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# Nonprofit Community and Performing Arts Organizations

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Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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# Nonprofit Community and Performing Arts Organizations

Reference Number: CTAS-1552

Under T.C.A. § 67-5-223, upon approval of a resolution by a two-thirds vote of the county legislative body, certain property owned by a non—profit community arts organization is exempt from property taxation. Upon adoption of the provision of T.C.A. § 67-5-223 and subject to the application requirements of T.C.A. § 67-5-212, property owned by nonprofit community and performing arts organizations and used by them or other nonprofit community and performing arts organizations is eligible for property tax exemption as a charitable or educational use of property upon compliance with the provisions of T.C.A. § 67-5-223. Real property owned by these organizations is eligible for exemption to the extent that it is used for public museums, art galleries, performing arts auditoriums and theaters, and any uses necessary and incidental to the foregoing. Personal property owned by these organizations is eligible for exemption to the extent it is used by the organization to equip and operate real property as set out above. Other personal property, regardless of its location, is eligible for exemption to the extent it is used for business or office operations of the organization or used in shows, exhibits or productions of the organization.<sup>1</sup>

The organization seeking exemption shall meet the following requirements: (1) the property must be owned and used by a public benefit nonprofit organization established as either a nonprofit corporation or an unincorporated entity operating as an association, a trust or a foundation pursuant to written articles of governance; (2) the organization must be operated and governed by a board of directors of not less than 10 members, all of whom are natural persons, and all powers and affairs of the organization must be exercised under the authority of the board of directors; (3) not more than three members of the organization or its board of directors may be employees of the organization; (4) other than as an employee, no member, officer or director can be compensated for service as such; (5) other than for services as an employee, no member, director or officer of the organization, directly or indirectly,<sup>2</sup> may sell or provide, for monetary remuneration, any goods or services to the organization; (6) no member, director or officer of the organization may lend money to the organization if the loan is secured by the organization's property; (7) other than for services as an employee, no member, director or officer of the organization may profit from shows, exhibits or productions of the organization or have any monetary interest in shows, exhibits or productions of the organization; (8) in the event the organization sells any of its property which has been exempt from taxation, it must notify the attorney general and reporter of its intent to sell the property at least 21 but not more than 60 days before the date of sale; (9) the articles of governance of any unincorporated organization must include the provisions set out in T.C.A. § 67-5-223(b) or be specifically incorporated by reference; (10) the articles of governance of the organization, whether incorporated or not, and all amendments thereto must be filed with the assessor of property in the county in which the organization owns exempt property;<sup>3</sup> and (11) the organization must supply the assessor of property with an annual report which includes a listing of activities and uses of the property, current statements of financial condition, and any further information the assessor may require.<sup>4</sup>

The county governing body may impose a requirement of periodic local review or renewal of the exemption. The assessor of property must maintain with the records for the property an estimate of the market value of the property as of the date of the last county-wide reappraisal.<sup>5</sup>

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<sup>1</sup>T.C.A. § 67-5-223(a).

<sup>2</sup>"Indirectly" means through a business organization of which the employee, member, director or officer of the organization or a spouse, child or parent owns more than a three percent (3%) interest in the business.

<sup>3</sup>This requirement is not to be construed to override any other existing law as to filing of organizational documents.

<sup>4</sup>T.C.A. § 67-5-223(b).

<sup>5</sup>T.C.A. § 67-5-223(c).