



Case Law and the Expansion of the Charitable Property Tax Exemption

Under Michigan's general property tax act

The charitable exemption statute

- In order to qualify for a charitable tax exemption in the State of Michigan, an applicant must do more than establish its 501c(3) status.

- First, the applicant must meet the statutory definition in MCL 211.7o which provides, in pertinent part:

Real or personal property owned and occupied by a nonprofit charitable institution while occupied by that nonprofit charitable institution solely for the purposes for which that nonprofit charitable institution was incorporated is exempt from the collection of taxes under this act.

- The corollary statute addressing personal property, MCL 211.9(1)(a), exempts from taxation:
 - [t]he personal property of charitable, educational, and scientific institutions incorporated under the laws of this state.
- MCL 211.7(r) provides, in pertinent part:
 - The real estate with the buildings and other property located on the real estate of that acreage, owned and occupied by a nonprofit trust and used for hospital or public health purposes is exempt from taxation under this act...

- Pre-Wexford, an applicant had to establish four elements: the real estate had to be owned and occupied by the applicant, the applicant had to be a library or benevolent or charitable or educational or scientific institution, the applicant had to have been incorporated under the laws of Michigan (this element later removed), and the exemption was only granted when the buildings and other property thereon were occupied by the applicant solely for the purpose for which it was incorporated.

Ladies Literary Club v City of Grand Rapids, 409 Mich 748 (1980).



Pre-Wexford common sense: a *relatively* intuitive, straightforward test:

- ProMed Healthcare v City of Kalamazoo, 249 Mich App 490 (2002).
- Personal property
- Reiterated that exemptions are never presumed, the burden is on the claimant to clearly establish his right to exemption;
- ProMed failed to present evidence that the provision of charitable medical care constituted anything more than an “incidental” part of operations.
- “Fairly typical medical practice” where patients are generally expected to pay.



- “If we were to accept ProMed’s argument and reverse the Tax Tribunal’s ruling in the present case, we would in effect be granting tax exempt status to every doctor’s office in the state, as well as every organization offering health-related services, as long as those organizations are structured as nonprofit corporations and maintain policies of offering some “appropriate” level of charity medical care to indigent persons. We cannot conclude that the Legislature intended MCL 211.7o and MCL 211.7r to create such a result.”

Reflecting on well-established considerations . . .

- “To qualify for a charitable or benevolent tax exemption, property must be used in such a way that it ‘benefit[s] the general public without restriction’”. Id. at 348, 330 N.W.2d 682 quoting Michigan Baptist, supra at 671, 242 N.W.2d 749, and citing Auditor General, supra at 38, 291 N.W. 213.
- “[Charity] * * * [is] a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government.” [Id. at 348–349, 330 N.W.2d 682, quoting Jackson v. Phillips, 96 Mass (14 Allen) 539 (1867) (emphasis deleted; alterations in original).]”



The Wexford decision: the truck that drove the hole through MCL 211.7o

- Wexford Medical Group v City of Cadillac, 474 Mich 192 (2006).



2006



The test for charitable status in Michigan was revised and restated in the case of *Wexford Medical Group v. City of Cadillac*, 474 Mich 192 (2006) as follows:

- (1) A "charitable institution" must be a nonprofit institution.
- (2) A "charitable institution" is one that is organized chiefly, if not solely, for charity.
- (3) A "charitable institution" does not offer its charity on a discriminatory basis by choosing who, among the group it purports to serve, deserves the services. Rather, a "charitable institution" serves any person who needs the particular type of charity being offered.
- (4) A "charitable institution" brings people's minds or hearts under the influence of education or religion; relieves people's bodies from disease, suffering, or constraint; assists people to establish themselves for life; erects or maintains public buildings or works; or otherwise lessens the burdens of government.
- (5) A "charitable institution" can charge for its services as long as the charges are not more than what is needed for its successful maintenance.
- (6) A "charitable institution" need not meet any monetary threshold of charity to merit the charitable institution exemption; rather, if the overall nature of the institution is charitable, it is a "charitable institution" regardless of how much money it devotes to charitable activities in a particular year.



Famous last words...

- Wexford, *supra*, commenting on the ProMed Court's concerns about the scope of the exemptions;
- "...[w]e find it somewhat overblown in that it is doubtful that any significant number of profitable medical institutions would forgo their for-profit status in exchange for property tax exemption. In any event, the charitable institution exemption has been in place for over 100 years, and we discern no sign of rampant abuse of it. Nor, apparently, has the Legislature because it has not altered the exemption in any significant way since we first interpreted it in 1897."

SBC Health Midwest, Inc. v City of Kentwood, 894 NW2d 535 (2017)

- A for-profit corporation that operated a college applied for a tax exemption under MCL 211.9(1)(a) for personal property and the Supreme Court ruled that it was entitled.
- Applicant argued property was exempt because it was the personal property of an educational institution.
- Court held that statute did not require applicant to be organized as a nonprofit.



Baruch SLS, Inc. v Tittabawassee Township, 500 Mich 345 (2017)

- Applicant was a nonprofit corporation 501c(3) with a foster care facility (Senior Assisted Living) which sought exemptions under MCL 211.70 and MCL 211.9.
- In order to qualify for residency, an individual had to have lived at Stone Crest and made a minimum of 24 full monthly payments.
- Must have applied for and been determined eligible for Medicaid.
- Must have provided information about all available income.
- The Supreme Court ruled that the third factor in the Wexford test excludes only restrictions or conditions on charity that bear no reasonable relationship to a permissible charitable goal.



Spectrum Health Primary Care Partners v Grand Rapids Township, MTT Docket No. 15-001768, January 30, 2017

- Traditional, private medical practices in office building sought exemption under MCL 211.7o and the MTT granted exemption under both MCL 211.7o and MCL 211.7r.
- The umbrella entity that owns the property is a 501c(3).
- What does it mean to be a nonprofit?
- Reiterating all of the elements of the Wexford test, the MTT held that the applicant was exempt.
- “A charitable institution is not required to strive for mediocrity as a condition of its being considered a charitable institution.”
- Would NOT look to quantify “gifted” care.



Signs of hope?

- Only one Wexford Supreme Court Justice remains on bench
- Newly appointed MTT Members
- Possibility of legislative reform?
- A few cases distinguishing Wexford



Jessica L. Wood, Attorney

Dickinson Wright PLLC

(616) 336-1054