



STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

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**Bulletin 26 of 2017**  
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**MCL 211.7o Charitable Exemption**

**TO:** Assessors, Equalization Directors and Interested Parties

**FROM:** State Tax Commission

**SUBJECT:** MCL 211.7o Charitable Exemption

This Bulletin provides an overview of the charitable exemption provided in MCL 211.7o and the applicable court cases that need to be considered in determining whether or not a claimant is eligible to receive the exemption. While this Bulletin provides general information related to the charitable exemption, individuals may wish to seek legal counsel if they have questions regarding their specific situation.

**A. STATUTORY PROVISION AND THREE-PART TEST**

MCL 211.7o of the General Property Tax Act provides an exemption for “[r]eal or personal property owned and occupied by a nonprofit charitable institution while occupied by that . . . institution solely for the purposes for which that . . . institution was incorporated.” In determining whether a taxpayer is qualified for the exemption, a three-part test is applied:

1. Is the real estate owned and occupied by the exemption claimant?
2. Is the exemption claimant a nonprofit charitable institution?
3. Is the buildings and other property thereon occupied by the claimant solely for the purposes for which the claimant was incorporated?

If all three prongs of the test are met, then a claimant qualifies for a charitable institution exemption.

To meet the first prong, the mere right to occupy a property is insufficient, as is the mere planning and preparation to occupy a property; rather, a claimant must maintain a regular physical presence on the property to satisfy this requirement. See *Liberty Hill Housing Corp v City of Livonia*, 480 Mich 44 (2008).

To meet the second prong, all six *Wexford* factors must be met. The *Wexford* factors are discussed below in Section B.

With regard to the third prong, property may be apportioned for purposes of this exemption. In such instances, the exemption is granted only for that portion of the premises used for the purpose for which the claimant was incorporated. See *McFarlan Home v City of Flint*, 105 Mich App 728 (1981). Apportionment is only permitted in the case of real property and that the apportionment must be based on an allocation that grants the exempt status only to the portion of the premises which is physically occupied “solely” for the exempt charitable purpose.

## **B. WEXFORD FACTORS**

In *Wexford Medical Group v Cadillac*, 474 Mich 192; 713 NW2d 734 (2006) the Michigan Supreme Court set forth the following six requirements that must be met for a claimant to be a nonprofit charitable institution:

1. The claimant must be a nonprofit institution;
2. The claimant must be organized chiefly, if not solely for charity;
3. The claimant must not offer its charity on a discriminatory basis by choosing who among the group it purports to serve deserves its services, but rather must serve any person who needs the particular type of charity being offered;
4. The claimant 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 claimant may charge for its services as long as its charges are not more than what is needed for its successful maintenance; and
6. The claimant need not meet any monetary threshold of charity; rather, if the overall nature of the claimant is charitable, it is a charitable institution.

## **C. BARUCH SUPREME COURT DECISION**

*Wexford* factor three was recently defined by the Michigan Supreme Court in *Baruch SLS, Inc v Tittabawassee Twp*, 500 Mich 345; 901 NW2d 843 (2017). The Supreme Court created a new “reasonable relationship” test to be applied when evaluating factor three; “whether the restrictions or conditions the institution imposes on its charity bear a reasonable relationship to a permissible charitable goal.” The Supreme Court instructed that 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” noting that other states have employed similar tests. The Supreme Court further advised “the relationship between the institution’s restriction and its charitable goal need not be the most direct or obvious. Any reasonable restriction that is implemented to further a charitable goal that passes factor four is acceptable.” The Supreme Court also stated that the analysis of a charitable institution’s fees should be considered under factor five, not factor three.

Following the *Baruch* decision, the Court of Appeals issued a decision in *Chelsea Health & Wellness Foundation v Scio Twp, et al* finding that the facility under appeal was entitled to the charitable exemption and remanding to the Tribunal for entry of the order granting the exemption for the 2014-2015 tax years. The Court of Appeals, in granting the exemption, found that the evidence satisfied *Wexford* factor three as recently interpreted in the *Baruch* decision. The Court also found Chelsea Health lessened a burden of government “by undertaking measures designed to improve the health of the population within its service area.”

#### **D. PROCEDURES FOR GRANTING OR REMOVING THE EXEMPTION**

When granting the exemption, the State Tax Commission recommends that assessors should begin with the development of a form to apply for the exemption that provides all of the information necessary for the assessor to approve the exemption, specifically to indicate that the taxpayer meets the requirements as outlined in statute and as further defined by the Michigan Supreme Court. This form should require attachments as necessary to support that an organization meets the requirements for the exemption. A sample form is provided at the end of this Bulletin.

Best practice includes setting up a file for each of the properties that are granted the exemption and include the form and any documents submitted to support the exemption. The record card for the property should also be included in this folder. Assessors should annually review these exemptions to determine if any changes have been made which would change the status of the exemption. Assessors can request additional information from the organization to support the continued exempt status.

If an assessor has evidence that the property no longer qualifies for the exemption, they should remove the exemption, notify the taxpayer and provide them with documentation of their appeal rights. The same is true in the absence of supporting documentation from the taxpayer that the exemption should be continued.

**Sample Application for Property Tax Exemption**

Property Tax ID (Parcel Number): \_\_\_\_\_

Street Address of Property: \_\_\_\_\_

Name of Organization: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Officers: \_\_\_\_\_ Title: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Under what section(s) of the Michigan General Property Tax Act are you requesting exemption?  
\_\_\_\_\_

Please state the reason you are applying for this exemption:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Are you currently receiving a property tax exemption in another Michigan city or township?

Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, where and what type of exemption is being received?  
\_\_\_\_\_

Please enclose the following documents with this application: **(All information is required)**

- 1. Articles of Incorporation
- 2. I.R.S. Statement indicating status
- 3. Proof of Ownership
- 4. By Laws

\_\_\_\_\_  
Signature/Title Phone # Date

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**For Office Use Only:**

Approved: Yes \_\_\_\_\_ No \_\_\_\_\_

\_\_\_\_\_  
Assessor Date