which the property is put; nor does res judicata apply with respect to another previous decision, although this case involved the same parties and property, when the two cases involve different issues, in that the present case raises the question of exemption under a different statute than that considered in the previous case, and when the previous case was decided twenty years ago, with a significant intervening legal evolution in this area. *State v Limbach*, BTA 89-B-87 (6-19-92). State university property on which a law center is erected for the use of and occupation by the state bar association and jointly operated by the university and bar association is “connected with” a public institution of learning within the meaning of the tax exemption of RC 5709.07(A)(4), when, although the center is not primarily used by the university on a daily basis, it is used for educational and research programs in which the university's law school participates and for university meetings, seminars, classes, and interviews; the center is thus exempt under this section, which does not require exclusivity of use by the institution as does the section pertaining to houses of public worship,

RC 5709.07(A)(2), when the center is used, not with a view to profit, but to inform and enlighten citizens and other students and to provide for the education and betterment of the legal community. *State v Limbach*, BTA 89-B-87 (6-19-92). Facilities owned by a German-American cultural organization do not constitute a public schoolhouse exempt from real property tax under RC 5709.07, although portions of the facilities are used to provide language instruction which is open to the public, when these educational services are but a small part of the overall cultural, recreational, community, and social services provided to the public by the facilities, and which qualify them for exemption under RC 5709.12 and 5709.121. *Donauschwaben's German American Cultural Center, Inc v Limbach*, BTA 90-F-625 (5-8-92). When evidence supports a taxpayer's contention that land exempt under RC 5709.07 is connected with a public institution of learning, and not with a view to profit, it is not necessary to determine whether the property further qualifies for exemption under RC 5709.12 and 5709.121. *Bexley Village, Ltd v Limbach*, BTA 86-G-735 and 86-G-1009 (6-30-89), affirmed by 68 App(3d) 306 (Franklin 1990). A church garage used for various activities related to public worship such as a Bible club, choir rehearsals and a vacation Bible school is exempt from taxation under RC 5709.07. *Renascent Missionary Arch v Limbach*, BTA 83-B-1017 (4-7-86). The land and building used by a school to operate a clothing exchange at which donated clothing and personal property are sold for a profit is not entitled to tax-exempt status under RC 5709.07, 5709.12, or 5709.121, even though the proceeds are used to defray the school's operating costs. *Seven Hills Schools v Kinney*, BTA 82-B-1238 (3-27-86). Apartments in a stable on acreage owned by a private day school are exempt from real property tax under RC 5709.07 where used as lodgings by two faculty members, who accept in consideration thereof a reduction in their salaries and who, by virtue of their residence on school property, "loosely" supervise the premises and are "informally" available to pupils after school hours. *University School v Limbach*, BTA 83-A-704 (2-12-86). All buildings connected with a public institution of learning and used with a reasonable certainty of furthering or carrying out the necessary objects and purposes of such institution, including the headmistress' residence, and not used with a view to profit, are exempt from taxation under RC 5709.07. *Hathaway Brown School v Kinney*, BTA 82-B-417 (6-20-85). A computer library network does not qualify for real property tax exemption under RC 5709.07 as a public college, academy, or public institution of learning as such terms are used in RC 5709.07. *OCLC Online Computer Library Center, Inc v Kinney*, BTA 81-D-602 (10-11-83). Real property owned by a state university which is leased for private use in exchange for a specified rental payment qualifies for real property tax exemption under RC 3345.17. *President of Miami University v Kinney*, BTA 81-D-290 (9-13-83). RC 3313.44 exempts real property vested in any board of education from real property taxation; therefore real property owned by a board of education is eligible for exemption from taxation as and when it is wholly devoted to public use; this occurs as soon as the board of education begins to develop the property for school purposes and all other use of the real property has come to an end. *Gallipolis City Schools v Kinney*, BTA 81-D-377 (1983). The words "public colleges and academies" in RC 5709.07 include private institutions of learning conducted in a lawful manner without any view to profit; all buildings connected with such a public academy and used with reasonable certainty in furthering or carrying out the necessary objects and purposes of such academy, including the headmaster's residence, are exempt from taxation by RC 5709.07. *The Miami Valley School v Kinney*, BTA 79-F-86 (1981). Exclusive use for an educational or charitable purpose is not a prerequisite to tax exemption under RC 5709.07 for a building leased by a private college to a nonprofit corporation which paid the college an annual rental. *Edgecliff College v Kinney*, BTA 79-D-263 (1981). In order for property owned by a college to qualify for tax exemption under RC 5709.07, three conditions must be met: there must be an institution of public learning, the land at issue must be connected with the institution, and the land must not be used with a view to profit. *Case Western Reserve University v Kinney*, BTA 79-C-668 (1981). To qualify for tax exemption under RC 5709.07 as an "institution of learning," an institution must have a teacher-student character. *Elbert Hubbard Chapter Bd of Trustees v Kinney*, BTA 79-B-676 (1981). The words "public institutions of learning" in RC 5709.07 include a private institution of learning conducted in a lawful manner without any view to profit. *Fairmount Montessori Assn v Kinney*, BTA 78-B-689 (1981). All buildings connected with a public institution of learning and used with reasonable certainty in furthering or carrying out the necessary objects and purposes of such institutions of learning, including a caretaker's apartment, are exempt from taxation by RC 5709.07. *Fairmount Montessori Assn v Kinney*, BTA 78-B-689 (1981). 10. Religious educational institution Where a 3.54 acre parcel owned by a church and situated next to the sanctuary is the site of a storage building containing maintenance supplies, and where the church has had plans drawn for a church school to be constructed at some future time, the church's use of the parcel is tax-exempt. *Peoples Faith Chapel, Inc. v. Limbach* (Ohio 1985) 18 Ohio St.3d 236, 480 N.E.2d 781, 18 O.B.R. 294. Where religious school organization acquired real property three days before tax lien day and in hearing on application for exemption from taxation failed to introduce evidence that it had commenced certain remodeling work before tax lien date, which work was required by building code and had been

arranged for by such organization, exemption was denied for failure of proof that on tax lien date the property was being used for a tax exempt purpose. *Orthodox Hebrew Bd. of Ed. v. Tax Com'r of Ohio* (Ohio 1951) 155 Ohio St. 380, 98 N.E.2d 834, 44 O.O. 351. Residences owned by an educational, charitable institution which are occupied by its instructors, as required by the institution, rent-free, are not used exclusively for charitable purposes and not entitled to tax exemption. *Western Reserve Academy v. Board of Tax Appeals* (Ohio 1950) 153 Ohio St. 133, 91 N.E.2d 497, 41 O.O. 192. A school which is organized and operated by a religious denomination for sole purpose of training men in denominational tenets and doctrines and which provides no educational opportunities to public generally is essentially a private institution and a building housing such a school is not exempt from taxation as being used for a public school or institution of learning or as property used exclusively for a charitable purpose. *American Committee of Rabbinical College of Telshe v. Board of Tax Appeals* (Ohio 1947) 148 Ohio St. 654, 76 N.E.2d 719, 36 O.O. 264. Taxation ~~☛~~ 2352 Property used principally as school for training young priests for missionary work of the Catholic church and as place of residence for such students while engaged in this training is not exempt from taxation. *Application of Society of the Precious Blood* (Ohio B.T.A. 1947) 71 N.E.2d 278, 48 Ohio Law Abs. 214, 34 O.O. 293, affirmed 149 Ohio St. 62, 77 N.E.2d 459, 36 O.O. 403. Taxation ~~☛~~ 2352 School organized and operated by religious denomination for sole purpose of training men to assume ministerial positions in such church, which provides no educational opportunities to the public generally, is essentially a private institution, and a building housing such school is not exempt from taxation under this section, and such property not being "used exclusively for a charitable purpose," is not exempt under GC 5353 (RC 5709.12). *Bloch v. Board of Tax Appeals* (Ohio 1945) 144 Ohio St. 414, 59 N.E.2d 145, 29 O.O. 576. RC 5709.07 and 5709.12 authorize the exemption from taxation of real property used, in accordance with these sections, for the operation of a school. The exemption may not be denied merely because the school does not meet the minimum standards of RC 3313.03 and 3313.04. OAG 79-057. Real property is exempt from taxation under RC 5709.07 if used primarily for public worship, but vacant land used for a vacation bible school, a Christian scouting program and a teen ministry cannot be exempt from taxation under RC 5709.07. *First Church of the Nazarene of Greenville v Limbach*, BTA 85-F-449 (10-1-86). The use of property for religious instruction and religious training does not make the property a "house used exclusively for public worship" in order to qualify for real property tax exemption under RC 5709.07. *Round Lake Christian Assembly, Inc v Kinney*, BTA 79-B-565 (1981). The words "public colleges, academics, and public institutions of learning" include private institutions of learning not conducted for profit, and all buildings connected with a public college or academy which are used with reasonable certainty in carrying out the necessary purposes of such educational institution are tax exempt. *Trustee for St. Francis Cabrini Parish v Kinney*, BTA 78-E-93 (1978). 11. Division of facilities for exemption Where certain floors of a building constitute separate entities thereof and are used exclusively for religious or charitable purposes, although other floors of the same building are not so used, the former are exempt from real estate taxes. *Trustees of Church of God of Cleveland v. Board of Tax Appeals* (Ohio 1953) 159 Ohio St. 517, 112 N.E.2d 633, 50 O.O. 431. The first floor of a 1-1/2 story building was used exclusively for public worship; a man and his wife and their child were permitted to live in the three rooms above the first floor; the man worked elsewhere in the daytime and acted as caretaker for the building at night and his wife took care of cleaning the building in the daytime; they were paid \$30 per month; the building was a house "used exclusively for public worship." *In re Bond Hill-Roselawn Hebrew School* (Ohio 1949) 151 Ohio St. 70, 84 N.E.2d 270, 38 O.O. 527. Where portion of building is occupied by pastor and an occasional assistant as a residence, and a portion used in connection with publication of religious paper, and balance for charitable purposes and religious worship, such latter uses are not exclusive so as to entitle property to exemption from taxation. *Mussio v. Glander* (Ohio 1948) 149 Ohio St. 423, 79 N.E.2d 233, 37 O.O. 110. Taxing authorities are not authorized to split listing of a separate parcel of real property owned by a single charitable institution so as to tax a portion and exempt the rest from taxation in proportion to its use for charitable and religious purposes. But see RC 5713.04. *Mussio v. Glander* (Ohio 1948) 149 Ohio St. 423, 79 N.E.2d 233, 37 O.O. 110. Taxation ~~☛~~ 2495 While eleven acres owned by church were entitled to real property tax exemption as church was "actively working" toward exempt use by means of planning and constructing worship center, exemption denied for remainder of real property since plans for future expansion of worship center on such property in conceptual stage only and no actual drawings or plans prepared. *Hope Christian Church v. Wilkins*, BTA 2005-T-1732, 2008 WL 902380 (3-25-08). RC 5713.04 permits the splitting of real property into exempt and non-exempt parts, and land belonging to a religious organization may thus be split into two parts, one of which is exempt under RC 5709.07 as being a place of public worship and the grounds necessary for the use thereof, and one of which is not so exempted, as long as the severance of the land is figuratively possible other than by calculation of the ratio the part to be exempted bears to the entire property. *Mechanicsburg Mennonite Fellowship v Limbach*, BTA 89-D-835 (4-26-91). RC 5709.07 provides real property tax exemption for "houses used exclusively for public worship

and the ground attached to such buildings necessary for the proper occupancy, use, and enjoyment thereof.” Under RC 5709.07, the parts of a church building that are used for residential purposes and for substantial income-producing purposes, such as bingo games, are not entitled to tax exemption. *Bishop of the Roman Catholic Diocese of Cleveland v Kinney*, BTA 79-E-674 (1981), reversed by 2 OS(3d) 52, 2 OBR 594, 442 NE(2d) 764 (1982).¹² ResidenceHalf-acre portion of larger tract of land owned by Ohio state university was exempt from taxation even though rented for \$275 per month, because the property was held for the use and benefit of the university. *Board of Trustees of Ohio State University v. Kinney* (Ohio 1983) 5 Ohio St.3d 173, 449 N.E.2d 1282, 5 O.B.R. 392.President's residence of private college preparatory school was exempt from taxation. *Miami Valley School v. Kinney* (Ohio 1982) 69 Ohio St.2d 134, 431 N.E.2d 335, 23 O.O.3d 173.RC 5709.121 has no application to a religious institution seeking exemption under RC 5709.12. *Episcopal Parish of Christ Church, Glendale v. Kinney* (Ohio 1979) 58 Ohio St.2d 199, 389 N.E.2d 847, 12 O.O.3d 197.All buildings connected with a public college or academy and used with reasonable certainty in furthering or carrying out the necessary objects and purposes of such academy or college, including the president's residence, and all lands connected with such a public institution of learning and not used with a view to profit are exempted from taxation by RC 5709.07. *Denison University v. Board of Tax Appeals* (Ohio 1965) 2 Ohio St.2d 17, 205 N.E.2d 896, 31 O.O.2d 10. Taxation ☞ 2347; Taxation ☞ 2349A pastor's residence is not entitled to tax exemption, and a house of public worship is entitled to tax exemption only if used exclusively for public worship. *Application of Society of the Precious Blood* (Ohio B.T.A. 1947) 71 N.E.2d 278, 48 Ohio Law Abs. 214, 34 O.O. 293, affirmed 149 Ohio St. 62, 77 N.E.2d 459, 36 O.O. 403.Parish houses, otherwise known as the residences of the priests and bishops of the Roman Catholic Church, are not exempt from taxation and legal assessments, by virtue of O Const Art XII §2, nor by the provisions of RS 2732, although such places of residence are used by the priests and bishops for the discharge of many duties of a religious and charitable nature, which are imposed by the vows of their ordination and rules of the church. *Watterson v. Halliday* (Ohio 1907) 77 Ohio St. 150, 82 N.E. 962, 5 Ohio Law Rep. 495, 11 Am. Ann. Cas. 1096. Taxation ☞ 2355Residences occupied by the president and professors and janitor of a college are exempt, as also is vacant land from which no revenue is derived, but land used for agricultural purposes or pasturage is not exempt. *Kenyon College v. Schnebly* (Ohio Cir. 1909) 21 Ohio C.D. 150, 12 Ohio C.C. (N.S.) 1, affirmed 81 Ohio St. 514, 91 N.E. 1138, 7 Ohio Law Rep. 451.College property consisting of residences occupied, rent free, by the president or professors thereof, though not used exclusively for educational or literary purposes, are exempt from taxation under this section. 1928 OAG 3107.Apartments in a stable on acreage owned by a private day school are exempt from real property tax under RC 5709.07 where used as lodgings by two faculty members, who accept in consideration thereof a reduction in their salaries and who, by virtue of their residence on school property, “loosely” supervise the premises and are “informally” available to pupils after school hours. *University School v Limbach*, BTA 83-A-704 (2-12-86).All buildings connected with a public institution of learning and used with a reasonable certainty of furthering or carrying out the necessary objects and purposes of such institution, including the headmistress' residence, and not used with a view to profit, are exempt from taxation under RC 5709.07. *Hathaway Brown School v Kinney*, BTA 82-B-417 (6-20-85).A house located on church property used as the pastor's residence primarily and used occasionally for church activities is not exempt from taxation under RC 5709.07; RC 5713.04 permits split-listing of real property if it is used for taxable and exempt purposes but a house primarily used for the pastor's residence is not subject to split-listing. *Westwood Baptist Church v Kinney*, BTA 82-C-730 (3-29-85).RC 5709.07 grants tax exemption only to houses used exclusively for public worship. *Operation Evangelize—Youth Mission, Inc v Kinney*, BTA 79-E-656 (1981).A parsonage, although built on ground which might otherwise be exempt as attached to the church and used by a church, does not come within the exemption of RC 5709.07, which is granted to houses used exclusively as places of public worship and not for the support of public worship. *Maple Valley Wesleyan Methodist Church v Kinney*, BTA 78-F-229 (1978).¹³ LeasesPrivate university's sorority house, which was leased to sorority housing corporation, was not exempt from property tax due to statute which provided that property tax exemption “shall not extend to leasehold estates or real property held under the authority of a college or university of learning in this state,” as housing corporation was holding the real property under the university's authority. *Case W. Res. Univ. v. Wilkins* (Ohio, 04-20-2005) 105 Ohio St.3d 276, 825 N.E.2d 146, 2005-Ohio-1649. Taxation ☞ 2347Lessee of buildings located on land which is owned by lessee who, by terms of lease, has obligated itself for full amount of any real estate taxes assessed against buildings and land, has standing to file with board of tax appeals an application for exemption of such buildings from taxation, application for exemption of land having been previously granted. *Cleveland State University v. Perk* (Ohio 1971) 26 Ohio St.2d 1, 268 N.E.2d 577, 55 O.O.2d 1. Taxation ☞ 2369(1)Under RC 5709.07 buildings located on campus of state university and used exclusively for classrooms and faculty offices are exempt from taxation, even though such buildings are not owned by university, but are leased for term of years,

with provision for rental therefor, from corporation for profit. *Cleveland State University v. Perk* (Ohio 1971) 26 Ohio St.2d 1, 268 N.E.2d 577, 55 O.O.2d 1. The real estate belonging to an institution of purely public charity is exempt from taxation only when used exclusively for charitable purposes, and, if such real estate is rented for commercial and residence purposes, it is not exempt, although the income arising from such use is devoted wholly to the purpose of the charity. *Benjamin Rose Institute v. Myers* (Ohio 1915) 92 Ohio St. 252, 110 N.E. 924, 13 Ohio Law Rep. 106. Taxation 2341 Property owned by a church which leases it for a substantial rental to another church to be used exclusively for church purposes, is exempt from taxation under the laws of Ohio. *First New Jerusalem Society of Cincinnati v. Richardson* (Ohio Com.Pl. 1910) 25 Ohio Dec. 672, 10 Ohio N.P. (N.S.) 214. Taxation 2355 Property is not rendered exempt from taxation by reason of the fact that it is being used exclusively for public worship, where the occupying church is holding it under a lease and at a profit to the church owning the fee. *Taylor v. Anderson* (Ohio App. 2 Dist. 1930) 31 Ohio Law Rep. 567. Property owned by a religious society in this state which is leased by it to a YWCA at an annual rental specified in the lease, is not exempt from taxation, because used by the owner with a view to profit. 1929 OAG 1022. The legal effect of a ninety-nine year lease renewable forever is to pass to the lessee an estate of freehold in land which is taxable to said lessee. When said land so owned is connected with a public institution of learning, not used with a view to profit, it is exempt from taxation under this section. 1928 OAG 3113. If real estate belonging to a church society or a college is so leased or used as to produce revenue, it is subject to taxation, even though the revenue so produced is applied exclusively to the support of the institution which owns the land and does not inure to the private pecuniary benefit of any person. 1922 OAG p 853. Real property used by a non-profit corporation as a charter school was exempt from taxation, although the property was leased to the school by a for-profit limited partnership. RC 3314.01(B), in the creation of community schools, expressly designated such a school a "public school ... and part of the state's program of education" and, in so doing, the school was brought within the exemption granted by RC 5709.07(A). *Performing Arts School of Metropolitan Toledo, Inc. v Zaino*, BTA 2001-J-977, 2002 WL 31873592 (12-20-02). An Ohio non-profit, 501(c)(3) corporation leasing real property to medical practice corporations affiliated with the University of Cincinnati which seeks exemption from taxation on the basis of its relationship with the University of Cincinnati must seek exemption pursuant to R.C. 3345.17, rather than pursuant to R.C. 5709.07(A)(4). *University of Cincinnati Med Assoc, Inc. v Zaino*, BTA 99-A-1411, 2002 WL 31451691 (10-4-02). School board property, leased for private farming, did not qualify for tax exempt status although the rental income was deposited into a general education fund, as the property, regardless of where the lease proceeds were deposited, was not used as a schoolhouse and was used with a view toward profit. *London City Schools Bd of Ed v Zaino*, BTA 00-B-1478, 2001 WL 46382 (1-12-01).

Current through 2009 File 17 of the 128th GA (2009-2010), apv. by 2/10/10 and filed with the Secretary of State by 2/10/10.

Baldwin's Ohio Revised Code Annotated
Title LVII. Taxation (Refs & Annos)
Chapter 5709. Taxable Property--Exemptions (Refs & Annos)
Miscellaneous Exemptions

R.C. § 5709.12

5709.12 Exemption of property used for charitable purposes

Effective: September 15, 2014

Currentness

(A) As used in this section, “independent living facilities” means any residential housing facilities and related property that are not a nursing home, residential care facility, or residential facility as defined in division (A) of section 5701.13 of the Revised Code.

(B) Lands, houses, and other buildings belonging to a county, township, or municipal corporation and used exclusively for the accommodation or support of the poor, or leased to the state or any political subdivision for public purposes shall be exempt from taxation. Real and tangible personal property belonging to institutions that is used exclusively for charitable purposes shall be exempt from taxation, including real property belonging to an institution that is a nonprofit corporation that receives a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code at any time during the tax year and being held for leasing or resale to others. If, at any time during a tax year for which such property is exempted from taxation, the corporation ceases to qualify for such a grant, the director of development shall notify the tax commissioner, and the tax commissioner shall cause the property to be restored to the tax list beginning with the following tax year. All property owned and used by a nonprofit organization exclusively for a home for the aged, as defined in section 5701.13 of the Revised Code, also shall be exempt from taxation.

(C)(1) If a home for the aged described in division (B)(1) of section 5701.13 of the Revised Code is operated in conjunction with or at the same site as independent living facilities, the exemption granted in division (B) of this section shall include kitchen, dining room, clinic, entry ways, maintenance and storage areas, and land necessary for access commonly used by both residents of the home for the aged and residents of the independent living facilities. Other facilities commonly used by both residents of the home for the aged and residents of independent living units shall be exempt from taxation only if the other facilities are used primarily by the residents of the home for the aged. Vacant land currently unused by the home, and independent living facilities and the lands connected with them are not exempt from taxation. Except as provided in division (A)(1) of section 5709.121 of the Revised Code, property of a home leased for nonresidential purposes is not exempt from taxation.

(2) Independent living facilities are exempt from taxation if they are operated in conjunction with or at the same site as a home for the aged described in division (B)(2) of section 5701.13 of the Revised Code; operated by a corporation, association, or trust described in division (B)(1)(b) of that section; operated exclusively for the benefit of members of the corporation, association, or trust who are retired, aged, or infirm; and provided to those members without charge in consideration of their service, without compensation, to a charitable, religious, fraternal, or educational institution. For the purposes of division (C)(2) of this section, “compensation” does not include furnishing room and board, clothing, health care, or other necessities, or stipends or other de minimis payments to defray the cost thereof.

(D)(1) A private corporation established under federal law, as defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as amended, the objects of which include encouraging the advancement of science generally, or of a particular branch of science, the promotion of scientific research, the improvement of the qualifications and usefulness of scientists, or the increase and diffusion of scientific knowledge is conclusively presumed to be a charitable or educational institution. A private corporation established as a nonprofit corporation under the laws of a state that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and that has as its principal purpose one or more of the foregoing objects also is conclusively presumed to be a charitable or educational institution.

The fact that an organization described in this division operates in a manner that results in an excess of revenues over expenses shall not be used to deny the exemption granted by this section, provided such excess is used, or is held for use, for exempt purposes or to establish a reserve against future contingencies; and, provided further, that such excess may not be distributed to individual persons or to entities that would not be entitled to the tax exemptions provided by this chapter. Nor shall the fact that any scientific information diffused by the organization is of particular interest or benefit to any of its individual members be used to deny the exemption granted by this section, provided that such scientific information is available to the public for purchase or otherwise.

(2) Division (D)(2) of this section does not apply to real property exempted from taxation under this section and division (A)(3) of section 5709.121 of the Revised Code and belonging to a nonprofit corporation described in division (D)(1) of this section that has received a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code during any of the tax years the property was exempted from taxation.

When a private corporation described in division (D)(1) of this section sells all or any portion of a tract, lot, or parcel of real estate that has been exempt from taxation under this section and section 5709.121 of the Revised Code, the portion sold shall be restored to the tax list for the year following the year of the sale and, except in connection with a sale and transfer of such a tract, lot, or parcel to a county land reutilization corporation organized under Chapter 1724. of the Revised Code, a charge shall be levied against the sold property in an amount equal to the tax savings on such property during the four tax years preceding the year the property is placed on the tax list. The tax savings equals the amount of the additional taxes that would have been levied if such property had not been exempt from taxation.

The charge constitutes a lien of the state upon such property as of the first day of January of the tax year in which the charge is levied and continues until discharged as provided by law. The charge may also be remitted for all or any portion of such property that the tax commissioner determines is entitled to exemption from real property taxation for the year such property is restored to the tax list under any provision of the Revised Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, upon an application for exemption covering the year such property is restored to the tax list filed under section 5715.27 of the Revised Code.

(E) Real property held by an organization organized and operated exclusively for charitable purposes as described under section 501(c)(3) of the Internal Revenue Code and exempt from federal taxation under section 501(a) of the Internal Revenue Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose of constructing or rehabilitating residences for eventual transfer to qualified low-income families through sale, lease, or land installment contract, shall be exempt from taxation.

The exemption shall commence on the day title to the property is transferred to the organization and shall continue to the end of the tax year in which the organization transfers title to the property to a qualified low-income family. In no case shall the exemption extend beyond the second succeeding tax year following the year in which the title was transferred to the organization. If the title is transferred to the organization and from the organization to a qualified low-income family in the same tax year, the exemption shall continue to the end of that tax year. The proportionate amount of taxes that are a lien but not yet determined,

assessed, and levied for the tax year in which title is transferred to the organization shall be remitted by the county auditor for each day of the year that title is held by the organization.

Upon transferring the title to another person, the organization shall file with the county auditor an affidavit affirming that the title was transferred to a qualified low-income family or that the title was not transferred to a qualified low-income family, as the case may be; if the title was transferred to a qualified low-income family, the affidavit shall identify the transferee by name. If the organization transfers title to the property to anyone other than a qualified low-income family, the exemption, if it has not previously expired, shall terminate, and the property shall be restored to the tax list for the year following the year of the transfer and a charge shall be levied against the property in an amount equal to the amount of additional taxes that would have been levied if such property had not been exempt from taxation. The charge constitutes a lien of the state upon such property as of the first day of January of the tax year in which the charge is levied and continues until discharged as provided by law.

The application for exemption shall be filed as otherwise required under section 5715.27 of the Revised Code, except that the organization holding the property shall file with its application documentation substantiating its status as an organization organized and operated exclusively for charitable purposes under section 501(c)(3) of the Internal Revenue Code and its qualification for exemption from federal taxation under section 501(a) of the Internal Revenue Code, and affirming its intention to construct or rehabilitate the property for the eventual transfer to qualified low-income families.

As used in this division, “qualified low-income family” means a family whose income does not exceed two hundred per cent of the official federal poverty guidelines as revised annually in accordance with section 673(2) of the “Omnibus Budget Reconciliation Act of 1981,” 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family whose income is being determined.

(F)(1)(a) Real property held by a county land reutilization corporation organized under Chapter 1724. of the Revised Code shall be exempt from taxation. Notwithstanding section 5715.27 of the Revised Code, a county land reutilization corporation is not required to apply to any county or state agency in order to qualify for the exemption.

(b) Real property acquired or held by an electing subdivision other than a county land reutilization corporation on or after April 9, 2009, for the purpose of implementing an effective land reutilization program or for a related public purpose shall be exempt from taxation until sold or transferred by the electing subdivision. Notwithstanding section 5715.27 of the Revised Code, an electing subdivision is not required to apply to any county or state agency in order to qualify for an exemption with respect to property acquired or held for such purposes on or after such date, regardless of how the electing subdivision acquires the property.

As used in this section, “electing subdivision” and “land reutilization program” have the same meanings as in section 5722.01 of the Revised Code, and “county land reutilization corporation” means a county land reutilization corporation organized under Chapter 1724. of the Revised Code and any subsidiary wholly owned by such a county land reutilization corporation that is identified as “a wholly owned subsidiary of a county land reutilization corporation” in the deed of conveyance transferring title to the subsidiary.

(2) An exemption authorized under division (F)(1) of this section shall commence on the day title to the property is transferred to the corporation or electing subdivision and shall continue to the end of the tax year in which the instrument transferring title from the corporation or subdivision to another owner is recorded, if the use to which the other owner puts the property does not qualify for an exemption under this section or any other section of the Revised Code. If the title to the property is transferred to the corporation and from the corporation, or to the subdivision and from the subdivision, in the same tax year, the exemption shall continue to the end of that tax year. The proportionate amount of taxes that are a lien but not yet determined, assessed,

and levied for the tax year in which title is transferred to the corporation or subdivision shall be remitted by the county auditor for each day of the year that title is held by the corporation or subdivision.

Upon transferring the title to another person, the corporation or electing subdivision shall file with the county auditor an affidavit or conveyance form affirming that the title was transferred to such other person and shall identify the transferee by name. If the corporation or subdivision transfers title to the property to anyone that does not qualify or the use to which the property is put does not qualify the property for an exemption under this section or any other section of the Revised Code, the exemption, if it has not previously expired, shall terminate, and the property shall be restored to the tax list for the year following the year of the transfer. A charge shall be levied against the property in an amount equal to the amount of additional taxes that would have been levied if such property had not been exempt from taxation. The charge constitutes a lien of the state upon such property as of the first day of January of the tax year in which the charge is levied and continues until discharged as provided by law.

In lieu of the application for exemption otherwise required to be filed as required under section 5715.27 of the Revised Code, a county land reutilization corporation holding the property shall, upon the request of any county or state agency, submit its articles of incorporation substantiating its status as a county land reutilization corporation.

(G) Real property that is owned by an organization described under section 501(c)(3) of the Internal Revenue Code and exempt from federal income taxation under section 501(a) of the Internal Revenue Code and that is used by that organization exclusively for receiving, processing, or distributing human blood, tissues, eyes, or organs or for research and development thereof shall be exempt from taxation.

CREDIT(S)

(2014 H 483, eff. 9-15-14; 2014 S 172, eff. 9-4-14; 2012 H 487, eff. 9-10-12; 2008 S 353, eff. 4-7-09; 2005 H 66, eff. 6-30-05; 2002 H 416, eff. 9-6-02; 2001 H 405, eff. 12-13-01; 1999 H 194, eff. 11-24-99; 1995 H 117, eff. 9-29-95; 1993 H 281, eff. 7-2-93; 1992 H 782; 1989 H 253; 1987 S 21; 132 v S 207; 1953 H 1; GC 5353)

R.C. § 5709.12, OH ST § 5709.12

Current through 2015 Files 1 to 24 of the 131st GA (2015-2016).

Baldwin's Ohio Revised Code Annotated
Title LVII. Taxation (Refs & Annos)
Chapter 5709. Taxable Property--Exemptions (Refs & Annos)
Miscellaneous Exemptions

R.C. § 5709.121

5709.121 Certain property declared to be used exclusively for charitable or public purposes

Effective: March 23, 2015

Currentness

(A) Real property and tangible personal property belonging to a charitable or educational institution or to the state or a political subdivision, shall be considered as used exclusively for charitable or public purposes by such institution, the state, or political subdivision, if it meets one of the following requirements:

(1) It is used by such institution, the state, or political subdivision, or by one or more other such institutions, the state, or political subdivisions under a lease, sublease, or other contractual arrangement:

(a) As a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein;

(b) For other charitable, educational, or public purposes.

(2) It is made available under the direction or control of such institution, the state, or political subdivision for use in furtherance of or incidental to its charitable, educational, or public purposes and not with the view to profit.

(3) It is used by an organization described in division (D) of section 5709.12 of the Revised Code. If the organization is a corporation that receives a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code at any time during the tax year, "used," for the purposes of this division, includes holding property for lease or resale to others.

(B)(1) Property described in division (A)(1)(a) of this section shall continue to be considered as used exclusively for charitable or public purposes even if the property is conveyed through one conveyance or a series of conveyances to an entity that is not a charitable or educational institution and is not the state or a political subdivision, provided that all of the following conditions apply with respect to that property:

(a) The property was listed as exempt on the county auditor's tax list and duplicate for the county in which it is located for the tax year immediately preceding the year in which the property is conveyed through one conveyance or a series of conveyances;

(b) The property is conveyed through one conveyance or a series of conveyances to an owner that does any of the following:

- (i) Leases the property through one lease or a series of leases to the entity that owned or occupied the property for the tax year immediately preceding the year in which the property is conveyed or to an affiliate of that entity;
- (ii) Contracts to have renovations performed as described in division (B)(1)(d) of this section and is at least partially owned by a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code¹ that is exempt from taxation under section 501(a) of that code.²
- (c) The property includes improvements that are at least fifty years old;
- (d) The property is being renovated in connection with a claim for historic preservation tax credits available under federal law;
- (e) The property continues to be used for the purposes described in division (A)(1)(a) of this section after its conveyance; and
- (f) The property is certified by the United States secretary of the interior as a “certified historic structure” or certified as part of a certified historic structure.

(2) Notwithstanding section 5715.27 of the Revised Code, an application for exemption from taxation of property described in division (B)(1) of this section may be filed by either the owner of the property or its occupant.

(C) For purposes of this section, an institution that meets all of the following requirements is conclusively presumed to be a charitable institution:

- (1) The institution is a nonprofit corporation or association, no part of the net earnings of which inures to the benefit of any private shareholder or individual;
- (2) The institution is exempt from federal income taxation under section 501(a) of the Internal Revenue Code;
- (3) The majority of the institution's board of directors are appointed by the mayor or legislative authority of a municipal corporation or a board of county commissioners, or a combination thereof;
- (4) The primary purpose of the institution is to assist in the development and revitalization of downtown urban areas.

CREDIT(S)

(2014 S 243, eff. 3-23-15; 2012 H 487, eff. 9-10-12; 2008 H 458, eff. 12-30-08; 2008 H 562, eff. 9-23-08; 2005 H 66, eff. 6-30-05; 2001 H 405, eff. 12-13-01; 1992 H 782, eff. 4-8-93; 1969 H 817)

Footnotes

¹ 26 U.S.C.A. § 501(c)(3).

2 26 U.S.C.A. § 501(a).

R.C. § 5709.121, OH ST § 5709.121

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