

PROPERTY TAX ISSUES WITH NON-UNIVERSITY USE

Presented by: **Nick Goodling**
Senior Attorney
Real Estate Office
Office of General Counsel
The University of Texas System
210 West 7th Street
Austin, Texas 78701
512-579-5044 direct

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Texas Tax Code Section 11.11

- Property owned by the State (or a political subdivision) is exempt from taxation if the property is used for a public purpose.
- Exception: Permanent University Fund land



Texas Tax Code Section 11.11

- Property owned by the State (or a political subdivision) is taxable if the property is not used for a public purpose.



Texas Tax Code Section 11.11

- Does not address full range of possibilities regarding legal rights to or use of property.



Equitable Title

- If the State holds equitable title, the property is exempt from taxation.
- Equitable title = present right to compel legal title.
- Determined on a case-by-case basis.



Non-Public Purpose

- Property is not used for public purposes if the property is leased to a private entity for:
 - Purposes not related to the performance of duties or functions of the institution.
 - Residential housing that serves the public other than students and employees of the institution.



Multiple Uses of Property

- Property can be partially taxable or partially tax exempt.



Leasing Strategies

- Create separate tax parcels when possible.
- Separate taxes from other operating expenses.
- Other party should be responsible for all property taxes related to its use and occupancy.



Leasing Strategies

- Do not make any representation or warranty that the property is tax exempt.
- Do not make any representation or warranty that the proposed use is tax exempt.



Acquisition Strategies

- Payment pursuant to Texas Tax Code Section 26.11.
- Proration of taxes based on prior year with obligation to pay readjusted amount once taxes become payable. Include survival provision.



Questions?



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