



## Tough Times for Township Assessors: Michigan Supreme Court Relaxes Property Tax Exemption Rules for Charities

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Property tax exemptions can have a big impact on local communities. Although exempt properties do not generate tax revenue for local units or tax-sharing units (like schools and libraries), exempt properties still use tax-funded services, like police and fire protection. An increase in tax-exempt properties can in turn increase the strain on local budgets.

With that in mind, a recent Michigan Supreme Court decision has caused concern among many local taxing units as it potentially opens the door to more properties receiving exemptions as “charitable institutions.”

In *Baruch v Township of Tittabawassee*, the taxpayer operated an adult foster care facility with an “income based” program, which required applicants to have made a minimum of 24 full monthly payments before being eligible for a reduced room rate.

In other words, residents would first have to pay two years of full payments before qualifying for an income-based “charitable” rent reduction. The taxpayer sought a property tax exemption as a “charitable institution.” The township denied the exemption. The Michigan Tax Tribunal and Court of Appeals agreed with the township and denied the exemption, applying a six-part test previously established by the Michigan Supreme Court in *Wexford Medical Group v City of Cadillac*.

In simple terms, that test provides that a charitable institution is exempt if it (1) is a non-profit institution; (2) is organized chiefly – if not solely – for charity; (3) does not offer charity on a discriminatory basis by choosing who, among the group it purports to serve, deserves the services; (4) lessens the burdens of government; (5) charges not more than what is reasonably necessary; and (6) has an overall nature that is charitable, regardless of its budget.

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The Tribunal found that the taxpayer failed to satisfy the third prong of the test because its admissions policy differentiated between individuals with and without the ability to pay.

But the Michigan Supreme Court reversed. The Court held that the third prong of the Wexford Medical Group test bans restrictions or conditions on charity that bear no reasonable relationship to an organization's legitimate charitable goals. This "reasonable relationship" test is to be construed "quite broadly to prevent unnecessarily limiting the restrictions a charity may choose to place on its services."

In clarifying the third prong, the Court offered the following example:

A low-cost daycare organized to provide services to low-income families could reasonably prioritize the applications of single-parent families. Single-parent households might often, for wholly obvious and understandable reasons, have lower income than households with two parents. Single-parent households might also be less likely to have a parent able to stay home with the child and, therefore, are again more likely to be in need of daycare services.

This restriction would thus bear a reasonable relationship to the organization's charitable goals because it seeks to provide its services to those most in need of such services.

By contrast, a low-cost daycare that prioritizes the applications of families who cheer for a certain baseball team should fail this test if the daycare cannot show how the restriction bears a reasonable relationship to a permissible charitable goal. That is not to say that such a restriction would not be permissible under any circumstances.

Suppose a scholarship, which is funded through a baseball team's charitable foundation, restricts its applications to fans of the team. If the foundation can show that its fundraising is more successful when the application process is limited to fans of the team, then even this restriction might pass the test articulated today because the baseball team cannot offer scholarships if it is not able to gain the necessary donations to fund them.

In sum, a charity can satisfy the third prong – requiring that charity be offered without discrimination – even if it imposes restrictions on who receives charitable benefits, so long as the restrictions are reasonably related to the charity's goals.

The Court also clarified aspects of the fourth and fifth prongs of the Wexford Medical Group test, as summarized on the following chart:

**Wexford Test as Modified by Baruch**

1. The institution must be a nonprofit institution.
  - **Baruch does not modify this factor.**
2. The institution must be organized chiefly, if not solely, for charity.



- **Baruch does not modify this factor.**

3. The institution does not offer its charity on a discriminatory basis by choosing who among the group it purports to serve deserves the services but rather serves any person who needs the particular type of charity being offered.

- **Baruch held that this factor is “intended to exclude organizations that discriminate by imposing purposeless restrictions on the beneficiaries of the charity.” The correct interpretation of this factor is that a charitable institution may not impose restrictions or conditions on charity that “bear no reasonable relationship to an organization’s legitimate charitable goals.”**

4. The 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.

- **Baruch held that “whether a charitable institution has a permissible charitable goal is evaluated in factor four[.]” If the institution’s restriction is reasonably related to a goal that meets this standard, then it is acceptable under factor three.**

5. The institution does not charge for its services more than what is needed for its successful maintenance.

- **Baruch held that the analysis of a charitable institution’s fees should be conducted under this factor, not factor three.**

6. The institution need not meet any monetary threshold of charity if the overall nature of the institution is charitable.

- **Baruch does not modify this factor.**

Many believe that Baruch will result in more properties qualifying for the “charitable institution” exemption, as it expressly allows organizations to impose conditions and restrictions on who can receive charitable services. At a minimum, the decision provides guidance to local assessors when reviewing exemption requests from charities.

If you have questions regarding these charity exemptions contact Laura Genovich at 616.726.2238 or at lgenovich@fosterswift.com.