

Legal Opinion Requests
Exemption Criteria and Suggested Supporting Documentation

SECTION	TYPE OF PROPERTY	CRITERIA TO MEET EXEMPTION	SUPPORTING DOCUMENTATION
3(1).2	<p>Cemeteries, Burial Sites</p> <p><u>Note:</u> Act not yet proclaimed</p>	<p>Legislation</p> <ul style="list-style-type: none"> ♦ a cemetery for which a consent has been issued under the <i>Cemeteries Act (Revised)</i> and a burial site as defined in that Act so long as the cemetery or burial site is actually being used for the interment of the dead ♦ a cemetery and a burial site as those terms are defined in the <i>Funeral, Burial and Cremation Services Act, 2002</i>, as long as the land is actually being used for the interment of the dead or ancillary purpose prescribed by the Minister, or any ancillary purpose prescribed by the Minister, and not including any portion of the land used for any other purpose ♦ cemetery means, except when referring to an unapproved cemetery or an unapproved aboriginal peoples cemetery, <ul style="list-style-type: none"> (a) land that has been established as a cemetery under sections 83 to 87 or under a predecessor of this Act that related to cemeteries and in respect of which a certificate of consent issued by the registrar under section 86 is registered in the land registry office, or (b) land that is otherwise set aside to be used either for the interment of human remains or for the scattering of cremated human remains, or for both of those purposes, and includes a mausoleum, columbarium or other structure intended for the interment of human remains that is situated on the land 	<ul style="list-style-type: none"> ♦ Certificate of consent under <i>Cemeteries Act (Revised)</i> ♦ Evidence of use of land for interment ♦ Description of buildings on land, including amount of land used in connection with each building ♦ Certificate of consent under <i>Funeral, Burial and Cremation Services Act, 2002</i> for cemeteries

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3(1).2 cont		<ul style="list-style-type: none"> ♦ burial site means land containing human remains that has not been approved or consented to as a cemetery in accordance with the <i>Funeral, Burial and Cremation Services Act, 2002</i> or a predecessor of this Act that related to cemeteries; 	
3(1).2.1	<p>Crematoriums</p> <p><u>Note:</u> Amendment not yet proclaimed</p>	<p>Legislation</p> <ul style="list-style-type: none"> ♦ land on which is located a crematorium, as defined in the <i>Funeral, Burial and Cremation Services Act, 2002</i> and which is part of a cemetery or burial site, as those terms are defined in the <i>Funeral, Burial and Cremation Services Act, 2002</i>, if, <ul style="list-style-type: none"> I. the Registrar under the <i>Cemeteries Act (Revised)</i> consented to the establishment of the crematorium on or before January 1, 2002, ii. the ownership of the land has not changed since January 1, 2002, and iii. the taxation year is a taxation year that is no more than five years after the taxation year in which the <i>Funeral, Burial and Cremation Services Act, 2002</i> comes into force. 	

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3(1).3	Place of Worship, Churchyard, Burying ground, Principal residence of the member of the clergy and land used in connection with it	<p>Legislation Land that is owned by a church or religious organization or leased to it by another church or religious organization that is:</p> <ul style="list-style-type: none"> ♦ a place of worship and land used in connection with it ♦ a churchyard ♦ a burying ground so long as the land is actually being used for the interment of the dead or any ancillary purpose prescribed by the Minister, and not including any portion of the land used for any other purpose ♦ 50% of the assessment of the principal residence and land used in connection with it of the member of the clergy who officiates at the place of worship and land referred to in subparagraph I, so long as the residence is located at the site of the place of worship 	<ul style="list-style-type: none"> ♦ Transfer/Deed ♦ Trust Declaration if land held in trust for religious organization, and not stated in Transfer/Deed ♦ Complete description of all activities and uses of buildings and land ♦ Agreement/Lease if not occupied by owner ♦ Letters Patent, Charter ♦ Evidence of registration as charity with Canada Customs and Revenue ♦ Proof that place of worship is open to the public and not closed to a particular group (e.g. convent chapel, monastery chapel) ♦ For churchyards and burying grounds, description of use(s) of land, description of buildings on land and a certificate of consent under the <i>Funeral, Burial and Cremation Services Act, 2002</i> (not yet proclaimed) for churchyards ♦ Verification of “principal residence” location in relation to place of worship ♦ Contact person and telephone number

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3(1).5	Seminary of Learning	<p>Legislation</p> <ul style="list-style-type: none"> ♦ land owned, used and occupied solely by a non-profit philanthropic, religious or educational seminary of learning, or ♦ land leased and occupied by a non-profit seminary of learning if the land would be exempt from taxation if it was occupied by the owner <p>Guidelines</p> <ul style="list-style-type: none"> ♦ the courts have stated that a seminary of learning should have students, physical facilities, teachers or instructors, and a curriculum 	<ul style="list-style-type: none"> ♦ Transfer/Deed ♦ Trust declaration if land held in trust for seminary ♦ Agreement/Lease if not occupied by owner ♦ If leased, information about owner indicating the property would be exempt if occupied by owner ♦ Letters Patent/Articles of Incorporation ♦ Charter ♦ Proof that organization is non-profit ♦ Location of any relevant Internet web site ♦ Audited Financial Statements for past three years ♦ Brochures and pamphlets describing educational programs, activities and curriculum, # of students and ages, description of teaching staff/instructors, fees, hours of operation ♦ Note indicating if programs recognized by Ministry of Education ♦ Description of property/floor plan and uses ♦ Size of parcel of land, since exemption is limited to 50 acres ♦ Contact person and telephone number

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3(1).9	<p>Municipal Property (Amendment on burial site, burying ground or cemetery not yet proclaimed)</p>	<p>Legislation</p> <ul style="list-style-type: none"> ♦ land owned by a municipality, including an upper-tier municipality, a public commission or a local board as defined in the <i>Municipal Affairs Act</i> ♦ land is not exempt if occupied by a tenant who would be taxable if the tenant owned the land, except land owned by a harbour commission and used for parking vehicles for which a fee is charged ♦ local board as defined by the <i>Municipal Affairs Act</i> means “a school board, municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof” ♦ “commission” means the Council of a municipality or upper-tier municipality, or a commission or trustees or other body, operating a public utility for or on behalf of the municipality or upper-tier municipality and includes a municipal parking authority established under any general or special Act ♦ land owned by a municipality that is a burial site, burying ground or cemetery is not exempt from taxation unless it meets the requirements for exemption under section 3(1).2, 2.1 or 3. 	<ul style="list-style-type: none"> ♦ Transfer/Deed ♦ Details about the public commission/local board to ensure that it falls within the definition in the <i>Municipal Affairs Act</i> <p>If there is an occupant, other than the municipality, local board or public commission:</p> <ul style="list-style-type: none"> ♦ Letters Patent/Articles of Incorporation for the occupant ♦ Charter ♦ Management/Operation Agreement or Licence/Lease ♦ Description of property/floor plan and uses ♦ For municipal burial sites, burying grounds and cemeteries, description of use(s) of land, description of buildings on land including amount of land used in connection with each municipality and certificate of consent under the <i>Funeral, Burial and Cremation Services Act, 2002</i> (not yet proclaimed) ♦ Contact person and telephone number

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3(1).9 cont		<p>Guidelines The courts have suggested four tests to determine whether the occupant of a municipal property is a tenant of the property, or is an agent of the municipality and is fulfilling a municipal function:</p> <ol style="list-style-type: none"> 1. Who has control of the property? 2. Who has ownership of the tools? 3. Does the occupant have a chance of profit? 4. Does the occupant have a risk of loss? <p>In order to determine whether land is occupied by a body other than the municipality, the occupant must have reasonably exclusive use, possession and control of the land for a fixed term, typically under a lease agreement.</p>	See previous page.

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3(1).11	House of Refuge, Reformation of offenders, Care of children	<p>Legislation</p> <ul style="list-style-type: none"> ♦ land owned, used and occupied by a non-profit philanthropic corporation for the purpose of a house of refuge, the reformation of offenders, the care of children or a similar purpose but excluding land used for the purpose of a day care centre <p>Guidelines</p> <ul style="list-style-type: none"> ♦ residential accommodation for persons who are in danger, destitute or homeless ♦ accommodation is usually temporary ♦ the courts have given exemption as a house of refuge to shelters for battered women, group homes offering custodial care for developmentally challenged children and adults, residences for the treatment of alcohol/substance abusers, but not to children's summer camp ♦ corporation is deemed to be in occupation where land is occupied by clients as tenants for its purposes (occupancy agreement must be carefully reviewed) 	<ul style="list-style-type: none"> ♦ Transfer/Deed ♦ Letters Patent/Articles of Incorporation ♦ Charter ♦ Proof that organization is non-profit ♦ Audited Financial Statements ♦ Brochures, pamphlets or description of the property's use, client profile, length of stay and the reasons for seeking refuge ♦ Care services agreements ♦ Lease/occupancy agreements ♦ Residence rules and guidelines for residents ♦ Location of any relevant Internet web site ♦ Description of services and activities offered by the non-profit philanthropic corporation ♦ Description of level of custodial care required by residents ♦ Description of property/floor plan and uses ♦ Agreement with Ministry of Community Safety and Correctional Services when land used to reform offenders ♦ Contact person and telephone number

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3(1).12	Charitable Institutions	<p>Legislation</p> <ul style="list-style-type: none"> ♦ land owned, used and occupied by: <ul style="list-style-type: none"> i. the Canadian Red Cross Society ii. the St. John Ambulance Association, or iii. any charitable, non-profit philanthropic corporation organized for the relief of the poor if the corporation is supported in part by public funds <p>Guidelines</p> <ul style="list-style-type: none"> ♦ public funds include funding from any level of government ♦ the courts grant exemptions to charitable non-profit corporations that provide services to a client group that is predominantly poor, where the services will be helpful in allowing the clients to escape their poverty ♦ corporation is deemed to be in occupancy where land is occupied by clients as tenants for its charitable purposes (occupancy agreement must be carefully reviewed) 	<ul style="list-style-type: none"> ♦ Transfer/Deed ♦ Letters Patent/Articles of Incorporation ♦ Charter ♦ Evidence of registration as charity with Canada Customs and Revenue ♦ Organization’s Mission Statement ♦ Proof that organization is non-profit ♦ Audited Financial Statements for past three years ♦ Application for public funding, funding agreements with United Way for more than one year ♦ Location of any relevant Internet web site ♦ Description of the clients, including the percentage of clients who are poor and the criteria for receiving services (e.g. income threshold, means test) ♦ Copy of service agreements ♦ Description of the services and activities provided, and to whom ♦ Details of fees charged for services ♦ Copy of any lease/occupancy agreements ♦ If the property is used for housing, schedule of rents, subsidized housing units including % that are subsidized and by whom, application for accommodation

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3(1).12 cont			<ul style="list-style-type: none"> ♦ Description of property/floor plan indicating the areas used for particular activities ♦ Contact person and telephone number
3(1).14	Scientific or Literary Institutions	<p>Legislation</p> <ul style="list-style-type: none"> ♦ the property of every public library to the extent it is occupied and used by the library ♦ property of other public institutions, literary or scientific, to the extent it is occupied for the purposes of the institution ♦ property of every agricultural or horticultural society or association occupied for the purposes of the society (property of the society that is rented and where the rent is applied solely for the purposes of the society, is deemed to be in actual occupation by the society) <p>Guidelines</p> <ul style="list-style-type: none"> ♦ property must be owned and occupied, except agricultural and horticultural society property which may be leased, if the rent is applied solely for the purposes of the society <p>Public Institution:</p> <ul style="list-style-type: none"> ♦ institution must benefit the public directly 	<ul style="list-style-type: none"> ♦ Transfer/Deed ♦ Letters Patent/Articles of Incorporation ♦ Membership Application ♦ Description of purpose/objective of institution ♦ Description of the activities carried on by the institution ♦ Description of clients served ♦ Evidence that rent is applied for purposes of society where property of agricultural or horticultural society is rented ♦ Proof that institution is open to the public i.e. functions for the purpose of public usage and is not limited to a specific group or membership ♦ Details regarding clients that can benefit from/partake in activities of institution ♦ Contact person and telephone number