

Exemption Litigation – A Different Beast

National Survey and Review of Constitutional Exemptions for Non-Governmental Uses

- I. Most States Exempted: Religious, Charitable and Educational Uses from Property Taxes
- II. Explanation of Factors in Determining Charitable Use:
 1. The Highest and Best Use Vs. the Current, Primary and Substantial Use:
The property must be used directly, immediately, and primarily for charitable purposes. This means the use must provide substantial public benefit.
(Review of Various Cases throughout the US for similarities)
 2. Stated Narrative Description Vs. Verified Activity: The property owner must provide a detailed narrative description of the activities carried out on the property, specifically identifying the services performed to benefit the public or community. (Audits, Articles of Incorporation, and Bylaws)
 3. Who benefits? “Recipient Classes”: The application should list the classes of recipients benefiting from the charitable services, such as low-income individuals, homeless, indigent, or other charitable organizations. (Review of National Standards)
 4. ****Financial Support and Income****: The organization must disclose how it is supported financially and whether it generates income from renting or leasing the property. This information helps assess whether the property is used for charitable purposes or for generating revenue.
 5. IRS Reporting: “The Difference Between Federal Income Tax and State Property Tax Exemptions:
The organization must indicate whether it files IRS Report Form 990 each year or provide an IRS authorization letter if not required to file.
 6. National Review of Legal Precedents: The International Association of Assessing Offices has and considers relevant legal precedents, such as the emphasizes that the use of the property, not the declared purposes of the owner, is determinative.
- III. Explanation of Factors in Determining Educational Use:

1. Property used directly, immediately, and primarily for educational purposes. The property must be actively used as an educational facility on January 1, the valuation date. While the nonprofit status of the owner may support eligibility, it is not the deciding factor.
 2. The property must deliver systematic instruction in one or more fields and provide a substantial public benefit.
 3. Verified Activity: Documented evidence such as educational certification (e.g., a charter, state approval, national accreditation)
 4. Financial Support and Income: The “school” should provide financial reports, and detailed documentation describing all educational activities conducted on the property.
- IV. Case Study: By evaluating these factors, the Assessor ensures that the property is genuinely used for charitable purposes and qualifies for the tax exemption under New Mexico law.
- V. Outliers: Review of States that deviate from the Norm and use different legal criteria for nongovernmental property tax exemptions.