

# SOUTHEASTERN CONNECTICUT CULTURAL COALITION

## CT OFFICE OF LEGAL REVIEW

### Location:

MUNICIPAL FINANCE;  
NONPROFIT ORGANIZATIONS; TAXES - PROPERTY;

### Scope:

Connecticut laws/regulations; Court Cases;

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## MUNICIPAL PERSONAL PROPERTY TAX

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You asked several questions about a municipality's power to levy property taxes on non-profit organizations. The questions and answers are listed below. The answers to some of the questions require a legal opinion, which the Office of Legislative Research is not authorized to give, and this report should not be regarded as one.

### ***What is the statute that authorizes a municipality to levy a personal property tax on business property?***

Municipalities derive their authority to tax business property from CGS § 7-148(c)(2)(B), which is a part of a section of a statute that delineates their other general powers. Under that statute, municipalities can assess, levy, and collect taxes for general or special purposes on all “property, subjects, or objects” that may be lawfully taxed. The property, subjects, and objects subject to property tax are mostly specified in chapter 203, which deals with property tax assessment.

Generally, items are subject to taxation, including business personal property, unless they are exempted. CGS § 12-71 requires owners to list “all goods, chattels, and effects or any interest therein” for property taxation. Additionally, CGS § 12-41 specifically lists a wide range of business personal property that a business must include in the annual list it submits to the assessors. CGS § 12-89 requires assessors to review the taxable status of each item on the list and determine what, if any, portion is exempt from property taxes.

The assessors determine each item's taxable status by determining if the statutes explicitly exempt it from taxation. Most of the real and personal property tax exemptions are listed in CGS § 12-81. Examples of business personal property tax exemptions are manufacturers' inventories (CGS § 12-81(50)), wholesale and retail business inventory (CGS § 12-81(54)), and manufacturing machinery and equipment (CGS § 12-81(72)). Attachment 1 lists the real and personal property tax exemptions.

### ***Is the authority limited so as to prohibit levying property taxes on a nonprofit organization within the municipality?***

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The law tacitly prohibits municipalities from taxing nonprofit real and personal property by exempting such property from property taxes (CGS § 12-81(7)).

## ***What is a “nonprofit” for this purpose?***

An organization qualifies for the exemption based on its purpose and how it uses its property. In order for an organization to qualify for the nonprofit exemption, the property must be held in trust or by a corporation organized exclusively for scientific, educational, literary, historical, or charitable purposes.

In addition to these conditions, the property must:

1. generate no profits for organization's officers, members, or employees and
2. be used exclusively for scientific, educational, literary, historical, or charitable purposes.

Lastly, the property owner must file an exemption statement every four years with the local assessor or board of assessors of the town where the exempt property is located (CGS § 12-81(7)). The assessor must review this statement and determine if the property qualifies for the exemption (CGS § 12-89).

## ***Under the statutes, does each municipality have the authority to define what a “nonprofit” is or is there a uniform statewide definition?***

Municipalities must adhere to the criteria described above. They do not have the authority to define nonprofit for property taxation. As discussed below, Connecticut courts have ruled that municipalities must strictly comply with property tax statutes.

## ***Is the definition linked to the federal definition of a nonprofit (IRS Code § 501(c)(3))?***

CGS § 12-81(7) does not explicitly define “nonprofit organization”, but, as discussed above, specifies the conditions under which an organization qualifies for the nonprofit property tax exemption. Those conditions are similar to the federal criteria for the § 501(c) (3) designation, but the statute does not cite the federal law.

## ***Has any legislation been introduced in the General Assembly recently regarding the property tax exemption for nonprofit personal property?***

Since 1988, no legislation has not been introduced to change the real and personal property tax exemption for nonprofit organizations.

## ***Is there any additional information that would be relevant to achieve a better understanding of a municipality taxing nonprofit entities?***

As a rule, municipalities must strictly follow the statutes when assessing and collecting property taxes, regardless of how the property is used. Consequently, only the General Assembly can change property taxlaw, including the nonprofit exemption.

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We base this conclusion on case law. The Connecticut courts have consistently held that (1) towns have only the specific powers granted them by the legislature; (2) an enumeration of powers in a statute forbids things not enumerated; and (3) in determining whether a town has the authority to do something, the court does not search for a statutory prohibition but rather for statutory authority.

With regard to municipal taxing power, the Connecticut Supreme Court ruled in 1976 that:

A municipality, as a creation of the state, has no power of its own nor does it have any powers of taxation except those expressly granted to it by the legislature. For these reasons, a municipality's powers of taxation can be lawfully exercised only in strict conformity to the terms by which they were given and statutes conferring authority to tax must be strictly observed. (*Joseph W. Pepin et al. v. City of Danbury et al.* (171 Conn. 74)).

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