

Illinois: High court upholds property tax exemption for nonprofit hospitals



David M. Kall | Thursday, October 11, 2018

The Supreme Court of Illinois recently upheld a law providing real property tax exemption to nonprofit hospitals that provide health care services to low-income and underinsured patients. On Sept. 20, 2018, the court in [Oswald v. Hamer](#) rejected a “facial” challenge to a statute setting forth the exemption, namely [Law 15-86](#). By rejecting the facial challenge, the court rejected the notion that the law was unconstitutional in all instances. Still, on a case-by-case basis, there may be some instances where hospital property would not benefit from the exemption if it is not used for an exempt purpose.

Exemption Law Challenged

The Illinois General Assembly enacted Law 15-18 in 2012 to respond to a 2010 case where the court denied charitable property tax exemption to a hospital, specifically *Provena Covenant Medical Center v. Dept. of Revenue*. The court in *Provena* ruled that property used as a medical center was not entitled to charitable property tax exemption because the hospital there did not provide a sufficient level of charity care to relieve the burdens of local governments that receive property tax revenue. The case highlights competing policy concerns to provide access to health care for indigent patients, on the one hand, and the need for tax revenue to provide essential government services such as police and fire protection, on the other.

Read literally, Law 15-18 does not contain language conditioning exemption for nonprofit hospitals on the use of the property. The statute reads, in relevant part, as follows:

(c) A hospital applicant satisfies the conditions for an exemption under this Section with respect

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to the subject property, and shall be issued a charitable exemption for that property, if the value of services or activities listed in subsection (e) for the hospital year equals or exceeds the relevant hospital entity's estimated property tax liability, as determined under subsection (g), for the year for which exemption is sought.

In other words, the statute provides exemption to hospitals providing a threshold level of “charity care” or “free or discounted services” to low-income or underinsured patients. By providing such care, the hospitals in theory provide a public benefit that warrants tax exemption.

Court Rejects “Facial Challenge”

The legal challenge to the law arose because hospitals could own property that itself is not used for the charitable or public-minded activities that justify exemption in the first place. [Article IV, Section 6](#) of the Illinois Constitution provides the authority for the Illinois General Assembly to enact the exemption statute at issue, thereby deviating from the principle of uniform property taxation. But the constitution conditions exemption upon the use of the property for exempt purposes. Because Law 15-18 did not expressly require hospital property to be used for an exempt use in order to qualify for exemption, the plaintiff alleged that it was “facially unconstitutional,” meaning that it is unlawful in all applications.

In interpreting the statute, the court construed Law 15-18 to require exclusive charitable use of realty in order to qualify for exemption. Despite the absence of explicit statutory language so providing, the court ruled that the exemption statute must be read together with the constraints on exemption that the Illinois Constitution imposes. As a result, the court ruled that hospitals seeking property tax exemption must show that they provided the threshold level of charity or discounted care and used the property in question for exclusive charitable use.

In the end, the court rejected the challenge brought in the case because there was no specific application of the law presented. Of course there are some instances where hospitals qualifying for the exemption use their property for charitable purposes. In fact, that is frequently the case. The facial challenge to the statute therefore failed and questions that may arise with specific parcels of hospital property must be saved for another day.



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