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Required Hospital Qualifications for Property Tax Exemptions

On June 14, 2012, a new law became effective which is intended to clarify some controversial issues surrounding a hospital's right to receive property tax exemptions. The controversy was the focus of the Illinois Supreme Court decision in *Provena Covenant Medical Center v. Department of Revenue*, 236 Ill.2d 368 (2010). In *Provena*, the Illinois Supreme Court ruled that a particular "non-profit hospital" was not entitled to receive a property tax exemption because it did not qualify as a charitable institution. In order to qualify as a charitable institution, the hospital would have to derive its funds mainly from charities, dispense charity to all who need it, and not provide a profit to any person connected with it.

Since the *Provena* decision, meeting the specific requirements to entitle a hospital to property tax exemption status has been hotly debated among hospital organizations and governmental

institutions. The Illinois Department of Revenue (IDOR) initially was hesitant to make any determinations regarding hospital tax exemption applications. However, on August 16, 2011, the IDOR issued a decision denying tax exemption status to Prentice Women's Hospital at Northwestern Memorial Hospital in Chicago, Edward Hospital in Naperville, and Decatur Memorial Hospital. Those decisions stated that the properties were not owned by charitable organizations and were not being used for charitable purposes. Therefore, the IDOR denied exemption status for these institutions.

To resolve the ambiguities surrounding what it will take for a hospital organization to qualify as a charitable organization entitled to tax exemption status, Public Act 097-0688 was enacted. This Act amends the Illinois Income Tax Act, Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, Retailer's Occupation Tax Act, and the Property Tax Code to include provisions outlining what requirements are needed to entitle hospitals to qualify for various tax exemptions.

Generally, the amendments state that a hospital will be entitled to a tax exemption if the amount of charitable services it provides in one year is equal to or higher than the amount of

property taxes it would owe for that year. What constitutes charitable services is specifically defined in the new law. The monetary value of all charitable services is added together; if this sum exceeds the estimated specific tax liability for the year, the hospital is entitled to a tax exemption.

In order to receive property tax exemption status, an organization must apply for such status with the local county board of review. The local county board of review then forwards their exemption decision to the IDOR. The IDOR makes the final determination on whether the organization should receive an exemption or not. The new provisions regarding charitable exemptions for hospitals in the Property Tax Code applies to all exemption applications filed by hospitals before the county board of review and all hospital exemption decisions that are currently pending before the IDOR. Once a hospital is granted tax exempt status as a charitable organization, the hospital has to file an affidavit at the beginning of each year thereafter with the chief county assessment officer confirming whether it still satisfies the conditions for which the exemption was originally granted. A failure to file this affidavit may terminate the organization's exemption status at the discretion

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of the chief county assessment officer.

School districts with hospitals within their boundaries should be aware that this Act may impact the amount of tax revenue they receive. The continuation of existing exemptions should have no revenue impact. However, the granting of new exemptions may result in costly tax refunds, especially if certificates of error are issued for up to three past tax years. Conversely, removal of the exemption can mean increased revenues because the hospital's assessed value will be treated as new property under the Property Tax Extension Limitation Law (the "tax cap").

If we can be of further assistance, please contact one of our attorneys in our Flossmoor office – (708) 799-6766 or in our Oak Brook office – (630) 928-1200.