

**COLORADO DEPARTMENT OF LOCAL AFFAIRS
DIVISION OF PROPERTY TAXATION
EXEMPT PROPERTIES SECTION**

**RULES AND REGULATIONS
FOR EXEMPT PROPERTIES
AND ADDITIONAL DEFINITIONS
REVISED APRIL 2011
8 CCR 1304-2**

(PORTIONS PERTAINING TO SCHOOL AND CHARITABLE EXEMPTIONS ONLY)

LEGAL AUTHORITY

These rules are promulgated under the authority of 39-2-117 (7), C.R.S. The Property Tax Administrator has the authority to administer laws regarding property taxation under Article X, Section 15 (2) of the Colorado Constitution.

PURPOSE AND BASIS

The purpose of these rules is to set forth the procedures and guidelines used by the division of property taxation in determining eligibility for exemption from ad valorem taxation for property owned and used solely and exclusively for religious purposes, schools, and strictly charitable purposes as provided in 39-3-106 to 39-3-116, C.R.S.

RULES/REGULATIONS

For review of these rules and regulations, it is suggested that you read the General Procedures section, and the section(s) dealing with the specific statute under which you are applying. If the property is used by anyone other than the owner, it is also recommended that Section V be read. Review the following table and read all applicable sections.

- School—(39-3-107)—Read Sections I & III.
- Domestic Water Company—(39-3-108(1)(c))—Read Sections I & IV - A,B, & C.
- Licensed Health Care Facility—(39-3-108(1)(b))—Read Sections I & IV - A,B, & C.
- Child Care Center—(39-3-110)—Read Sections I & IV - A,B, & E.
- Fraternal or Veterans Organization—(39-3-111)—Read Sections I & IV - A,B, & F.
- Charitable Purposes (Non-Residential)—(39-3-108(1)(a))—Read Sections I & IV - A,B, & C.
- Charitable Purposes (Residential)—(39-3-109, 112, & 113)—Read Sections I & IV - A,B,D,G,H, & I.
- Amateur Sports Organizations—(39-3-108(1.3))—Read Sections I & IV.
- Health Care Services—(39-3-111.5)—Read Sections I & IV.
- Community Corrections Facilities—(39-3-108.5)—Read Sections I & IV.

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I. GENERAL PROCEDURES

The following rules apply to all organizations, properties, and categories of exemption, unless otherwise stated.

A. DEFINITIONS

1. "Administrator" - As defined in Title 39, Article 1, Colorado Revised Statutes.
2. "Agent" means one who is authorized to act for another. For the purposes of these rules, the agent is the person authorized by the owner to handle questions regarding the application for exemption, any annual reports, or any other related questions.
3. "Annual assessment date" - As defined in Title 39, Article 1, Colorado Revised Statutes.
4. "Annual Report" means the annual exempt property report issued by the division of property taxation to be completed and filed with the correct fee by the exempt property owner for the purpose of determining if exemption from general property taxation can be maintained.
5. "Applicant" means an owner that has formally requested an exemption from general property taxation on a form prescribed and furnished by the administrator, and that request is still pending final resolution.
6. "Application" means the form provided by the division of property taxation which must be completed and filed with the proper fee by the owner in order to apply for exemption from general property taxation.
7. "Burden of proof" means the obligation of a party to establish by a preponderance of the evidence the matter asserted.
8. "Date of filing of annual report" means the date authenticated by the United States Postal Service according to 39-1-120, C.R.S., or, if the annual report is sent to or filed at an office other than the division of property taxation and no such authentication date is present, it shall be recorded as filed on the date that it is date-stamped by the division of property taxation. For reports filed electronically, the date of filing shall be as determined by 24-71.3-115, C.R.S.
9. "Date the owner acquired such property" means the date in which legal or equitable title vested in the owner as evidenced by a deed, bill of sale, contract for sale or any other documentation of conveyance. An option contract must be irrevocably exercised to serve as sufficient evidence of title.
10. "Determination" means the official document issued by the division of property taxation, and signed by the administrator, which states the official and final findings in determining the status of the property considered for exemption by the division of property taxation.
11. "Division" - As defined in Title 39, Article 2, Colorado Revised Statutes.
12. "Exempt property owner" means the owner of property that has formally been granted an exemption from general property taxation by the division of property taxation under 39-3-106 through 39-3-116, C.R.S., and has maintained such exemption pursuant to 39-2-117, C.R.S.
13. "Exempt property report" means annual report as defined in these regulations.
14. "Forfeiture of any right to claim exemption" means that the owner failed to meet the annual statutory filing requirements set forth in 39-2-117, C.R.S., and that the division is required to notify the county assessor to return the property to the tax roll for the year in question. The owner may seek exemption of such property for that tax year by following the application procedures of 39-2-117(1)(a), C.R.S., for initial

exemption of property, subject to the limitations set out in Rule I. B. 33, or by petitioning the State Board of Equalization for a waiver of the filing deadline pursuant to 39-9-109, C.R.S.

15. "General taxation" means the requisite property taxes for all purposes required by law that are generally assessed, but does not include any type of special assessment levied against a specific owner.
16. "Improvements" - As defined in Title 39, Article 1, Colorado Revised Statutes.
17. "Legal description" means a description which unquestionably and uniquely identifies the property, as found on the assessment record or deed of title. The description may be abbreviated but must be sufficient to identify the property.
18. "Notice of Revocation" means the official document issued by the division of property taxation, and signed by the administrator, which states the official and final findings in revoking the exempt status of property previously considered exempt by the division of property taxation.
19. "Perjury in the second degree" - As defined in the Colorado Criminal Code.
20. "Person" - As defined in Title 39, Article 1, Colorado Revised Statutes.
21. "Personal property" - As defined in Title 39, Article 1, Colorado Revised Statutes.
22. "Property" - As defined in Title 39, Article 1, Colorado Revised Statutes.
23. "Real property" - As defined in Title 39, Article 1, Colorado Revised Statutes.
24. "Tax area" means a geographic location where a specified group of taxing entities creates a uniform tax rate.
25. "Tentative Determination" means the official document issued by the division of property taxation, and signed by the administrator, which states the initial findings in determining the status of the property considered for exemption by the division of property taxation. The applicant may question a tentative determination in a public hearing pursuant to 39-2-117 (5), C.R.S. before the issuance of a final determination.
26. "Tentative Revocation" means the official document issued by the division of property taxation, and signed by the administrator, which states the initial findings in determining the change in status of property originally considered exempt by the division of property taxation. The applicant may question a tentative revocation in a public hearing pursuant to 39-2-117 (5), C.R.S. before the issuance of a final revocation.
27. "User" means the person, as defined in Rule I.A.20., primarily responsible for the content of the activity for which that portion of the property is being used. Any person in attendance at that use is not a "user", but is merely a participant.
28. "Year in which application is made" means the year authenticated by the United States Postal Service according to 39-1-120, C.R.S., or if no such record is present, the date that is date-stamped on the application by either the assessor or division of property taxation.

B. GENERAL PROVISIONS

1. The owner has the burden of proof to establish a right to an exemption.
2. Only the owner of the property or an agent of an owner, as defined in rule I.A.2., may apply for exemption. For the purposes of 39-3-112.5, C.R.S., a nonprofit organization leasing property from the United States in order to house single individuals or families who are homeless will be considered an agent of the United States.

3. An application for initial exemption is one in which the owner seeks to have a currently taxable property declared exempt. If property which had been exempt is currently taxable because of:
 - (a) change of ownership;
 - (b) forfeiture of exemption not otherwise remedied by petition to the State Board of Equalization pursuant to 39-9-109, C.R.S.;
 - (c) revocation of exemption;
 - (d) transfer of title to a parent or subordinate organization;
 - (e) a period of disuse; or
 - (f) any other reason;

an initial exemption must be sought for that taxable portion.

When a property is partially exempt, and the owner is seeking exemption for the taxable portion, the owner must file an application for initial exemption.

3.1. Refunds on application fees will not be made after that application has been assigned to a Division of Property Taxation examiner for review.

4. A separate application, and separate filing fee, must be filed for each parcel of real property. A parcel of real property is limited to either the assessor's legal description or the parcel identification number.
 - 4.1. Property acquired by the surviving corporation as the result of the merger of two or more corporations shall be subject to all application requirements. The surviving corporation would not be required to file new applications for properties held in the name of, and exempted to, the surviving corporation directly prior to the merger.
5. When an owner applies for more than one parcel of real property on a single application contrary to Rule I.B.4., the division will:
 - (a) designate the parcel which will be considered under that application;
 - (b) notify the owner of the need for additional applications and filing fees to cover the remainder of the property; and
 - (c) notify the owner of possible consolidation of parcels.
6. For applications filed after June 1 of each year, the applicant is responsible for notifying the county treasurer in writing of the pending application to prevent the property from being sold at the tax sale.
7. An application is pending when the form, provided by the division of property taxation, needed to apply for exemption has been completed and filed together with the proper fee by the owner. When an application is pending, taxes for the time period beginning January 1 of the year prior to the year the application was filed, during ownership by the applicant, are not due and payable until a final determination has been issued by the division of property taxation. Such property shall not be listed for the tax sale, and no penalty interest will be charged on any portion of the exemption which is denied. Any taxes due on any valuation assessed prior to the year preceding the year of application are still payable as the property is not eligible for exemption for that time period.

8. If any real property lies in more than one county, and the owner seeks exemption for the entire property, the owner must file a separate application for the portion of the property located in each county.
9. A single application may cover personal property in more than one location within a given tax area. Multiple locations for personal property in a given tax area may also be covered by a single annual report.
11. When an application is filed seeking exemption under one statute, and the property does not qualify under that statute, the division will consider whether said property qualifies for exemption under a different statute. The particular requirements for exemption under each statute will be applied independently.
12. If, upon review of an application, the administrator determines the property does not qualify for exemption, the administrator shall send to the owner of said property, by certified mail, a tentative determination, notifying the owner that the property does not qualify for exemption. The administrator shall also advise the owner of the right to a public hearing and other appeal rights.
14. During a public hearing, the examiner will explain the facts gathered, the reason for recommending denial, and an explanation of the changes needed. The owner will then be allowed to provide documents, witnesses or any other information as to why the owner feels the tentative determination/revocation is incorrect.

One week prior to the hearing, the owner must provide three copies of all written documents presented.

16. When subsequent to a public hearing held in compliance with C.R.S. 39-2-117 (5) an applicant makes all changes necessary in order to comply with a statute, exemption shall be granted effective as of the date all of the changes were made. Should the evidence produced at the hearing show that no changes need be made, the effective date of any exemption granted shall be determined as is consistent with the law and these rules.
18. Upon receiving evidence from the County Assessor that multiple parcels have been consolidated into one parcel with a unique parcel identification number and/or legal description, the division will thereafter treat the consolidated parcel as a single parcel of property.

Any parcels consolidated by the county assessor may be considered on a single application if the owner notifies the division on the application that he intends to consolidate parcels and evidence of consolidation is presented to the division prior to the issuance of a determination on the application.

Multiple parcels may be considered as a single parcel if the county assessor would consolidate them but for a difference in taxable status.

19. Any owner of exempt personal property must notify the administrator within forty-five days when any such property is moved.
 - (a) When the property is moved within the county, the administrator will notify that county.
 - (b) When the exempt property is moved from one county to another and the new location of the property is not exempt, the administrator shall review the exemption to the appropriate extent and issue a new determination based on whether the personal property continues to be owned and used for exempt purposes. A new application for initial exemption need not be filed.
 - (c) When exempt property is moved from one exempt location to another exempt location, it need only be indicated on the subsequent annual reports.

When the owner fails to notify the administrator within the prescribed time limit, the administrator may require the owner to file a new application for the property to be exempt.

- 20. Any owner of exempt personal property that will begin operating in an additional location, must file a new application for exemption for the property at that new location. Should the exemption be granted, the owner may request that the division consolidate this exemption with other exemptions in the same tax area for annual reporting purposes.
- 24. Unless otherwise indicated by a preponderance of the evidence, when a portion of a building is exempted and a portion remains taxable, the land under said building will be exempt and taxable in the same proportion as the building.
- 25. If, upon review of the annual report, the administrator determines the property no longer qualifies for exemption, the administrator shall send to the owner of said property, by certified mail, a tentative revocation, notifying the owner that the property no longer qualifies for exemption. The administrator shall also advise the owner of the right to a public hearing and other appeal rights.
- 27. Calculating Adjusted Hours - Total number of hours during the previous calendar year for which property was used for purposes other than the purposes specified in 39-3-106 to 39-3-113, C.R.S., may be adjusted for partial usage. This adjustment may be made for calculations dealing with 39-3-106.5, C.R.S. and 39-2-117(1)(b)(II), 3(a)(1), and 3(b)(II), C.R.S.

An applicant or an exempt property owner may adjust the hours used for partial use by applying the following formula:

$$\frac{\text{Hours of use X Square footage of area used}}{\text{Total square footage of building}} = \text{Adjusted Hours}$$

If different areas of space are used by outside users, compute the adjusted hours for each different area used and add the adjusted hours together:

$$\frac{\text{Hours of use in Area A X Sq. footage of A}}{\text{Total square footage of building}} = \text{Adjusted hours for Area A}$$

Repeat this for areas B, C, D, etc. and total the adjusted hours.

Exclusive use of an area by a user must be considered as twenty-four hours of use for each day that the property is so occupied.

- 28. Proportional exemptions for properties reviewed annually under 39-3-109 and 39-3-112, C.R.S. will be figured to two decimal places. All other proportional exemptions will be rounded to the nearest whole percent, with results that come to .5 of a percent or higher being rounded to the higher number.
- 29. Without some qualifying use of a given property, the use of income from that property for religious purposes, schools or strictly charitable purposes is not sufficient to support an exemption. Should there be both qualifying use and income generating non-qualifying use of a given property, the provisions of 39-3-116, 39-3-106.5, and 39-3-108 (3)(a), C.R.S., along with related rules, will be applied.
- 30. Not for profit organizations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization that claims to operate for religious purposes, strictly charitable purposes, or as a school, shall be treated as though they were the group for which they hold title. Transfer of title to a title holding organization from an exempt organization shall be considered a change in ownership for the purposes of Rule I. B. 3.
- 31. For the purposes of 39-3-106.5, C.R.S. a "property" will consist of any single parcel of real property as indicated in the records of the county assessor or considered as a single parcel under Rule I. B. 18.; or any amount of personal property located in a single tax area.

32. An owner of exempt property who has failed to file an annual report as required in §39-2-117(3), C.R.S., by the April 15 deadline may request a waiver of all or part of the late filing fee. Such request shall be in writing and shall include an explanation for the failure to file the report in a timely manner.

If good cause is shown for the failure to timely file the annual report, the Administrator, in her sole discretion, may waive all or a portion of the late filing fee.

In determining whether good cause is shown, the Administrator may consider all relevant factors, including, but not limited to:

- (a) Whether the party acted in the manner that a reasonably prudent individual would have acted under the same or similar circumstances;
- (b) Whether the failure to file on time resulted from circumstances that would cause a reasonably careful person to neglect a duty;
- (c) Whether there was administrative error on the part of the Division;
- (d) Whether there were factors outside the control of the party that prevented timely action or interfered with the opportunity to act, and;
- (e) Whether the party was physically unable to act.

It is the responsibility of the owner to obtain the annual report form. If the form is not received by March 15 the owner should contact the Division to request any necessary duplicate forms.

Good cause cannot be established by a party's failure to keep the Division directly informed of the party's current mailing address.

33. An exemption shall be effective when all requirements are met but in no case shall an exemption be effective prior to January 1 of the year preceding the year in which application was made.

For an application for exemption on property that had been exempt but for which the exemption was lost due to the failure to file the annual report required by C.R.S. 39-2-117(3), the exemption will be effective no earlier than the date upon which the application was filed.

This rule shall not be construed to limit a property owner's remedies under C.R.S. 39-9-109, or any other statute.

III. SCHOOLS

These following rules apply to all organizations/properties exempted/applying for exemption as owned and used for a school.

A. DEFINITIONS

1. "College" - As defined in Title 23, Article 3, Colorado Revised Statutes.
2. "Postsecondary" means related to instruction of students over the age of sixteen years who are not enrolled in a regular program of kindergarten through grade twelve in a public, independent, or parochial school.
3. "School" - As defined in Title 39, Article 1, Colorado Revised Statutes.

B. GENERAL PROVISIONS

1. An elementary or secondary school will be considered to have a "curriculum comparable" to that of a publicly supported school, if it has a program which shall include, but not be limited to, instruction in communication skills of reading, writing, and speaking, mathematics, history, literature, science, and civics. A special program mandated and monitored by the Colorado Department of Education shall also be considered as "curriculum comparable".
2. A post-secondary school will be considered to have a "curriculum comparable" to that of a publicly supported school if it:
 - (a) Provides an educational program for which it awards a bachelor's degree; or
 - (b) Provides not less than a two-year program which is acceptable for full credit towards such a degree;
or
 - (c) Provides not less than a six-month program of training to prepare students for gainful employment; or
 - (d) Provides not less than a six-month program of training to develop, improve, or enhance the occupational skills of persons in their current positions of employment or of persons seeking employment in a new or different occupation.
3. Daily attendance shall be required. For elementary and secondary schools requiring the students to meet the standard set out in 22-33-104, C.R.S., by attending 172 days, or by meeting the standards set through gaining accreditation from an accrediting association that has been recognized by the Colorado State Board of Education.
4. When property exempt under 39-3-107, C.R.S. is used by a religious organization in furtherance of that organization's religious mission, the owner of the property is not limited to receiving one dollar per year plus an equitable portion of the reasonable expenses from that religious organization.

When such property is used by other entities for schools or for strictly charitable purposes, the owner is limited to receiving one dollar per year plus an equitable portion of reasonable expenses.
5. For properties that are claimed to be owned and used for schools, the Administrator will consider only the actual, physical use of a property when determining whether the property qualifies for exemption.

IV. CHARITABLE

The following rules apply to all organizations/properties exempted/applying for exemption as owned and used for strictly charitable purposes. For rules which apply to specific categories of charitable use, e.g. child care centers, fraternal/veterans organizations, etc., see that specific section.

A. GENERAL DEFINITIONS

1. "Charity" means a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves in life, or by erecting or maintaining public buildings or works, or otherwise lessening the burdens of government.

B. GENERAL PROVISIONS

1. Whether a "gift" is involved will be determined by analyzing both the beneficent objects, goals or purposes of the entity and the organization's actual conduct. Things to be considered include, but are not limited to:

- (a) What are the sources of income?
 - (b) What is the intent of the donors?
 - (c) Are fees charged, and if so, is the amount received above or below expenses?
 - (d) How is any excess money used?
 - (e) Are fees ever waived, in whole or in part?
 - (f) Are fees charged based on the ability to pay?
 - (g) Is the organization self-supporting, or does it do any fund raising?
 - (h) Are contributions to others a main function or just an incidental one?
 - (i) Do the members of the organization contribute a significant amount of volunteer time?
 - (j) What is the organization's status with the Internal Revenue Service?
 - (k) Is government charged a lower rate?
 - (l) What is the amount of government involvement?
 - (m) Are other private organizations involved in the same activity?
 - (n) Does the organization exist solely to do a traditionally governmental function?
 - (o) Are the salaries paid to employees reasonable?
2. Whether an "indefinite number of persons" is served by an organization shall be determined by whether the beneficiaries of the organization's activities are involuntarily parts of the benefitted class. When the right to benefit depends on a voluntary association with a particular society then that organization does not benefit an indefinite number of persons. This rule does not apply to exemptions granted under 39-3-108 (1)(c), C.R.S.
 3. "Public buildings or works" means those properties occupied and used by government bodies or agencies thereof, or generally provided by the government solely for the use and enjoyment of the general public.
 4. "Lessening the burdens of government" will be determined by whether the charitable work, if not being done by a private person, would have to be undertaken at public expense.
 5. For a property to qualify for exemption as owned and used for strictly charitable purposes, status as a member of the organization must not be a requirement to be a beneficiary of the use of the property. Any organization which confines its benefits to its own members is not a charity, but a private institution for the mutual advantage of the members. This rule does not apply to exemption granted under 39-3-108 (1)(c).
 6. For the purposes of 39-3-108 (3), C.R.S. a "property" will consist of any single parcel of real property as indicated in the records of the county assessor or considered as a single parcel under Rule I.B.18; or any amount of personal property located in a single tax area.
 7. Where material reciprocity between recipients and their donor exists then charity does not.

8. When property exempt under 39-3-108 to 39-3-113, C.R.S. is used by a religious organization in furtherance of that organization's religious mission, the owner of the property is not limited to receiving one dollar per year plus an equitable portion of the reasonable expenses from that religious organization.

When such property is used by other entities for schools or for strictly charitable purposes, the owner is limited to receiving one dollar per year plus an equitable portion of reasonable expenses.

9. For properties that are claimed to be owned and used for strictly charitable purposes, the Administrator will consider only the actual, physical use of a property when determining whether the property qualifies for exemption.

C. APPLICABLE FOR PROPERTIES APPLIED FOR/EXEMPTED UNDER 39-3-108, C.R.S., ONLY

1. "Nonresidential" means not providing a permanent place of abode. Any facility allowing for average stays of over ninety days shall be considered as residential.

Rule IV.C.3. is repealed.

4. The right to exemption of a health care facility is not affected by the fact that few pay, or all pay, so the amount received does not exceed the expenses except for amounts reasonably anticipated for future needs, as determined according to the usual method of accounting for such organization, and the institution is not maintained for private gain or corporate profit, and the sums paid or contributed are devoted to the purpose for which the charity was founded.

For purposes of Rule IV.C.4., amounts reasonably anticipated for future needs may include any monies set aside for capital improvements or required by bond agreements to meet income to expense ratios specified in such bond agreements.

5. "Domestic water company" means any company which has as a major function the providing of water for human consumption within the State of Colorado. This does not include irrigation companies.

Property used as an integral part of a nonprofit domestic water company is that which is essential for providing water to the company's customers.

7. For the purposes of 39-3-108 (1)(b), C.R.S., "licensed health care facility" will only include property, or a portion thereof, that is licensed by the Health Facilities Division of the Colorado Department of Public Health and Environment pursuant to Articles 3 or 27 of Title 25 of the Colorado Revised Statutes, and/or property, or a portion thereof, that is used for functions that are essential to the operation of a licensed health care facility but that are not required to be licensed. Examples of essential functions include, but are not limited to, parking lots, accounting offices and cafeterias that are used primarily for said licensed health care facility. This includes community residential homes which are jointly licensed by the Department of Public Health and Environment and the Department of Human Services pursuant to article 10.5 of title 27 of the Colorado Revised Statutes.
8. 39-3-108 (3)(a), C.R.S. can be considered only for a property or portion thereof that has been licensed by the Health Facilities Division of the Colorado Department of Public Health and Environment, pursuant to Articles 3 or 27 of Title 25 of the Colorado Revised Statutes, and for a property or portion thereof that is used for functions that are essential to the operation of said licensed health care facility.

D. APPLICABLE FOR PROPERTIES APPLIED FOR/EXEMPTED UNDER 39-3-109, C.R.S., ONLY

1. Residential property is used as an integral part of otherwise exempt property when the residents of such property are the direct beneficiaries of the services provided, or employees whose presence at such residential property is necessary for the well being of the resident beneficiaries, or employees whose presence is essential to the operation of the property.

2. "Annual determination" means, for purposes of sections IV.D. and IV.G., the decision issued by the Property Tax Administrator indicating the percentage of taxable value and the percentage of exempt value of a property exempt under 39-3-109 (2), or 39-3-112, C.R.S. on the assessment date for that year.

The percentage of nonexempt value shall be calculated by dividing the number of units occupied by nonqualifying residents by the total number of units occupied as of the annual assessment date.

3. Owners of residential property claiming it is exempt as an integral part of a hospital, licensed health care facility, or institution for physical or mental disabilities, shall submit to the administrator, a certificate signed by a physician licensed to practice in the state of Colorado that the medical condition of each resident of units claimed to qualify for exemption requires the individual to reside in such residential unit. The owner shall also disclose the capacity of such residential property.

If the owner can clearly establish that it only accepts tenants who would be qualified pursuant to 39-3-109 (1)(b), C.R.S., an annual attestation to that fact, on the form provided by the administrator, may take the place of the filing of medical condition certificates.

4. The administrator shall provide the necessary forms for reporting the occupancy of residential property claimed to be exempt under 39-3-109 (1)(b), C.R.S.

Such forms must be completed and returned to the administrator before a decision can be issued on any application considered under this statute.

Such forms must also be completed and returned by July 1 of each succeeding year to maintain exemption.

5. When a property is partially exempted under section 39-3-109 (1)(b), C.R.S., which requires annual occupancy information, and partially exempted under another statute which does not require annual occupancy information, the Administrator may require that an annual report be filed for each portion exempted pursuant to each specific statute.
6. When annual occupancy information is required to be filed under 39-3-109, C.R.S. and these rules, any exemption will be revoked if the annual occupancy reports filed in compliance with Rule IV.D.4. show no qualified occupants for two consecutive years.

The exemption will be revoked as of January 1 of the second of those consecutive years.

E. APPLICABLE FOR PROPERTIES APPLIED FOR/EXEMPTED UNDER 39-3-110, C.R.S., ONLY

1. "Child care center" - As defined in Title 26, Article 6, Colorado Revised Statutes.
2. Exemption will be denied to any owner applying for exemption of property used as a child care center within the meaning of Title 26, Article 6, C.R.S., unless that owner can provide proof that their property is licensed by the Department of Human Services under Title 26 of the Colorado Revised Statutes or that said property is exempt from such licensing requirements. This does not apply to child care centers included as part of a religious mission.
3. "Gross revenue" means money from whatever source derived. This includes, but is not limited to, tuition, fees, contributions, donations, grants, and net income from fund raisers.
4. Tuition includes all costs paid so that students may participate in the daily programs. Included in this are registration fees, athletic fees, charges for identification cards, required meal charges, and any other costs charged for day to day attendance at such child care center. Additional fees charged for special events (e.g. field trips) shall not be considered part of tuition if they are assessed on an at cost basis.

5. "Charges on the basis of ability to pay" means that the total cost for each child is determined by a scale based on the recipient's financial status.
6. "Irrevocably dedicated" means property which is used solely and exclusively for the exempt purpose claimed and shall continue to be used for charitable purposes and not inure to the benefit of any private person upon the liquidation, dissolution or abandonment by the owner.

F. APPLICABLE FOR PROPERTIES APPLIED FOR/EXEMPTED UNDER 39-3-111, C.R.S., ONLY

1. "Fraternal organization" - As defined in Title 12, Article 9, Colorado Revised Statutes, notwithstanding the requirement that such organization be in existence for a period of five years.
2. "Veterans' organization" - As defined in Title 12, Article 9, Colorado Revised Statutes, notwithstanding the requirement that such organization be in existence for a period of five years.
3. "Irrevocably dedicated" - See Rule IV.E.6.
4. Every owner of real or personal property for which exemption from general taxation had previously been granted pursuant to the provision of 39-3-111, C.R.S., and which is used for any purpose other than the purposes specified in 39-3-106 to 39-3-113, C.R.S. for less than two hundred eight hours during the calendar year or if the use of the property for such purposes results in annual gross rental income to such owner of less than ten thousand dollars, may elect to sign only the declaration statement provided on the annual report form and return such statement as proof of exemption by the filing deadlines specified on the form. No annual fee is required if the owner qualifies to sign the declaration only. If the declaration is signed, and the total use of the property by all users other than the owner exceeds two hundred eight hours and results in \$10,000 or more in gross rental income, the owner must provide a list of all users that the owner claims used the property for purposes specified in sections 39-3-106 to 39-3-116, C.R.S., and a brief description of those uses.
5. Calculating Adjusted Hours - See Rule I.B.27.
6. For the purposes of 39-3-111, and 39-2-117 (3)(a)(I), C.R.S., "gross rental income" means all income received by an owner related to the use of the subject property. This includes, but is not limited to, rents, donations, contributions, or any other compensation given to an owner in exchange for the use of the property.
7. Only an owner specifically exempted under 39-3-111, C.R.S., as a fraternal or veteran's organization may elect to sign the declaration in lieu of an annual report. If a fraternal or veteran's organization is exempt under a statute other than 39-3-111, C.R.S., they must file an annual report.
8. For every owner of real or personal property for which exemption from general taxation has previously been granted pursuant to the provisions of 39-3-111, C.R.S., and which does not file either the declaration or annual report with the appropriate fee by July 1, such failure shall operate as a forfeiture of any right to claim exemption of previously exempt property from general taxation for the current year.

G. APPLICABLE FOR PROPERTIES APPLIED FOR/EXEMPTED UNDER 39-3-112, C.R.S., ONLY

1. "Annual determination" - See Rule IV.D.2.
2. "Orphanage" means an institution for the care and protection of orphans and abandoned children.
3. The administrator shall provide the necessary forms for reporting the occupancy of residential property exempt under 39-3-112, C.R.S.

Such forms must be completed and returned to the administrator before a decision can be issued on any application considered under this statute.

Such forms must also be completed and returned by July 1 of each succeeding year to maintain exemption.

4. When a property is partially exempted under section 39-3-112, C.R.S., which requires annual occupancy information, and partially exempted under another statute which does not require annual occupancy information, the Administrator may require that an annual report be filed for each portion exempted pursuant to each specific statute.
5. When annual occupancy information is required to be filed under 39-3-112, C.R.S. and these rules, any exemption will be revoked if the annual occupancy reports filed in compliance with Rule IV.G.3. show no qualified occupants for two consecutive years.

The exemption will be revoked as of January 1 of the second of those consecutive years.

6. For the purposes of 39-3-112 (1)(c) C.R.S., occupants will be qualified as 'abused' if they, or some member of their immediate family, were physically, mentally, sexually and/or emotionally injured by another person prior to occupying a housing facility and if the abused individual is occupying this housing facility as a direct result of that abuse.
7. For properties to qualify as family service facilities under 39-3-112 C.R.S., those properties must be restricted to occupancy by only single parent families (except for resident managerial personnel). There will be no apportionment into exempt and nonexempt portions.
8. For the purposes of 39-3-112 (1)(c) and 39-3-112.5, C.R.S. "homeless" individuals or families include only those persons who, immediately prior to occupying a housing facility for the homeless:
 - (a) had a primary nighttime residence that was a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill, but excluding prisons or other detention facilities); or
 - (b) had a primary nighttime residence that was a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or
 - (c) were at imminent risk of homelessness because they faced immediate eviction and had been unable to identify a subsequent residence, which would result in emergency shelter placement; or
 - (d) are handicapped, had been released from an institution, and were at risk of imminent homelessness because no subsequent residences were identified.
9. For the purposes of C.R.S. 39-3-112, when more than one income level is used by the low-rent public housing project nearest in distance to a potentially exempt residential property, the highest level may be used in calculating one hundred fifty percent of the limits prescribed for similar individuals or families.
10. For the purposes of 39-3-112, C.R.S., income shall include all money and other compensation received during a given year, regardless of whether it is considered as taxable income pursuant to state or federal income tax regulations.
11. For each unit claimed to qualify for exemption pursuant to C.R.S. 39-3-112, each adult occupant, or at least one member of a married couple who are occupants, must annually provide to the Division, on a form provided by the Administrator, a signed declaration indicating that the occupant is 62 years of age or

over; disabled; homeless or abused; or the head of a single parent family occupying a family service facility.

At least one member of any married couple, and all other adult residents in a unit, must be either 62 years of age or over; disabled; homeless or abused; or the head of a single parent family occupying a family service facility for that unit to qualify.

12. For each unit claimed to qualify for exemption pursuant to C.R.S. 39-3-112, each occupant, or each married couple if filing jointly, must annually provide to the Division, on a form provided by the Administrator, a breakdown of the gross income received by that occupant for the prior calendar year and a copy of any Federal Income Tax return that was required to be filed for that year.

Only those units occupied by qualified residents where the total income is less than 150% of the limits on the income allowed for similar persons at the low-rent public housing property nearest in distance to the subject property will be deemed to qualify for exemption.

13. For the purposes of 39-3-112(1)(b.5)(II), C.R.S. "utilities" includes water, heat, and electricity, but does not include telephone.
14. Rent schedules that conform to those published annually by the Colorado Housing and Finance Authority which indicate acceptable rents for households whose incomes do not exceed thirty percent of the area median income shall satisfy the requirement of 39-3-112(1)(b.5)(II), C.R.S.
15. To determine comparable facilities the administrator will consider unit type(s), square footage, number of bedrooms, number of bathrooms, location, quality, amenities, date built, and management and maintenance services.

"Fair market rents" as established by the United States Department of Housing and Urban Development pursuant to 24 CFR 888 shall be considered rents for comparable facilities.

16. The value of an exemption will be determined by multiplying the assessed value of the subject property, as listed in the records of the county assessor, by the mill levy of the tax area in which the subject property is located, and multiplying that product by the potential exemption attributable to units used to house low-income households.
17. To determine when rents are reduced sufficiently to meet the requirement of 39-3-112(1)(b.5)(III), C.R.S., the actual rents paid by the tenant for the subject property will be subtracted from rents equivalent to those charged at a comparable facility.
18. Each unit will be examined individually to determine whether the rent reduction requirement of 39-3-112(1)(b.5)(III), C.R.S. is met.
19. For the purposes of low income household residential facilities "income" for households shall be as determined by United States Department of Housing and Urban Development pursuant to 24 CFR 5.609.

H. APPLICABLE FOR PROPERTIES APPLIED FOR/EXEMPTED UNDER 39-3-113, C.R.S., ONLY

1. The "process of being constructed" begins with actual physical preparation of the land.
2. "Irrevocably committed to residential use in accordance with the requirements set forth in sections 39-3-109 (1) or 39-3-112 (2) or (3)" shall be evidenced by certifying, under the penalty of perjury in the second degree, on a form provided by the Administrator, that the property is so committed, and that upon occupancy, said property will be occupied by one or more qualified occupants.

I. APPLICABLE FOR PROPERTIES APPLIED FOR/EXEMPTED UNDER 39-3-114, C.R.S., ONLY

1. "Burden", for the purpose of 39-3-114, C.R.S., means burden of proof.

V. COMBINATION USE OF PROPERTY

The following rules apply to property exempted/applying for exemption which is used by anyone other than the owner or property owned by a religious organization which is used outside of its religious mission.

A. DEFINITIONS

1. "Otherwise exempt from the payment of property taxes", as stated in 39-3-116 (2)(b), C.R.S. means having met all of the requirements for exemption as specified in 39-3-105, or 39-3-127, C.R.S. or being exempt pursuant to Article VI cl. 2 of the Constitution of the United States or Section 4 of the Enabling Act of Colorado.

B. GENERAL PROVISIONS

- 1. The "amount received by the owner for the use of such property" shall include all income no matter what it is called. This shall include, but not be limited to, rent, donations, contributions, and gifts received for the use of the property.
- 2. "Reasonable expenses incurred in the operation and maintenance of the property" include, but are not limited to, utilities; custodial services and supplies; costs for routine maintenance, parts and labor; insurance; taxes; and interest on loans involving that particular piece of property.

This does not include depreciation, amounts paid toward the principal of loans, and costs of capital improvements although interest on loans taken out to finance capital improvements may be included.

3. An "equitable portion of reasonable expenses incurred in the operation and maintenance of the property" will be determined by considering the amount of time a particular user occupies a portion of the property, and the amount of space used in comparison to the total area of the building, and the reasonable expenses incurred as defined in Rule V. B. 2. Either of the following sets of formulas may be used:

(A)

$$(1) \frac{\text{Hrs of use by a particular user X Sq. Ft. of area used}}{\text{Total sq. ft. of building}} = \text{Adjusted hrs. of usage by particular user}$$

$$(2) \frac{\text{Adjusted hrs. of use by a particular user}}{8760} = \text{Percentage of possible use by that user}$$

$$(3) \text{Percentage of possible use by a user X Reasonable expenses} = \text{Equitable portion of expenses}$$

(B)

$$(1) \frac{\text{Hrs of use by a particular user X Sq. Ft. of area used}}{\text{Total sq. ft. of building}} = \text{Adjusted hrs. of usage by particular user}$$

$$(2) \frac{\text{Adjusted hrs of use by a particular user}}{\text{Total adjusted hrs. of use by all users}} = \text{Percentage of actual use by that user}$$

$$(3) \text{Percentage of actual use by a user} \times \text{Reasonable expenses} = \text{Equitable portion of expenses}$$

Exclusive use of an area by a user must be considered twenty four hours of use for each day that the property is so occupied.

4. For those properties exempted under 39-3-107 to 113, C.R.S., excluding 39-3-108 (1)(b), the exemption will not be affected by occasional, non-continuous, non-qualifying use so long as that use does not exceed the limits set out in 39-3-106.5 (2) C.R.S.

Should occasional, non-continuous, non-qualifying use exceed the stated limits, the percentage of taxable value will be based on the total amount of non-qualifying use.

ADDITIONAL DEFINITIONS

Administrator C.R.S. 39-1-102 "Administrator" means the property tax administrator.

Annual assessment date C.R.S. 39-1-102 Twelve noon on the first day of January of each year is designated as the official assessment date.

Child care center C.R.S. 26-6-102 (1.5) Child care center means a facility, by whatever name known, that is maintained for the whole or part of a day for the care of five or more children who are eighteen years of age or younger and who are not related to the owner, operator, or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day care centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children and those facilities which give twenty-four-hour care for children and includes those facilities for children under the age of six years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school; except that the term shall not apply to any kindergarten maintained in connection with a public, private, or parochial elementary school system of at least six grades. The term shall not include any facility licensed as a family child care home or foster care home.

College C.R.S. 23-3-103 (1) Any public or nonprofit institution of higher education which is recognized and approved by the regional accrediting agency for the state where such educational institution is situated or which is approved by the United States commissioner of education and which provides a course of study leading to the granting of a postsecondary degree or diploma.

Community corrections program C.R.S. 17-27-102 (3) . . . a community-based or community-oriented program that provides supervision of offenders pursuant to this article. Such program shall be operated by a unit of local government, the department, or any private individual, partnership, corporation, or association. Such program may provide residential or non-residential services for offenders, monitoring of the activities of offenders, oversight of victim restitution and community service by offenders, programs and services to aid offenders in obtaining and holding regular employment, programs and services to aid offenders in enrolling in and maintaining academic courses, programs and services to aid offenders in participating in vocational training programs, programs and services to aid offenders in utilizing the resources of the community, meeting the personal and family needs of such offenders, programs and services to aid offenders in obtaining appropriate treatment for such offenders, programs and services to aid offenders in participating in whatever specialized programs exist within the community, day reporting programs, and such other services and programs as may be appropriate to aid in offender rehabilitation and public safety.

Division C.R.S. 39-2-101 This section creates the Division of Property Taxation.

Filing - when deemed to have been made. C.R.S. 39-1-120

(1)(a) Any report, schedule, claim, tax return, statement, or other document required or authorized under articles 1 to 9 of this title to be filed with or any payment made to the state of Colorado or any political subdivision thereof which is transmitted through the United States mails shall be deemed filed with and received by the public officer or agency to which it was addressed on the date shown by the cancellation mark stamped on the envelope or other wrapper containing the document required to be filed.

(b) Any such document which is mailed, but not received by the public officer or agency to which it was addressed, or is received and the cancellation mark is not legible, or is erroneous or omitted shall be deemed to have been filed and received on the date it was mailed if the sender establishes by competent evidence that the document was deposited in the United States mails on or before the date due for filing. In such cases of nonreceipt of a document by the public officer or agency to which it was addressed, the sender shall file a duplicate copy thereof within thirty days after written notification is given to the sender by such public officer of the failure to receive such document.

(2) If any report, schedule, claim, tax return, statement, remittance, or other document is sent by United States registered mail, certified mail, or certificate of mailing, a record authenticated by the United States postal service of such registration, certification, or certificate shall be considered competent evidence that the report, schedule, claim, tax return, statement, remittance, or other document was mailed to the public officer or agency to which it was addressed, and the date of the registration, certification, or certificate shall be deemed to be the postmark date.

(3) If the date for filing any report, schedule, claim, tax return, statement, remittance, or other document falls upon a Saturday, Sunday, or legal holiday, it shall be deemed to have been timely filed if filed on the next business day.

Fraternal organization C.R.S. 12-9-102 (6) Fraternal organization means any organization within this state, including college and high school fraternities, not for pecuniary profit, that is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members and that has so existed for five years prior to making application for a license under this article. "Fraternal organization" also includes a graduate or alumni division or branch of a college fraternity, which division or branch holds a charter issued by the state of Colorado and that meets all other criteria set forth in this subsection (6). As used in this subsection (6), "fraternity" includes a sorority.

Improvements C.R.S. 39-1-102 (7) Improvements means all structures, buildings, fixtures, fences, and water rights erected upon or affixed to land, whether or not title to such land has been acquired.

Not for private gain or corporate profit C.R.S. 39-1-102 (8.5) Not for private gain or corporate profit means the ownership and use of property whereby no person with any connection to the owner thereof shall receive any pecuniary benefit except for reasonable compensation for services rendered and any excess income over expenses derived from the operation or use of the property and all proceeds from the sale of the property of the owner shall be devoted to the furthering of any exempt purpose.

Perjury in the second degree C.R.S. 18-8-503 A person commits perjury in the second degree if, other than in an official proceeding, with an intent to mislead a public servant in the performance of his duty, he makes a materially false statement, which he does not believe to be true, under an oath required or authorized by law. Perjury in the second degree is a class 1 misdemeanor punishable by a minimum of six months imprisonment, or five hundred dollars fine, or both, up to a maximum of eighteen months imprisonment, or five thousand dollars fine, or both.

Person C.R.S. 39-1-102 (9) Person means natural persons, corporations, partnerships, associations, and other legal entities which are or may become taxpayers by reason of the ownership of taxable real or personal property.

Personal property C.R.S. 39-1-102 (11) Personal property means everything which is the subject of ownership and which is not included within the term "real property". Personal property includes machinery, equipment and other articles related to a commercial or industrial operation which are either affixed or not affixed to the real property for proper utilization of such articles.

Property C.R.S. 39-1-102 (13) Property means both real and personal property.

Real Property C.R.S. 39-1-102 (14) Real property means: a) All lands or interests in lands to which title or right of title has been acquired from the government of the United States or from sovereign authority ratified by treaties entered into by the United States, or from the state; b) All mines, quarries, and minerals in and under the land, and all rights and privileges thereunto appertaining; and c) improvements.

School C.R.S. 39-1-102 (15.5)

(a) "School" means:

- (I) An educational institution having a curriculum comparable to that of a publicly supported elementary or secondary school or college, or any combination thereof, and requiring daily attendance, or
- (II) An institution that is licensed as a child care center pursuant to article 6 of title 26, C.R.S., that is:
 - (A) Operated by and as an integral part of a not-for-profit educational institution that meets the requirements of subparagraph (I) of this paragraph (a); or
 - (B) A not-for-profit institution that offers an educational program for not more than six hours per day and that employs educators trained in preschool through eighth grade educational instruction and is licensed by the appropriate state agency and that is not otherwise qualified as a school under this paragraph (a) or as a religious institution.

(b) "School" includes any educational institution that meets the requirements set forth in subparagraph (I) or (II) of paragraph (a) of this subsection (15.5), even if such educational institution maintains hours of operation in excess of the minimum hour requirements of section 22-32-109(1)(n)(I), C.R.S.

Veterans' organization C.R.S. 12-9-102 (21) Veterans' organization means any organization within this state or any branch, lodge, or chapter of a national or state organization within this state, not for pecuniary profit, the membership of which consists of individuals who were members of the armed services or forces of the United States, that has been in existence for five years prior to making application for a license under this article.