

NON-PROFIT *Know-How*

Cash-strapped governments threaten nonprofit tax breaks

Hard-up states, the national government, even local tax assessors — their usual incomes shrunk by the housing meltdown and the sagging U.S. economy — are casting a hungry eye on the tax-exempt status of nonprofits, The New York Times reported May 26.

Leaving the U.S. government's gigantic (and vigorously expanding) deficit aside, 29 of the 50 states are in the red, to the tune of a \$42 billion shortfall for fiscal years 2008 and 2009. Alone, California is \$17.2 billion behind the eight-ball for 2009. A Moody's economist writes, "You have to go back to the Depression to see a decline this big."

Government agencies are looking especially hard at nonprofit organizations that may not qualify as legitimate charities. Many nonprofits raise funds by charging fees and selling products and services, which legally may make them taxable businesses, not tax-favored charities.

Almost 88% of U.S. nonprofit revenues in 2005, the latest year for which numbers are available, derived from fees for services, sales, and sources other than charitable gifts, according to the National Center for Charitable Statistics.

Grass-roots pinch

Tax breaks for nonprofits cost local governments \$8 billion to \$13 billion a year, the Times reports. So it's a safe bet that many local taxing authorities are watching the consequences of a Minnesota Supreme Court ruling last December, which decided that the Under the Rainbow Child Care Center had to pay property taxes.

The center, which runs a child-care facility in Red Wing, charges the same fee per child, regardless of whether its parents can pay the charges or receive government support to cover them. But the Minnesota decision, writes Audrey R. Alvarado of the National Council of Nonprofit Associations, sets a precedent that "charities are supposed to give things away for free."

Among other local efforts to tax nonprofits, New London, Connecticut, has assessed taxes on a skating rink owned by Connecticut College. And local assessors have tried to tax Smith College, of Northampton, Massachusetts, on the grounds that the celebrated women's college practices sex discrimination.

Feds targeting education, churches

Strong forces in Congress are threatening to remove the privileged tax status of colleges and universities

The slumping economy has plunged 29 of the 50 states into a total \$42 billion budget shortfall.

— *Newsweek*

that do not make minimum yearly payments from their endowments. And the Senate Finance Committee has demanded detail financial data from six evangelical ministries, asking them to justify their tax exemptions.

Harvard under fire in Massachusetts

Other authorities are questioning whether some tax-exempt educational institutions and hospitals have accumulated so much wealth that they should no longer be considered nonprofits.

For instance, in Massachusetts, where Harvard University's endowment has reached \$35 billion in assets, state legislators are considering a 2.5% annual tax on universities with endowments of more than \$1 billion. In Harvard's case, that would amount to a state tax of more than \$85 million a year.

Know-How advice

Ask your lawyer to give you early warning on tax developments in Sacramento that might affect your and other nonprofits. And be prepared to hold your state legislators' feet to the fire. The best time to stop a bad tax idea is before it is passed by the legislature and signed into law by the governor.



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