

PROPERTY TAX EXEMPTIONS

Senate Bill 801 (Substitute H-2) First Analysis (9-27-00)

Sponsor: Sen. John J.H. Schwarz, M.D.
House Committee: Tax Policy
Senate Committee: Finance

THE APPARENT PROBLEM:

Two unusual property tax administration issues have recently arisen that involve nonprofit organizations. (1) A recent decision of the Michigan Tax Tribunal said that property owned by the nonprofit Wellness Foundation of Battle Creek and leased to the Calhoun Community Mental Health Authority for the purpose of providing mental health services was not exempt from property taxes under the General Property Tax Act (despite a 1997 letter ruling from the State Tax Commission allowing the exemption). The Tax Tribunal found in its March 27, 2000, decision, that while property owned by a nonprofit and leased to another nonprofit is exempt from the property tax, the exemption does not apply in this case because the mental health authority is a governmental entity and not a nonprofit organization. The tribunal said the law does not provide for an exemption in this case. Critics note that the result is anomalous: property owned by a governmental entity is exempt; property owned and occupied by a nonprofit charitable organization is exempt; property owned by a nonprofit charitable organization and leased or otherwise made available to another nonprofit charitable organization is exempt; but property owned by a nonprofit and leased to a governmental entity is subject to the property tax.

The decision extends beyond this one instance. For example, the nonprofit Northern Health Foundation based in Alpena, and its subsidiaries, have developed about 30 facilities throughout the state that are leased to public health agencies and community mental health agencies, according to a foundation spokesperson. Sometimes these facilities are occupied by a variety of nonprofit organizations and governmental human service agencies, so as to provide "one-stop shopping" for related human services. Traditionally, says the foundation, these have been treated as tax exempt facilities. The Tax Tribunal decision changes that. Legislation to remedy this situation has been introduced.

(2) The Miller Foundation of Battle Creek requires as a condition of employment that its chief executive

officer live in a foundation-owned house next door to its principal offices. (The house recently became available because of the death of the foundation's founder and benefactor, according to committee testimony.) While property occupied by a nonprofit charitable organization is typically exempt from the property tax when used solely for its incorporated purposes, there is no provision in the tax law to exempt a residence in this situation. In this instance, the result is that money that otherwise would go to fund local charitable projects will have to be used to pay property taxes. There is a specific exemption for parsonages (or clergy residences) in the act. Legislation has been introduced to provide a similar exemption in this case.

THE CONTENT OF THE BILL:

The bill would amend the General Property Tax Act in two ways.

(1) Real or personal property owned by a nonprofit charitable institution or charitable trust and leased, loaned, or otherwise made available to a governmental entity would be exempt from the collection of property taxes under certain specified conditions. The exemption would apply a) if the property would be exempt under the act if were owned or being acquired by the lessee governmental entity under an installment purchase agreement, and b) if the property would be exempt if occupied by the lessor nonprofit charitable institution or trust solely for the purposes for which the institution or trust was established. This provision would apply for tax years after December 31, 1997.

The term "governmental entity" would be defined broadly in the bill to cover federal, state, and local governmental organizations, including public educational institutions, as well as "any other authority or public body created under state law".

(2) If authorized by a resolution of the local tax collecting unit, real or personal property owned by a

nonprofit charitable institution or charitable trust would be exempt from the collection of property taxes if it was occupied and used by the chief executive officer as his or her principal residence as a condition of employment and was contiguous to real property containing the institution's principal place of business.

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HOUSE COMMITTEE ACTION:

The House Tax Policy Committee reported a substitute that adds to the bill the tax exemption for property leased by nonprofit organizations to government organizations. As passed by the Senate, the bill dealt only with the provision regarding the residences of chief executive officers of nonprofit organizations. The House committee amended that provision to make the exemption an option for local tax collecting units (typically cities and townships).

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would minimally reduce property tax revenues for the state and local governments. (HFA fiscal note dated 9-26-00)

ARGUMENTS:

For:

The bill would effectively reverse a recent Michigan Tax Tribunal ruling that held that property leased by a nonprofit organization to a community mental health authority was not exempt from the property tax. An earlier State Tax Commission letter ruling had said the property was exempt. Proponents of the bill say that this leasing arrangement is common throughout the state and the ruling will impose unexpected new costs on public health and public mental health agencies. The current cooperative arrangements between nonprofit organizations and government agencies are beneficial and ought to be encouraged. As noted earlier, the property of a nonprofit is exempt; the property of a government entity is exempt; the property of a nonprofit leased to another nonprofit is exempt; but the property of a nonprofit leased to a government entity is not exempt from property taxes. This seems unfair.

For:

The bill addresses a special case in Battle Creek where a chief executive officer of a charitable foundation is required to live in foundation-owned housing next to

the foundation headquarters. Typically, the property of nonprofit charitable institutions is tax exempt. Currently, the foundation must pay property taxes on the residence (at a non-homestead rate) because there is no provision in the tax law exempting such property used as a chief executive's residence. Foundation supporters say the residence should be exempt just as a parsonage is under the tax law. In its current form, the exemption would be at the option of the local tax collecting unit (e.g., the city of Battle Creek), so that the state legislature alone was not reducing local revenues. That provision could also guard against the abuse of the provision by illegitimate nonprofits.

Response:

As passed by the Senate, the bill would have granted an exemption without regard to the wishes of the local unit. That approach would apply the exemption uniformly across the state (if there are other cases that qualify) rather than make it a local decision.

Against:

While the bill would not have a major impact on property tax revenues, it nonetheless would add yet another exemption to the long list of property tax exemptions. Over time, such exemptions amount to a significant loss of revenue for local governments and administrative problems for local assessors.

POSITIONS:

The Northern Health Foundation supports the provision in the bill exempting property leased by a nonprofit organization to a governmental entity. (9-26-00)

A representative of the Miller Foundation in Battle Creek testified in support of the provision in the bill exempting the residence of a nonprofit's chief executive officer. (9-26-00)

The Department of Treasury is neutral on the bill. (9-26-00)

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#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.