

## **PILOTS & SILOTS**

### *Payments In Lieu of Taxes & Services In Lieu of Taxes*

#### **What are PILOTS & SILOTS?**

- **PILOTS:** Payments In Lieu of Taxes are payments made by a property tax-exempt organization to a municipality to help cover the cost of municipal services to that tax-exempt property.
- **SILOTS:** Services In Lieu of Taxes are services provided to municipalities by a property tax-exempt organization to help offset the cost of municipal services to that tax-exempt property. Payments are much easier to assess and are much more common than Services.

#### **Why do PILOTS exist?**

All nonprofit organizations are not only income tax-exempt, but they are also property tax-exempt. This occasionally sets up a situation in which municipalities feel that too much of their land is exempt and essential services, such as police, fire & sanitation, are compromised because tax income cannot be collected on these properties. Some municipalities ask nonprofits to pay money to cover the cost of the services that they receive from the municipalities. Some municipalities ask nonprofits to provide services so that funds can be re-directed into essential services.

#### **Why do nonprofits qualify for property tax-exemptions?**

Nonprofits provide important services in and for our communities, such as job training, housing, mental health services, transportation, conservation, and other enrichment opportunities, to municipalities. Many of these services, if not provided by nonprofits, would fall to the responsibility of the government. Historically (since medieval England), nonprofits have been exempt from paying property taxes because they relieve much of the burden of government.

#### **What percent of nonprofits in Maine own property?**

We don't know the answer to this question, and it would be tough to make inferences from known sources such as our "Maine Charitable Nonprofit Organizations 2005" study. What we can say is the following:

- About 4% of the 2,164 reporting nonprofits are hospitals or colleges. These institutions own property. In other mission areas, some own, some do not.
- 40% of the 2,164 reporting nonprofit organizations have operating budgets under \$100,000 annually. Most of these organizations probably do not own property.
- 33% of the 2,164 reporting nonprofit organizations have operating budgets between \$100,000 & \$500,000 annually. Some of these organizations may own property.

**What percent of tax-exempt property is owned by nonprofit organizations in Maine?**

According to the State of Maine's 2001 Municipal Valuation Return Statistical Summary, less than 3% the valuation of properties in Maine is tax-exempt due to its owner's nonprofit status.

- 16% of property value in Maine is property tax-exempt.
- 33% of this exempt property is exempt due to its owner's nonprofit status.
- The remaining 67% is owned by state and federal government, municipalities, and for-profit industries.

\*Note: Although the State does collect this information on a yearly basis, however due to the cost of expending financial and personnel resources of assessing real property valuation, most municipalities collect limited information regarding exempt property.

**What does Maine Law say about PILOTS?**

The Maine Revenue Services published "Tax Bulletin Number 5 - Tax Exemption for Charitable and Benevolent Institutions/Organizations" which refers to Title 36 MRSA, section 652, subsection 1, paragraph A, B and C. This bulletin contains an overview of the code and relevant case law. It can be found at <http://www.state.me.us/revenue/propertytax/>. Scroll down and click on "Bulletins".

Another good article that can be found through the Maine Municipal Association's Schools Project ([www.memun.org](http://www.memun.org)) gives the following guidelines for charging PILOTS.

**Charging Fees in Lieu of Taxes.** The law makes it clear that residential property that *is used to provide rental income* can be charged for the following services: fire and police protection; road maintenance and construction, traffic control, and snow and ice removal; water and sewer service; sanitation services; and any other services *other than education and welfare*.

According to the law, the establishment of the charges is not mandatory, but is rather at the discretion of the municipality in which the exempt property is located.

The statute also notes that the charges must be calculated "according to the actual cost of providing municipal services to that real property and to the persons who use that property."

Fees are derived from a formula drawn from the statute: the total mil rate less the cost of education and welfare, times the assessed value.

**How many nonprofit organizations in Maine pay PILOTS or give SILOTS?**

Statewide, we just don't know. We do know that in Portland, 15 organizations paid PILOTS for tax year 1990. This information is difficult to come by and must be collected on a municipality-by-municipality basis.

**How are PILOTS typically determined?**

Through negotiation and based on the cost of providing services to the tax-exempt property. Sometimes this is negotiated on a per tenant or student basis; sometimes it is a percentage (20% – 50%) of what the taxes would be if the property were taxable; sometimes it follows the formula: the total mil rate less the cost of education and welfare, times the assessed value; and for some nonprofits, a set PILOT (sometimes in excess of what is customary) is a condition of getting grant funding from quasi-municipal organizations like a housing authority.

Because Maine's constitution prohibits the taxing of properties at different rates, there is some question about whether or not formulas based on valuation are constitutional.

**What is a good argument against PILOTS or SILOTS?**

Municipalities and Nonprofit Organizations are two separate branches of our democratic structure that are charged with the responsibility of supporting a civil society. Because of their common purpose, it is essential that they work well together to achieve their common goals. Mandatory PILOTS or SILOTS would encumber this necessary flexibility because:

- They take money away from programs and services offered in furtherance of the nonprofit's charitable mission.
- They are a disincentive for people to donate money to charity (they do not donate so money can be used to pay taxes/governmental fees).
- They transfer money to the government at a time when nonprofits are being asked to do more with less.
- Nonprofits rarely stray from the communities they serve. They are the economic grounding in many underserved communities.

**What arguments will municipalities make for seeking PILOTS or SILOTS?**

- Municipalities provide important services, such as fire and police protection, sanitation services, and general infrastructure, to nonprofit organizations. Nonprofits use and rely on these services and should pay these operating costs as do all other property owners.
- Individuals and businesses are forced to pay higher taxes to offset the nonprofit tax exemptions.
- Many nonprofits that receive property tax exemption do not benefit the citizens of the community in which they are located.

**Where does the Maine Association of Nonprofits stand on this issue?**

We support actions that allow municipalities and nonprofits to work together – unencumbered – in ways that best fit each community's unique character. We do not feel mandatory contributions to government in lieu of property taxes are sound. We support tax reform efforts aimed at lessening the burden on property owners to fund municipal services.

**More Resources?**

For more information about positioning your nonprofit to meet a property tax-exemption challenge or negotiating a fair PILOT or SILOT, request our "Facing Challenges to Your Property Tax Exemption" paper.

For information about qualifying and applying for property tax exemption in Maine, please go to <http://www.nonprofitmaine.org/advocacy.asp>