

Nonprofit Alert - January 2010

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January is Time for Charities to Re-File for Property Tax Exemption

Minnesota law requires many charitable organizations claiming exemption from property taxes to re-file an exemption application every third assessment year. The deadline for the next required re-filing is February 1, 2010. This deadline applies for all applicants, even those who filed an initial application for exemption within the last three years.

The re-filing is required for any charitable organization that claims exemption based on status as an "institution of purely public charity." Property that is exempt based on ownership by churches, colleges and universities, "seminaries of learning," shelters for victims of domestic abuse, and transitional housing facilities, are not subject to the re-filing requirement. Most local assessors send reminders and application materials to owners of exempt property, but it remains the organization's responsibility to file even if no reminder is received.

Organizations re-filing applications for exemption as institutions of purely public charity should also be aware of recent changes to the standards for property tax exemption. In part in reaction to the Minnesota Supreme Court's 2007 ruling in *Under the Rainbow Childcare Center v. County of Goodhue* (which raised the bar for exemption), and in an attempt to create a consistent statewide standard for property tax exemption for charitable organizations, the Minnesota Legislature, in 2009, enacted legislation amending Minnesota Statutes Section 272.02, which defines the basis for exemption as an "institution of purely public charity." The amendments take effect for taxes payable in 2010 and thereafter. A copy of the new statute can be found [here](#).

Although it has been stated that the intent of the legislation is to "neither restrict nor expand eligibility requirements for institutions of purely public charity," it is not entirely clear how the new provisions will be applied to organizations as they submit their three-year re-file applications. Organizations should be prepared to respond to additional questions regarding their re-filed applications and should be alert to communications from local assessors about the tax status of their property.

One of the important changes in the legislation is a new presumption that, once exemption is "properly granted," the exemption will remain in effect "unless there is a material change in facts." Thus, organizations submitting their three-year re-filing that have not had a material change in facts should be sure to say so.

Qualification for exemption as an institution of purely public charity requires analysis of several factors set forth in the legislation. Although status as an organization described in Section 501(c)(3) of the Internal Revenue Code is necessary, it is not sufficient. Other factors look to the actual programs and services provided, whether the organization is supported by donations, whether the organization provides goods or services for free or at a substantial discount, whether the organization "lessens the burdens of government," and whether the benefits and services are broadly available or limited to a narrow group.

In addition, the recent legislation also created a new category of property tax exemption for nursing homes which participate in the Medical Assistance (Medicaid) program. Nursing homes falling under this category are not subject to the initial application or three-year re-filing requirement. However, because such properties have typically been classified as institutions of purely public charity which are subject to the three-year re-filing requirement, nursing homes may wish to put their local assessors on notice that they now qualify for the new nursing home category of exemption.

If you have any questions, please don't hesitate to contact:

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Reminder! File your Annual Business Renewal with the Secretary of State

All nonprofit corporations in Minnesota are required to file an Annual Business Renewal (ABR) with the Secretary of State's office by December 31 each year to avoid being statutorily dissolved—this is a separate filing from the annual Attorney General charitable organization report. The ABR is very simple to submit online and information can be found at www.sos.state.mn.us (follow the links to 'Business, Nonprofit & UCC'). If you didn't file your ABR in 2009, you should get that corrected right away. If you're not sure, you can check by doing a 'Business Search' on the same Web site.

This article is provided for general informational purposes only and should not be construed as legal advice or legal opinion on any specific facts or circumstances. You are urged to consult a lawyer concerning any specific legal questions you may have.

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