TAX EXEMPTIONS: MISCONCEPTIONS, ZONING, AND THE LEGISLATIVE RAMIFICATIONS

The Honorable Assemblyman
Gary S. Schaer

Business Administrator, City of Passaic
Ricardo Fernandez, PP, AICP, QPA
Tax Exemptions

- In this era-before "separation of church and state"-religious institutions were closely identified with the government, in the tradition of the divine right of kings.
- The people who would pay a tax on the church and school were the same people whose property already was being taxed, so taxing the institutions themselves would be duplicative.

QUALIFYING FOR A REAL PROPERTY TAX EXEMPTION

- N.J.S.A. 54:4-3.6 – the General Exemption Statute
  
  Tax exemption statutes are strictly construed against those claiming the exemption – because exemption is a departure from the principle that all property should bear its just share of taxation. See Princeton Univ. Press. v. Princeton Bor.
Exemptions address only the exemption of buildings. The Statute does, however, exempt the land whereon any of these buildings are erected which “may be necessary for the fair enjoyment thereof, and which is devoted to the purposes mentioned above and to no other purpose and does not exceed five acres in extent.”

Ownership and Use as of October 1 of the pre-tax year
Application for exemption must be obtained by the Assessor on or before November 1
Subsequent Reapplication is required by November 1 of every third year

Note: Assessor may at any time inquire into the right of a claimant to the continuance of an exemption and may require the filing of additional statements as deemed necessary
Exemption Types

- **54:4-3.30 Disabled veteran's exemption**
  a. The dwelling house and the lot.... of any citizen and resident of this State... who has been or shall be declared by the United States Veterans Administration or its successor to have a service-connected disability from paraplegia....
  b. c. d. .....Surviving Spouse Provisions

Exemption Types Cont’d

- **EDUCATIONAL INSTITUTIONS**

  There is no requirement that schools be of a charitable, benevolent or religious purpose – the statute only requires that the institution be not-for-profit and actually used for the institution. See Kimberly School v. Town of Montclair, 2 N.J. 28 (1949).
EXEMPTIONS FOR CHARITIES
Charities fall into Category IV of the Statute, requiring the buildings to be ACTUALLY USED in the work of ASSOCIATIONS AND CORPORATIONS ORGANIZED EXCLUSIVELY FOR CHARITABLE PURPOSES
Note: An individual cannot be a charity under this statute - only associations and organizations are eligible for the exemption. See N.J.S.A. 54:4-3.6
The documents of incorporation must reveal an intent to be organized exclusively for an exempt purpose. See Black United Fund v. East Orange

EXEMPTIONS FOR HOSPITAL PURPOSES
The Statute exempts all buildings ACTUALLY USED in the work of ASSOCIATIONS AND CORPORATIONS ORGANIZED EXCLUSIVELY for hospital purposes
To qualify as a hospital purpose, the purpose must be “reasonably necessary for the proper and efficient operation of the hospital facility.” Long Branch v. Monmouth Medical Center
EXEMPTIONS FOR RELIGIOUS ORGANIZATIONS

Prior to 2001, the General Exemption Statute provided that to qualify for the religious exemption, the buildings had to be actually and exclusively used for religious purposes.

The Legislature later amended N.J.S.A. 54:4-3.6 so that:

1. If a portion of the land is leased or used for a non-exempt purpose, only that portion becomes taxable, and
2. If a portion of the building is being used by a different exempt entity for an exempt purpose, the entire property will remain exempt.

Perception vs. Reality

<table>
<thead>
<tr>
<th>Type of Property</th>
<th>2000 Assessed Values Equalized</th>
<th>Type of Property as % of All Exempt, Abates, Deducts</th>
<th>Type of Property as % of All Property Values</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Value Non-Exempt Property</td>
<td>$561,246,971,772</td>
<td></td>
<td>85.54%</td>
</tr>
<tr>
<td>Fully Exempt Property</td>
<td>$86,714,660,369</td>
<td>99.3%</td>
<td>13.87%</td>
</tr>
<tr>
<td>Public Schools</td>
<td>14,805,749,474</td>
<td>17.0%</td>
<td></td>
</tr>
<tr>
<td>Other Schools</td>
<td>6,397,102,223</td>
<td>7.5%</td>
<td></td>
</tr>
<tr>
<td>Public Property</td>
<td>35,279,932,323</td>
<td>40.4%</td>
<td></td>
</tr>
<tr>
<td>Church &amp; Charitable Property</td>
<td>10,696,760,849</td>
<td>12.3%</td>
<td></td>
</tr>
<tr>
<td>Cemeteries &amp; Graves</td>
<td>1,428,872,625</td>
<td>1.6%</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>18,106,242,811</td>
<td>20.7%</td>
<td></td>
</tr>
<tr>
<td>Partial Exemptions and Abatements</td>
<td>$519,842,663</td>
<td>0.6%</td>
<td>.08%</td>
</tr>
<tr>
<td>Deductions: Senior Citizens, Disabled &amp; Veterans</td>
<td>579,841,488</td>
<td>0.1%</td>
<td>.01%</td>
</tr>
<tr>
<td>Total</td>
<td>$648,552,316,232</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>
Exemption Theories

- **Tax base theory**
  - Suggests that not all property is meant to be taxed. It would argue that only property which represents wealth and thus has the capacity to pay for services should be taxed - all other property should be exempt

Exemption Theories Cont’d

- **Sovereignty theory**
  - Argues that certain institutions—such as churches and governments—are immune from taxation neither because they are the taxing authority or because they are autonomous institutions, beyond the taxing authority's jurisdiction
Exemption Theories Cont’d

- Benefit theory

  Argues that certain institutions provide public benefits that substitute for government’s services, and so deserve relief from taxes as a *quid pro quo* or *subsidy* for their services.

Purpose

- The central purpose of most American suburban governments is to maintain the values of their constituents' homes, and those governments design *zoning* and other policies in order to achieve that purpose, mainly by excluding any influences they believe might reduce values (Downs 2002, 456).
Purpose

- Fiscal zoning
  - Property taxes are capitalized into property values. If the taxes in a town go up, other things being equal, property values go down to compensate.
  - Exclude uses that consume more in service costs than they generate in tax payments.
### Are tax rates higher in towns with higher exemptions?

#### 10 Municipalities at the Intersection of Low Income, High Exemptions and High Taxes

<table>
<thead>
<tr>
<th>Municipality</th>
<th>County</th>
<th>2000 Population</th>
<th>1999 Per Capita Income Less Than $15,000</th>
<th>2000 Exempt Property More Than 25%</th>
<th>2000 Effective Tax Rate Greater Than $3.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Newark</td>
<td>Essex</td>
<td>273,546</td>
<td>$11,363</td>
<td>75.2%</td>
<td>$3.40</td>
</tr>
<tr>
<td>Trenton</td>
<td>Mercer</td>
<td>85,403</td>
<td>$12,708</td>
<td>49.8%</td>
<td>$3.63</td>
</tr>
<tr>
<td>Camden</td>
<td>Camden</td>
<td>79,904</td>
<td>$7,844</td>
<td>48.5%</td>
<td>$3.89</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>Middlesex</td>
<td>48,573</td>
<td>$14,555</td>
<td>46.0%</td>
<td>$3.41</td>
</tr>
<tr>
<td>Orange</td>
<td>Essex</td>
<td>52,868</td>
<td>$13,532</td>
<td>42.6%</td>
<td>$4.36</td>
</tr>
<tr>
<td>East Orange</td>
<td>Essex</td>
<td>69,824</td>
<td>$12,775</td>
<td>39.0%</td>
<td>$6.15</td>
</tr>
<tr>
<td>Asbury Park</td>
<td>Monmouth</td>
<td>16,930</td>
<td>$11,044</td>
<td>35.0%</td>
<td>$4.18</td>
</tr>
<tr>
<td>Paterson</td>
<td>Passaic</td>
<td>149,222</td>
<td>$11,058</td>
<td>34.8%</td>
<td>$4.09</td>
</tr>
<tr>
<td>Lakewood</td>
<td>Ocean</td>
<td>2,522</td>
<td>$14,074</td>
<td>25.4%</td>
<td>$3.25</td>
</tr>
<tr>
<td>West New York</td>
<td>Hudson</td>
<td>45,768</td>
<td>$13,200</td>
<td>25.3%</td>
<td>$3.94</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>804,569</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


### Are tax rates higher in towns with higher exemptions?

#### 10 Municipalities at the Intersection of High Income, Low Exemptions and Low Taxes

<table>
<thead>
<tr>
<th>Municipality</th>
<th>County</th>
<th>2000 Population</th>
<th>1999 Per Capita Income More Than $100,000</th>
<th>2000 Exempt Property Less Than 10%</th>
<th>2000 Effective Tax Rates Less Than $3.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pine Valley</td>
<td>Camden</td>
<td>20</td>
<td>$172,440</td>
<td>0.0%</td>
<td>$2.34</td>
</tr>
<tr>
<td>Saddle River</td>
<td>Bergen</td>
<td>3,201</td>
<td>$214,556</td>
<td>2.8%</td>
<td>$0.98</td>
</tr>
<tr>
<td>Far Hills</td>
<td>Somerset</td>
<td>859</td>
<td>$145,555</td>
<td>3.8%</td>
<td>$1.37</td>
</tr>
<tr>
<td>Ramson</td>
<td>Monmouth</td>
<td>7,137</td>
<td>$115,061</td>
<td>5.1%</td>
<td>$2.00</td>
</tr>
<tr>
<td>Bernardsville</td>
<td>Somerset</td>
<td>7,345</td>
<td>$127,277</td>
<td>5.6%</td>
<td>$1.79</td>
</tr>
<tr>
<td>Franklin Lakes</td>
<td>Bergen</td>
<td>10,422</td>
<td>$111,512</td>
<td>6.5%</td>
<td>$1.49</td>
</tr>
<tr>
<td>Mendham</td>
<td>Morris</td>
<td>5,400</td>
<td>$151,340</td>
<td>6.6%</td>
<td>$1.91</td>
</tr>
<tr>
<td>Pennington-Plainfield</td>
<td>Somerset</td>
<td>2,433</td>
<td>$108,573</td>
<td>8.2%</td>
<td>$1.74</td>
</tr>
<tr>
<td>Millburn</td>
<td>Essex</td>
<td>19,765</td>
<td>$106,666</td>
<td>8.2%</td>
<td>$1.95</td>
</tr>
<tr>
<td>Harding</td>
<td>Morris</td>
<td>3,180</td>
<td>$189,418</td>
<td>9.5%</td>
<td>$0.96</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>59,752</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Are tax rates higher in towns with higher exemptions?

<table>
<thead>
<tr>
<th>Municipality</th>
<th>County</th>
<th>1970</th>
<th>2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Newark</td>
<td>Essex</td>
<td>45.3%</td>
<td>75.2%</td>
</tr>
<tr>
<td>Paterson</td>
<td>Passaic</td>
<td>25.7%</td>
<td>34.8%</td>
</tr>
<tr>
<td>Trenton</td>
<td>Mercer</td>
<td>47.2%</td>
<td>49.8%</td>
</tr>
</tbody>
</table>

3 Largest of the Unfortunate 10

<table>
<thead>
<tr>
<th>Municipality</th>
<th>County</th>
<th>1970</th>
<th>2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Franklin Lakes</td>
<td>Bergen</td>
<td>9.0%</td>
<td>6.5%</td>
</tr>
<tr>
<td>Millburn</td>
<td>Essex</td>
<td>10.7%</td>
<td>8.2%</td>
</tr>
<tr>
<td>Bernardsville</td>
<td>Somerset</td>
<td>18.9%</td>
<td>5.6%</td>
</tr>
</tbody>
</table>

Conclusions

- Public facilities
  - serve the neediest
- For-profit facilities
  - serve the least needy
- Nonprofits
  - somewhere in between
Conclusions

- New Jersey has the nation's highest property tax burden.
  - By extension, relieving any property of this burden increases the burden on those who do pay by more than it would in other states

References

Free New Jersey: The Burden of Property Tax Exemptions
By Donald A. Krueckeberg
December 2004
References

- Free New Jersey: The Burden of Property Tax Exemptions by Donald A. Krueckeberg
- J. Bloustein School of Planning and Public Policy.
- J. Bloustein School of Planning and Public Policy.
- University Press.
- Coombs, John D. 1993. Why is Harvard tax-exempt? (And other mysteries of tax exemption for private educational
- Property Tax Exemptions for Charities, edited by Evelyn Brody. Washington, DC: The Urban Institute Press, 115-
- 144.

  68,4: 456.
  organizations, and religious bodies in New Haven, Connecticut, 1750-2000. In Property Tax Exemptions for Charities,
- Pomp, Richard D. 2002. The collision between nonprofits and cities over the property tax: possible solutions. In
  Property Tax Exemptions for Charities, edited by Evelyn Brody. Washington, DC: The Urban Institute Press, 153-
References