

## Property Tax Exemption and Michigan's Nonprofit Health Care Facilities

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### Introduction

In Michigan some tax assessors have begun challenging the tax exemption status of nonprofit health care facilities. In the summer of 2006 the Michigan legislature and the Michigan Supreme Court took actions which will help nonprofit health care facilities defend their tax exempt status.

On June 29, 2006 the Michigan legislature enacted MCL 211.7jj, which is retroactive to 12/31/2004. MCL 211.7jj exempts Federally-Qualified Health Centers (FQHCs) from paying real and personal property taxes. Unfortunately, the tax exempt status of health care facilities that are not FQHCs will be determined on a case by case basis. Michigan law allows a nonprofit health care facility to obtain tax exempt status if it is determined to be a "charitable institution" as defined in MCL 211.7(o), MCL 211.9(1), and *Wexford Medical Group v. City of Cadillac*, 474 Mich. 192 (2006).

### Discussion of Michigan Law

In Michigan, Federally-Qualified Health Centers (FQHCs) are exempt from property taxes MCL 211.7jj expressly exempts FQHCs from the collection of Michigan property taxes. Nonprofit health care facilities that are not FQHCs must be considered a "charitable institution" as stated in MCL 211.9(a) and MCL 211.7(o) to be exempt from Michigan property taxes. An organization that is seeking a property tax exemption based on MCL 211.7(o) must prove the following:

1. The entity is a nonprofit charitable institution
2. The property for which the exemption is being sought is *owned and occupied* by the entity
3. The property was occupied by the entity solely for the purposes stated in the entity's incorporation documents.

On May 4, 2006, the Michigan Supreme decided a case involving Wexford Medical Group and the City of Cadillac. The court's decision revised an existing test to determine the meaning of a "charitable institution" and established six factors for determining if an organization can be defined as a "charitable institution" as required by MCL 211.7(o) and MCL 211.9(a).

Wexford Medical Group's mission is to provide access to quality and affordable health care services to residents in the communities where they operated. To carry out their mission the clinic had a policy of

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providing free and discounted health care to anyone whose income is less than twice the federal poverty level. The clinic did not limit the number of Medicare and Medicaid patients that could receive treatment. In addition, the clinic provides care to patients that can not afford to pay their Medicare or Medicaid co-pays. Between 2000 -2001 the clinic provided charity care to 13 individuals. In 2004 the Court of Appeals ruled that Wexford Medical Group was not a charitable institution because Wexford Medical Group failed to demonstrate that its provision of charitable medical care was not merely an incidental part of its operations.

The Michigan Supreme Court's decision stated that the plain language of MCL 211.7o requires an entity to demonstrate that it is both a nonprofit and charitable entity. Because Michigan's tax exemption laws are different from federal laws governing 501(c)(3) corporations, the Michigan Legislature has presumed that there are instances when a nonprofit institution might not be considered a charitable institution.

The most significant components of court's decision was the revision of the test for the meaning of a "charitable institution" and the establishment of six factors that can be used to determine if an organization is a "charitable institution". The revised test is as follows:

- 1) The real estate must be owned and occupied by the exemption claimant;
- 2) the exemption claimant must be a nonprofit charitable institution; and
- 3) the exemption exists only when the buildings and other property thereon are occupied by the claimant solely for the purposes for which it was incorporated.

The six factors which should be used to determine whether an institution is a "charitable institution" under MCL 211.7o and MCL 211.9(a) are listed below.

- 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.

Applying the above factors and the revised test the Michigan Supreme Court found that Wexford Medical Group was a charitable institution. However, the court stated that determining “whether an institution is a charitable institution within the meaning of MCL 211.7o is a fact- specific question that requires examining the claimant’s overall purpose and the way in which it fulfills that purpose.”

The court did not discuss the meaning of “public health purpose” as described in MCL 211.7r.<sup>1</sup> However, the Michigan Supreme Court invalidated the lower courts decision that Wexford Medical Group did not qualify for the public health purpose exemption contained in MCL 211.7r.

### Conclusion

MCL 211.7jj expressly exempts FQHCs from paying real and personal property taxes. All other health clinics providing charity medical care are still subject to MCL 211.7o. If there is a challenge regarding the tax exempt status of non FQHCs the Wexford factors and test would be applied to determine if the clinic is considered a charitable institution for the purpose of the tax exemption. Nonprofit health care facilities should review their organizational documents, such as the articles of incorporation and by-laws to ensure that the documents conform to the Wexford factors.

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<sup>1</sup> MCL 211.7r:

The real estate and building of a clinic erected, financed, occupied, and operated by a nonprofit corporation or by the trustees of health and welfare funds is exempt from taxation under this act, if the funds of the corporation or the trustees are derived solely from payments and contributions under the terms of collective bargaining agreements between employers and representatives of employees for whose use the clinic is maintained. The real estate with the buildings and other property located on the real estate on that acreage, owned and occupied by a nonprofit trust and used for hospital or public health purposes is exempt from taxation under this act, but not including excess acreage not actively utilized for hospital or public health purposes and real estate and dwellings located on that acreage used for dwelling purposes for resident physicians and their families.

### References

1. MCL 211.7jj (as passed by the House on June 29, 2006), available at, <http://www.legislature.mi.gov/documents/2005-2006/publicact/pdf/2006-PA-0326.pdf>,
2. MCL 211.7o, available at, [http://www.legislature.mi.gov/\(og1fc555vikyvurepbhpb2zw\)/mileg.aspx?page=getObject&objectName=mcl-211-7o](http://www.legislature.mi.gov/(og1fc555vikyvurepbhpb2zw)/mileg.aspx?page=getObject&objectName=mcl-211-7o)
3. MCL 211.9, available at, [http://www.legislature.mi.gov/\(og1fc555vikyvurepbhpb2zw\)/mileg.aspx?page=getObject&objectName=mcl-211-9](http://www.legislature.mi.gov/(og1fc555vikyvurepbhpb2zw)/mileg.aspx?page=getObject&objectName=mcl-211-9)
4. MCL 211.7r, available at, [http://www.legislature.mi.gov/\(og1fc555vikyvurepbhpb2zw\)/mileg.aspx?page=getObject&objectName=mcl-211-7r](http://www.legislature.mi.gov/(og1fc555vikyvurepbhpb2zw)/mileg.aspx?page=getObject&objectName=mcl-211-7r)
5. *Wexford Medical Group v. City of Cadillac*, 474 Mich. 192 (2006), available at, [http://courtofappeals.mijud.net/documents/OPINIONS/FINAL/SCT/20060504\\_S127152\\_73\\_wexford4nov05-op.pdf](http://courtofappeals.mijud.net/documents/OPINIONS/FINAL/SCT/20060504_S127152_73_wexford4nov05-op.pdf)