

The Property Tax Exemption Process: How the Challenge Occurs and What a Hospital Can Do to Minimize the Risk

Being a nonprofit organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code does not guarantee that property owned by the organization will be exempt from property taxes. In order to be exempt from property taxes, the Illinois Property Tax Code states that the property itself must be “actually and exclusively used for charitable or beneficent purposes.” The following paragraphs briefly explain the process by which an organization in Illinois applies for and maintains a property tax exemption under this provision of the Code.

Applying For a Property Tax Exemption

An organization should contact the local county Board of Review for specific instructions on obtaining an application for a tax exemption on property prior to purchasing the property. The process can take several months, and property taxes will have to be paid on the property until the exemption is granted by the Illinois Department of Revenue. Each county may have slightly different filing deadlines and requirements for processing an application, so it is important to work with the local county Board of Review.

Generally, an application will require many supporting documents including the organization’s title and deed, corporate charter and by-laws, photographs of the building, and financial statements. If the assessed value of the property is \$100,000 or more, copies of the application must be sent to all other taxing units within the county where the property is located. This is the step that will often result in a challenge to an organization’s property tax exempt status by municipalities, or school and community college districts.

The application and supporting documents will be reviewed by the Board’s staff and then members of the Board. A field inspector will visit the property and submit a written report. If the application is challenged by a taxing body, a hearing will be scheduled before the Board.

After a hearing, the Board will vote and make a recommendation to the Department of Revenue on the property’s tax exempt status. The Department may request additional information from the property owner/applicant. Within approximately 60 to 90 days, the Department’s written notice to the applicant will either confirm or reverse the Board’s initial recommendation.

Appealing a Denial of Property Tax Exemption

When the notice of a denial has been received, the applicant for exemption has 60 days to file a formal appeal, requesting a hearing before an administrative law judge (ALJ). This hearing is a little more formal than any at the county Board level. The ALJ may hear witnesses testifying on the organization’s behalf. Several months may go by until the ALJ

renders a decision. If the ALJ affirms the Department's decision to deny the exemption, the next step is to take the case to the Circuit Court. In the meantime, the property owner must pay the property taxes, but the owner may apply for a refund if use of the property is ultimately found to be charitable and the property exempt from taxes.

Maintaining a Property Tax Exemption

Once a piece of property has been granted an exemption from taxes under the charitable use exemption, the property owner must file an annual affidavit or certificate of exempt status with the chief county assessment officer to maintain the exemption. The affidavit must state that neither the owner nor the use of the property has changed. Indicating a change or failing to file the annual affidavit may trigger a review of the property's tax exempt status.

If tax exempt property is leased, loaned, or otherwise made available for profit, copies of the leases and agreements must be filed with the assessment officer. The assessment officer will determine whether the lease or agreement changes the primary use of the property from that of charitable to a non-exempt use. If the Department of Revenue sends a notice to the owner that the property is no longer entitled to its tax exemption, the owner will have 10 days to appeal.

Summary

An organization's tax-exempt status under Section 501(c)(3) of the Internal Revenue Code does not automatically confer a tax exemption from property taxes. Local assessors will scrutinize the use of the property to determine whether its primary use is for charitable purposes. Once obtained, property tax exempt status must be maintained by the annual filing of an affidavit stating that there has been no change in ownership or in use of the property. The following activities may trigger a review of tax exempt property:

- Filing the annual affidavit indicating a change of ownership;
- Filing the annual affidavit indicating a change of use;
- Failing to file the annual affidavit; or
- Failing to file copies of any leases or agreements with for-profit entities.

Generally, taxing bodies such as municipalities, school districts, and community college districts will be the only entities permitted to challenge an application for property tax exemption. The Department of Revenue may remove an exemption from property that it determines is no longer entitled by directing the Assessor to assess the property and return it to the tax roll for the following tax year.

This document prepared by
Illinois Hospital Association Legal Staff