

# Property Tax Exemptions: A Survey and Analysis of State and Local Laws and Procedures

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## **Introduction**

In the United States, not-for-profit organizations have a long history of receiving special treatment under Federal, state and local tax codes. Qualifying organizations receive tax exemptions of varying sorts and to varying degrees. At the state and local levels, certain not-for-profit organizations are exempted from paying local property taxes. This practice occurs throughout the country and is an area that has received little attention by researchers and tax practitioners.

The Civic Federation undertook the Property Tax Exemption Procedure Study in response to concerns by local property tax experts and business owners concerning the scarcity of research in this area and, more importantly, a growing concern regarding erroneous and questionable property tax exemptions afforded not-for-profit organizations. The concern focused on organizations that received property tax exemptions improperly, i.e., organization's not meeting the minimum standards of eligibility, as well as, organizations that continued to receive property tax exemptions even though the justification for the exemption ceased to exist.

Given the status of the limited data, the Federation agreed to conduct a basic study, focusing on property tax exemption laws in states and localities, as well as on procedures for granting and removing property tax exemptions for not-for-profit organizations. The

purpose of the study is to shed new light on the exemption process and identify areas where local assessing jurisdictions can improve and strengthen existing procedures.

The Civic Federation is a nonpartisan government and fiscal watchdog and research organization founded in 1894. The Federation provides three primary services. First, it promotes efficiency and economy in the organization and management of public business. Second, it guards against excessive taxation and wasteful expenditure of public funds. Finally, the organization serves as a technical resource providing objective information regarding state and local governmental revenues and expenditures. The Civic Federation fulfills its mission by analyzing public finance and government service delivery through research reports and public commentary. Recent research reports have assessed the impact of tax increment finance in northeastern Illinois, evaluated the status of major local pension funds and analyzed Cook County property tax trends.

## **Study Methodology**

The Civic Federation employed two research methods in two phases to conduct this study. Both methods are described below:

### **Phase I: Survey of Local Assessing Jurisdiction Practices**

In the fall of 1999, The Civic Federation mailed a written survey to approximately 2,000 assessing officials drawn from the membership directory of the International Association of Assessing Officers. The survey contained 13 questions. The local assessing jurisdictions were selected on the basis of geographic representation and governmental

level. The purpose of the survey was to assemble a record of practices and procedures employed by assessing officials. A copy of the survey instrument is included in Appendix 1.

A telephone survey was also conducted with available state departments of revenue. The Federation included these offices to get a sense of the level of involvement and record keeping by state government.

The Federation received a higher than average response rate with 22 percent of the local assessing offices (438 offices) responding. In our attempts to contact state departments revenue, we accumulated an adequate level of information from 40 out of 50 states.

## **Phase II: Constitutional and Legislative Review**

Phase II of the study included a review and categorization of the relevant portions of the 50 state constitutions and state statutes relating to the granting, maintaining, and removal of property tax exemptions. Using Lexis, researchers employed by The Civic Federation reviewed and summarized relevant constitutional and statutory provisions. The information was organized into an analytical framework for review. After the review the research team simplified the data presentation, converting the data into a summary reference chart. The components of this chart are included in the Phase II Findings section..

## **Limits of Study**

Before discussing the results of the Phase I, it is necessary to outline certain limitations inherent in the findings that follow. The survey research methodology employed here did not draw from a randomly sampled data set. The data received and analyzed for this study was collected from individuals who choose to respond. Given the resources and scope of this preliminary survey effort, the Federation opted not to employ the most rigorous statistical methodology. Our goal was to get a sense of the universe rather than produce general hypotheses. Also no effort was made to verify the standing of the respondents, i.e., to determine whether the respondent was the most qualified and most knowledgeable available. The validity of the results of our effort depends upon the level of knowledge of the individual respondents, and, therefore, may or may not reflect the most accurate knowledge of laws or procedures. Rather, responses to this survey reflect only an individual's perception of the law and procedure. Finally, no survey instrument can ever be perfectly constructed. Despite the best efforts of the research team, some respondents will misunderstand the meaning or intent of the questions. Such a problem is not unique to this survey, since it is highly unlikely that a limited number of even well constructed questions could produce a comprehensive understanding on any issue.

The value of Phase I, however, lies in the ability to acquire a general sense of the actual practices and practical knowledge of local assessing officials, rather than the ideals embodied in the law or in state constitutions. The survey instrument provides a glimpse—however limited—at how exemption practices are being executed by assessing officials.

## Phase I Findings

### A. Local Assessment Jurisdictions

The study's findings in Phase I raise a series of questions regarding the uniformity, the level of scrutiny, and the ongoing review and record keeping processes applied to properties that are granted tax-exempt status. While further study is encouraged, the following observations can be made based on the data received:

1. **The monitoring of the ongoing eligibility of tax-exempt properties appears to be neither systematic nor rigorous.** When asked how many properties were removed from exempt status during the past year and were put back on the tax rolls, 168 respondents (38%) did not provide an exact number. Of these respondents, 48 (11%) indicated the number of properties in this category was "unknown," and 120 respondents (27%) provided an approximate number of properties. The remaining 270 respondents (62%) were able to provide an exact number in response to this question. Of that latter number, nearly half (120) indicated that no properties were put back on the tax rolls during the past year.
2. **Local assessing officials' efforts to put exempted properties back on the tax rolls appear to be minimal.** In answer to this same question, which asked how many properties were removed from exempt status during the past year and were put back on the tax rolls, nearly 81% of the respondents indicated that they placed 0-10 properties back onto the tax rolls, which included the 28% of all respondents

indicated that no tax-exempt properties were returned to the tax rolls. In other words, nearly one-third of the respondents indicated that every tax-exempt property in their jurisdiction maintained its exempt status over the past year.

3. **Most of the monitoring activity of property tax exemptions appears to be local.** Over half of the respondents indicated that a local agency is charged with monitoring the tax-exempt status of properties. When asked in the survey if there is an agency responsible for monitoring exemptions, 45% of the respondents stated that the local official was the agency responsible for monitoring exemptions. This data suggests that local officials have the primary, if not the sole, responsibility for monitoring exempt properties.
  
4. **Not every jurisdiction has monitoring capabilities.** Approximately 15% of the respondents indicated there was no agency responsible for monitoring exemptions. The respondents reflecting this position are spread fairly evenly among all the states for which responses were received. The vast majority of responses, however, indicate that there is an agency responsible for monitoring exemptions.

### **B. State Departments of Revenue**

Phase I also included an effort to contact state departments of revenue in order to determine the nature of state oversight of local property tax exemptions. Specifically, state departments of revenue were asked if the agency routinely published information on



the number, types, and values of tax-exempt properties. If any such reports were published in the last two years, a copy of the report was requested. To date, 13 such reports have been received.

Our findings indicate that the manner and level of state involvement in property tax exemption monitoring varies widely.

1. **Twenty states do not publish information on property tax exemptions.**

The states that fall into this category are spread evenly across the country and include both predominantly rural and predominantly urban states. No regional, geographic or urban/rural factors appear to be involved. No explanation, other than a lack of interest in such information, is readily apparent. (Because such information is available in Florida only through a Freedom of Information Act request, it has been included with the states not publishing such information.)

2. **Twenty states do publish some information on the numbers, types,**

**and values of exempted properties.** The manner in which this information is reported varies widely. Some states track only homestead and disability exemptions, other states track every kind of exemption. In some instances there is a separate report on property tax exemptions, in others this information is part of a larger report. The best reporting of such information can generally be found in western, progressive states

such as Oregon, which tracks exemptions as part of the state’s tax expenditures.

3. **Ten states did not respond to our requests.** There was not always knowledge of which division of the department of revenue handled such matters. Even when a contact could be identified, these states did not respond to our requests.

<b><u>NO-RECORD-KEEPING STATES</u></b>		<b><u>STATES WITH RECORD KEEPING</u></b>		<b><u>NO RESPONSE</u></b>
Alabama	Maine	Colorado	New Mexico	Hawaii
Alaska	Michigan	Connecticut	New York	Maryland
Arizona	Montana	Georgia	Oregon	Massachusetts
Arkansas	Nebraska	Idaho	Pennsylvania	Mississippi
California	North Carolina	Illinois	Rhode Island	Missouri
Delaware	North Dakota	Iowa	South Carolina	Nevada
Florida	Oklahoma	Kansas	Virginia	Ohio
Indiana	South Dakota	Minnesota	Washington	Tennessee
Kentucky	Utah	New Hampshire	West Virginia	Texas
Louisiana	Wyoming	New Jersey	Wisconsin	Vermont

## Phase II Findings

The Civic Federation has assembled a compendium of constitutional and state laws governing property tax exemptions and procedures. The complete collection is separately bound in *Property Tax Exemptions: An Overview of State Constitutional and Statutory Provisions*. It is our hope that this collection will provide immediate benefit to interested parties, but we also hope that it will be used as a reference tool in future research. The *Property Tax Exemptions: An Overview of State Constitutional and Statutory Provisions* is organized on answers to the following questions, by state:

### Overview Framework

- What are the statutory requirements for the charitable exemption of property?
- What are the conditions that must be met for a full exemption? Are partial exemptions permitted?
- What are the procedures for obtaining exemptions?
- What are the procedures for monitoring and removing erroneous and no-longer-qualifying exemptions?
- How do taxpayers or taxing bodies challenge existing exemptions?

The summary chart, which is included in the *Overview*, details how each state and the District of Columbia monitor and revoke exemptions and how properties are restored to the tax rolls. An abbreviated version of the summary chart is provided below. It gives a synopsis of the procedures and the units of government involved in the granting, maintaining, and removal of property tax exemptions.

**A. Monitoring of Initial Applications**

The chart below organizes the assembled information concerning the initial granting of an exemption. First, either a local or a state official can approve the initial application for an exemption. The second question regards who is notified of the creation of an exemption: the taxing district or the local assessing official, the public, both, or neither? Finally, the chart organizes the information concerning who may challenge an initial application for an exemption.

	Approved By:		Notice To:		Challenged By:	
	Local	State	Taxing Dist. Or Assessor	Public	Txing Dist./Assess.	Public
Yes	43	14	50	0	51	0
No	8	37	1	51	0	51

**B. Periodic Reporting**

The chart below looks at which organizations are required to report changes in the use of property and what kinds of changes must be reported. The first two columns indicate that if a property is sold, or otherwise transferred from a tax-exempt organization, responsibility for reporting the change falls on the tax-exempt organization. The next two columns look at whether changes in ownership or use must be reported.

	Required of:		Changes Reported:	
	Tax Exempt Org.	Transferee from TEO	Ownership/Leasing	Use
Yes	51	4	31	27
No	0	47	20	24

### C. Additional Oversight

The next chart looks only at what entity has responsibility for monitoring an exemption once it is granted.

Initiated By:

	Local Assessor	State Agency	Taxing Dist.	Other Taxpayers
Yes	47	24	48	2
No	4	27	3	49

### D. Revocation of Exemption

The following chart examines the question of who has legal standing to challenge an exemption. Of primary concern is the question of who initiates the revocation process.

Initiated By:

	Local Assessor	State Agency	Outsider Legal Challenge
Yes	45	17	0
No	6	34	51

### E. Back Taxing of Missed Years

The final chart looks at whether back taxing is authorized or required.

	Authorized	Required
Yes	16	24
No	35	27

The Civic Federation, as a government and fiscal watchdog organization, is fundamentally concerned with questions of access to governmental policy decisions and operations. Our initial review of the information contained in the *Property Tax Exemptions: An Overview of State Constitutional and Statutory Provisions* indicates that there are a limited number of parties with the legal authority to become involved in the exemption process. Typically these include the not-for-profit organizations and the local assessing official. While additional research is necessary, the Federation is troubled by what the data appears to indicate. A summary of our findings is listed below:

1. **The public, by and large, does not have the statutory authority to challenge exemptions that might be considered fraudulent or unjustified.** It is rare for the general public to have the legal ability to be involved in any dimension of the exemption procedure. In most cases, only the assessor and the property owner are involved. For example there is no public notification requirement in any of the 50 states or the District of Columbia. Similarly, the public does not have the ability to challenge an application for an exemption. Most importantly, no explicit provisions for an “outsider legal challenge” to an exemption were found.

2. **The legal responsibility for monitoring exemptions resides with local assessing officials.** The findings of the review of constitutional and statutory language confirm the findings of the survey of practices. The legal and practical responsibility for monitoring exemptions rests on local assessing officials. The local assessor has the power to approve an application for an exemption in 43 of the states, while the state has the power to approve these applications in only 14 states. In matters of additional oversight of exemptions, the local assessor is charged with the responsibility in 47 states. The state has the responsibility to oversee exemptions in only 24 states.
  
3. **There is virtually no legal responsibility placed on a new owner to report the change in a tax-exempt property's status.** Responsibility for notification of a change in a tax-exempt property's status generally rests on the previous owner. The annual renewal process employed by most states is intended to catch any changes in the use of a property. However, most jurisdictions appear to rely upon the diligence, honesty, and goodwill of property owners in reporting changes in the status of property. Without a systematic verification process, what were once legitimate exemptions can become unauthorized exemptions through property sales or changes in usage.

4. **The majority of states automatically exempt property owned by an organization that is tax-exempt under 26 USC Sec. 501(c) (3) of the Federal Internal Revenue Code.** “Not-for-profit,” the Internal Revenue Code standard, is not the same as “charitable,” the traditional state category most widely applied; nor does “ownership” address the question of “use.” In most instances, such exemptions are not reviewed, either initially or over time.



## **Conclusion and Recommendations**

The results of Phase I and Phase II of this study have a number of similarities. For example, both sets of findings indicate that property tax exemptions are primarily granted, maintained, and removed at the local level. In general, the practices of local assessing officials appear to conform to the legal prescriptions. The question then becomes, “Are the legislative provisions for property tax exemptions satisfactory?” Based on the preliminary findings The Civic Federation recommends the following:

- 1. The monitoring of property tax exemptions must be enhanced in order to diminish the number of fraudulent and unjustified exemptions.** It is fundamentally unfair for ineligible organizations and individuals to continue to benefit from a tax exemption. The very nature of a tax exemption shifts the burden of the property tax off of certain property owners and onto all the other property owners. This policy is justifiable when a community decides that certain groups deserve a benefit. When a group that does not logically qualify for an exemption receives one inappropriately, the entire community is financially impacted. The best way to minimize the possibility of granting or continuing to provide erroneous exemptions is through the close and attentive monitoring of them.

2. **The public should be given a greater ability to become involved in the process of monitoring and challenging property tax exemptions.**

Government at all levels must operate with limited resources. Resources can be especially limited at the local level. Allowing the public to assist local officials in monitoring property tax exemptions can facilitate closer monitoring without expanding either the responsibilities or costs of government. In some instances, the public is aware of fraudulent exemptions, but is unable to pursue a simple remedy. Initiating a lawsuit may be the only way for concerned citizens to challenge an exemption in some jurisdictions. The expense and time of a court case are beyond the means of most ordinary citizens. Therefore, the monitoring process should be opened to public involvement.

3. **State departments of revenue should provide greater assistance to local assessing officials in the monitoring of property tax exemptions.**

As the public needs to play a larger role, so does state government. Even without becoming involved in either the defense or the challenging of exemptions, the state can act as an information resource. This can be accomplished through tracking and publishing exemption information gathered at the local level, or through fully utilizing procedures already in place for reviewing the activities of local officials.

The uncertainty, even among the professional staff in these governmental offices, concerning property tax exemption procedures calls into question the validity of some exemptions. This stage of the investigation has compiled a great deal of information concerning the issue. The information now needs to be put to use. A systematic comparison of our practical and legal data with detailed data from more extensive field work would reveal the differences that exist between how property tax exemptions are supposed to be handled and how they actually are handled. The information that is available regarding the number, types, and values of exempted properties also requires refinement and argumentation. Such additional information would help citizens and taxpayers to know how much revenue is lost or how much of the tax burden is shifted as a result of these exemptions. The Civic Federation urges other interested parties to join in the research and analysis of the property tax exemptions that are granted to not-for-profit organizations.

# Appendix



## CIVIC FEDERATION PROPERTY TAX EXEMPTION PROCEDURE SURVEY

The following survey should only take a few minutes to complete. Please use additional pages if necessary. When finished, please return the survey instrument to The Civic Federation in the enclosed envelope. Thank you for your assistance. If you have any questions, please contact Roland Calia at 312/341-9607.

**NAME:** \_\_\_\_\_  
**POSITION:** \_\_\_\_\_  
**ASSESSING JURISDICTION:** \_\_\_\_\_  
**ADDRESS:** \_\_\_\_\_  
**PHONE NUMBER/E-MAIL ADDRESS** \_\_\_\_\_  
**WOULD YOU LIKE TO RECEIVE A COPY OF OUR REPORT UPON COMPLETION?**  
**YES** \_\_\_ **NO** \_\_\_

1. What is the total number of parcels in your jurisdiction? \_\_\_\_\_
2. What is the total number of exempt parcels in your jurisdiction? \_\_\_\_\_
3. What agency (agencies) has the authority to grant exemptions?  
\_\_\_\_\_  
\_\_\_\_\_
4. Do you assign an assessed value to parcels listed as exempt?  
\_\_\_\_\_
5. Is your exemption database available to the public? In what form are the data available?  
\_\_\_\_\_  
\_\_\_\_\_
6. Does your jurisdiction require a fiscal impact statement in connection with the granting of an exemption?  
\_\_\_\_\_  
\_\_\_\_\_
7. Does your state have provisions for payments in lieu of taxes on exempt property? If yes, please explain.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Does granting exemptions generally cause (check all that apply):
- a) A loss of revenue \_\_\_\_\_
  - b) A shift of tax burden \_\_\_\_\_
  - c) An increase in state aid to compensate for revenue loss \_\_\_\_\_
9. Are partial exemptions granted where a single parcel has both an exempt and a non-exempt use? Please explain.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
10. How many properties were removed from exempt status during the past tax year and were put back on the tax rolls?
- \_\_\_\_\_
- \_\_\_\_\_
11. Is there an agency responsible for monitoring exemptions? Is there an agency responsible for removing exemptions?
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
12. Do you regularly back-tax formerly exempt properties that escaped taxation in prior years? If yes, please explain the process.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
13. In your jurisdiction do taxing bodies and/or taxpayers have standing to challenge the tax-exempt status of a property? Please explain.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**PLEASE RETURN BY OCTOBER 1, 1999 TO:  
 THE CIVIC FEDERATION  
 243 S. WABASH AVENUE, SUITE 850  
 CHICAGO, IL 60604**