

## MICHIGAN SUPREME COURT CLARIFIES REQUIREMENTS FOR CHARITABLE INSTITUTIONS TO QUALIFY FOR PROPERTY TAX EXEMPTIONS

In Michigan, as in many other states, a nonprofit charitable organization must satisfy rigorous requirements to qualify for real and personal property tax exemptions. In *Baruch SLS, Inc. v. Tittabawassee Twp.*, the Michigan Supreme Court recently upheld the landmark *Wexford* case while clarifying one of *Wexford's* six factors to qualify for property tax exemptions.

### THE WEXFORD CASE

The landmark Michigan case on real and personal property tax exemptions for charitable health care institutions is *Wexford Medical Group v. City of Cadillac*, 474 Mich. 192 (2006). To qualify for a charitable property tax exemption, a taxpayer must satisfy the following six factors set forth in *Wexford*.

1. The taxpayer must be a "nonprofit institution."
2. The taxpayer must be organized chiefly, if not solely, for charity.
3. The taxpayer must demonstrate that it does not offer its charity on a discriminatory basis by choosing who, among the group it purports to serve, deserves the services; rather, it must serve any person who needs the particular type of charity being offered.
4. The taxpayer must: bring people's minds or hearts under the influence of education or religion; relieve people's bodies from disease, suffering or constraint; assist people to establish themselves for life; erect or maintain public buildings or works; or otherwise lessen the burdens of government.
5. The taxpayer's charges for its services must not be more than what is needed for its successful maintenance.
6. The taxpayer must demonstrate that its overall nature is charitable.

As a practical matter, *Wexford's* third factor has been the most challenging of the six factors for a taxpayer to demonstrate, partly because the post-*Wexford* case law analyzing the discrimination factor did not provide clear guidance on the legal issue. Nonetheless, since 2016, *Wexford* and its six-factor test has been the law of the land in Michigan.

In January of 2017, a nonprofit, charitable physician group prevailed in its appeal for a charitable property tax exemption under the *Wexford* analysis before the Michigan Tax Tribunal and Michigan Court of Appeals.

In June of 2017, the Michigan Supreme Court revisited *Wexford* when it reviewed a charitable tax exemption in the *Baruch* case, as discussed below.

### THE BARUCH CASE

In its opinion issued on June 28, 2017, in *Baruch SLS, Inc. v. Tittabawassee Twp.*, (Sup. Ct. No. 152047), the Michigan Supreme Court reviewed a charitable tax exemption sought by the operator of an adult foster care facility. The facility had required applicants to make at least 24 full monthly payments to the facility to be eligible for a reduced occupancy rate. The Michigan Tax Tribunal had denied the tax exemption under *Wexford*, concluding that the taxpayer did not satisfy the third factor in *Wexford* because it failed to demonstrate that it offered its charity on a non-discriminatory basis. The Michigan Court of Appeals had upheld the Tribunal's ruling and the taxpayer appealed to the Michigan Supreme Court.

The Michigan Supreme Court vacated the rulings of the Tax Tribunal and Michigan Court of Appeals and remanded the case to the Tax Tribunal for further proceedings. The *Baruch* Court specifically ruled, when evaluating whether a taxpayer has met the requirements of the third *Wexford* factor by offering its charity on a nondiscriminatory basis, the key question is whether the restrictions or conditions that the institution imposes bear a reasonable relationship to a permissible charitable goal under the fourth *Wexford* factor. If a reasonable relationship exists, the third *Wexford* factor is satisfied. The *Baruch* opinion provides important guidance for charitable taxpayers seeking

property tax exemptions under the *Wexford* authority.

Hall Render's property tax team will continue to actively monitor the *Baruch* case as the Michigan Tax Tribunal revisits it. If you have questions or would like additional information regarding charitable property tax appeals, including the *Wexford* and *Baruch* cases, please contact:

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