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Taxes, Fees, and PILOTs (Payments In Lieu Of Taxes)

Every state exempts some or all of the properties owned by charitable nonprofits from property taxes. However, despite a lack of legal authority to do so, some municipalities attempt to impose discriminatory taxes or fees on nonprofits, or demand so-called “voluntary” payments in lieu of taxes (PILOTs).

Different jurisdictions call the assessment different terms – taxes, fees, or PILOTs – but the goal is the same, to divert nonprofit resources away from mission and into government coffers.

Conversely, nonprofits in some states are subject to some state and local taxes such as sales and use tax. Laws across states are inconsistent in imposing these types of taxes on nonprofits as sellers and purchasers.

Why It Matters

The nonprofit community recognizes the budget challenges that state and local governments are facing; nonprofits experience them daily. Like governments, nonprofits are struggling to maintain services to their communities. In doing so, they earn their tax exemptions every day.

Sound tax policies that support nonprofits are one of the most important ways to help nonprofits secure the resources necessary to effectively serve the public good and address community needs. Governments cannot impose new taxes and fees on nonprofit organizations without diminishing the impact that nonprofits have in their communities.

A Tale of Three Cities

Nothing reveals the challenges tax-exempt nonprofits face at the local level better than their 2011 experiences dealing with policymakers who were so desperate for money that they seized at any justification for grabbing charities' funds without resort to consistent principles.

Boston, without authority of law, demanded payments in lieu of taxes from larger nonprofits. In Chicago, the Mayor declared that while he regarded taxing nonprofits a non-starter, he nonetheless intended to require nonprofits to start paying certain fees to the city. New Orleans' Mayor rejected PILOTs and fees as unworkable and inappropriate, but called on the Louisiana Legislature to allow the city to directly tax the property of charitable nonprofits.

These three Mayors proffered three contradictory rationalizations for filling their budget holes. Their shared similarity was the practical effect each scheme would have on local communities: diverting already committed and vitally needed resources away from nonprofit missions – money contributed to deliver programs and services for individuals and local communities.

Where We Stand

> "The National Council of Nonprofits oppos[es] the imposition of taxes on tax-exempt organizations, unreasonable fees, or involuntary fees or payments in lieu of taxes (PILOTs) … [and supports] maintaining and – where appropriate – expanding nonprofit sector exemptions from paying state and local property, sales, and use taxes and from collecting sales and use taxes."

- Public Policy Agenda

Status

Policymakers regularly introduce legislation, regulations, or policies that undermine nonprofit tax exemptions. While property owned and operated by nonprofits for charitable purposes is exempt from property tax in all 50 states, threats come in many forms from all branches of government.

Challenges to Nonprofit Property Tax Exemptions

Each year, state and local legislative bodies attempt to rewrite the laws to change the definition of “charitable” or “charitable purposes” or limit how much property can be exempt by each charitable entity. Executive branch tax assessors seek to reclassify exempt property or use broad authority to restrict what buildings and property qualify. Judges try to legislate from the bench by revoking property exemption due to its determination of what can be considered a charity or charitable purpose.

Fees

One way lawmakers avoid constitutional protections of tax exemption for charitable nonprofits is to implement a fee rather than a tax to collect monies. These can take many forms including wastewater or stormwater fees, light and sidewalk fees, hospital bed fees, and more, which are collected at the state or local level.

Payments In Lieu Of Taxes (PILOTs)

Some localities look to enter into “voluntary” agreements with nonprofits for payments in lie of taxes (PILOTs) because of the constitutional right to property tax exemption. These agreements are often required for certain guarantees by the City for things like consistent regulations, certain development rights, and avoidance of negative publicity.

Sales, Use, and Other Taxes

In 2017, the U.S. Supreme Court’s recent decision in *South Dakota v. Wayfair* overturned precedent and made clear that states have the power to impose sales and use taxes on entities beyond their borders. The decision allowed states to collect sales and use taxes for online purchases of goods and services from sellers without a physical presence in the state.

The *Wayfair* decision had many implications for charitable nonprofits, as purchasers and sellers online. States are not consistent in whether some or all nonprofits are exempt from sales and use taxes as purchasers and as sellers. As a result, nonprofits in each state must determine whether they are subject to remote sales tax or are required to collect and remit sales tax.

More About Taxes, Fees, and PILOTs

- Taxes, Fees, and PILOTs, *Nonprofit Champion*, Dec. 2, 2024.
- Weighing Wayfair for Nonprofits, Tiffany Gourley Carter, National Council of Nonprofits Blog, Jan. 28, 2019.
- From the Fault Line on Nonprofit Property-Tax Exemptions, David L. Thompson, National Council of Nonprofits Blog, Feb. 9, 2015.

Additional Resources

- Squeezed Cities Ask Nonprofits for More Money, *New York Times, May 11, 2011.*
- PILOTS & SILOTS, Maine Association of Nonprofits, 2010.