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CHARITABLE PROPERTY TAX EXEMPTION

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Charitable Property Tax Exemption

I. Introduction

A. Statute and Court Interpretation Approach

Iowa law provides an exemption from property taxation for lands owned or leased by certain charitable, benevolent, educational, and religious organizations. Iowa Code Section 427.1, subsection 8, provides in relevant part that the following class of property shall not be taxed:

8. Property of religious, literary, and charitable societies. *All grounds and buildings used or under construction by literary, scientific, charitable, benevolent, agricultural, and religious institutions and societies solely for their appropriate objects, not exceeding three hundred twenty acres in extent and not leased or otherwise used or under construction with a view to pecuniary profit.*¹

Authority for a partial tax exemption is found in Iowa Code Section 427.1, subsection 14, paragraph "a":

*The assessor, in arriving at the valuation of any property of the society or organization, shall take into consideration any uses of the property not for the appropriate objects of the organization and shall assess in the same manner as other property, all or any portion of the property involved which is leased or rented and is used regularly for commercial purposes for a profit to a party or individual. If a portion of the property is used regularly for commercial purposes, an exemption shall not be allowed upon property so used and the exemption granted shall be in the proportion of the value of the property used solely for the appropriate objects of the organization, to the entire value of the property.*²

The Iowa courts have taken the position that exemptions from taxation must be decided on a case-by-case basis.³ Accordingly, there are no bright lines by which to guide city and county assessors, local boards of review, or the Property Assessment Appeal Board when making a determination on exemption.⁴ Although exemptions are to be determined on a case-by-case basis, certain principles espoused by the Iowa courts over the years serve as a guide to making these determinations. This Legislative Guide focuses on the Iowa courts' interpretation of that portion of the statute pertaining to property tax exemptions for charitable and benevolent organizations and societies.

¹ This provision was renumbered by the Iowa Code Editor in 1997. It had formerly been designated as subsection 9, and many of the cases refer to it as such.

² While Iowa Code Section 427.1, subsection 14, paragraph "a," provides authority for a partial property tax exemption for property that is partially used regularly for commercial purposes, that same provision entitles hospitals licensed under Iowa Code Chapter 135B that permit a portion of the hospital to be used for commercial purposes to a full exemption for that portion used for nonprofit health-related purposes. Additionally, property of a nursing facility, as defined in Code Section 135C.1(13), which is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, and otherwise qualified for an exemption under Iowa Code Section 427.1, is entitled to the full exemption of the property regardless of the proportion of residents of the facility for whom the cost of care is privately paid or paid under Title XIX of the federal Social Security Act. Iowa Code § 427.1(14)(a).

³ See, e.g., *South Iowa Methodist Homes, Inc. v. Bd. of Review*, 173 N.W.2d 526, 532 (Iowa 1970) (holding that "[t]he objects and purposes of the corporation as expressed in its articles of incorporation may be considered in determining this question, but the recital thereof in its articles is not controlling in determining the question of exemption. This question must be determined from the use made of the property rather than the declaration made in its articles of incorporation.") (citation omitted).

⁴ The Property Assessment Appeal Board was created in 2005 and currently has a statutory future repeal date of July 1, 2013. 2005 Iowa Acts ch. 150, §§ 128, 134.



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Unless otherwise noted, references to the Iowa Code incorporate both the 2009 Iowa Code and the 2009 Iowa Code Supplement.

B. Definition of Benevolent

Confusion exists over the meaning of the word "benevolent" in the statute when describing a society or institution eligible to apply for the exemption. The question has arisen whether in this context "benevolent" is synonymous with "charitable" or whether it has its own meaning peculiar to a certain type of organization or activity. Black's Law Dictionary, Sixth Edition, provides:

[Benevolent], as applied to objects or purposes, may refer to those which are in their nature charitable, and may also have a broader meaning and include objects and purposes not charitable in the legal sense of that word. Acts of kindness, friendship, forethought, or good-will might properly be described as benevolent. It has therefore been held that gifts to trustees to be applied for "benevolent purposes" at their discretion, or to such benevolent purposes as they could agree upon, do not create a public charity. But where the word is used in connection with other words explanatory of its meaning, and indicating the intent of the donor to limit it to purposes strictly charitable, it has been held to be synonymous with, or equivalent to, "charitable."

The statutory provision containing this word has been codified since at least 1851. The statute, at that time, did not refer to charitable societies, but did include the requirement that the institution or society not operate with a view to pecuniary gain.⁵ "Charitable" was contained in the statute when the Code was reprinted in 1873.⁶

II. Judicial Standard of Review

Certain legal principles regarding exemption of property from taxation have become well-established over the years:

- Statutes exempting property from taxation must be strictly construed.⁷ Any doubt must be resolved against exemption and in favor of taxation.⁸
- The burden is upon the one claiming exemption to prove that the property falls within the exemption statute.⁹
- A decision of the local board of review may be appealed to either the Property Assessment Appeal Board or the district court.¹⁰
- If an appeal is from a decision of the local board of review, the court hears the appeal in equity and reviews all questions arising before the local board of review de novo.¹¹
- If the appeal is from a decision of the Property Assessment Appeal Board, the court's review is limited to the correction of errors at law.¹²

⁵ Iowa Code § 455 (1851).

⁶ Iowa Code § 797 (1873).

⁷ Iowa Methodist Hospital v. Board of Review of Des Moines, 252 N.W.2d 390, 391 (Iowa 1977).

⁸ Evangelical Lutheran Good Samaritan Society v. Board of Review of Fayette County, 267 N.W.2d 413, 414 (Iowa Ct. App. 1978).

⁹ Iowa Methodist Hospital, 252 N.W.2d at 391.

¹⁰ Iowa Code §§441.37A, 441.38.

¹¹ Iowa Code § 441.39.

¹² Iowa Code § 441.39.

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III. Requirements for Exemption

The statute states that a qualifying organization or society may exempt from property taxation land used by the organization or society solely for its appropriate purposes and not leased or used for pecuniary profit. In applying the statute to individual cases, Iowa courts have identified factors probative of exemption and of taxability and have suggested the weight to be given them when determining a property's taxable status.

Although couched in a diversity of rhetoric, Iowa courts have uniformly centered on the identity of the organization claiming exemption and the use of the property for which exemption is claimed. Iowa courts have identified three factors that must be proved by a preponderance of the evidence in order to obtain an exemption pursuant to Iowa Code Section 427.1, subsection 8. First, the property must be used by a charitable, religious, or educational institution or society. Second, the actual use of the property must be solely for the appropriate objects of the institution or society. Third, the property must not be used with a view to pecuniary profit.¹³

A. Charitable Status

1. Factors

Primary, but not controlling, factors indicative of charitable status are whether the institution received a federal tax exemption based on charitable status and whether the purposes of the institution as stated in its articles of incorporation reveal a charitable purpose.¹⁴ Iowa courts have also placed importance on whether contributions of money, goods, and services played some part in the establishment and operation of a charitable institution.¹⁵

2. Nonprofit Status

The courts have been careful to point out that the nonprofit status of an institution is not synonymous with charitable status. "The mere fact that an institution is a nonprofit corporation does not make it a charitable institution. . . ."¹⁶ Nonprofit status of a corporation does not establish a right to tax exemption. Nor is a charitable purpose stated in the articles of incorporation the final answer in this inquiry. The articles of incorporation may be considered but are not controlling.¹⁷ The courts have looked beyond the written statements to policy and practice of the organization in its use of the property.

¹³ Friendship Haven v. Webster County Board of Review, 542 N.W.2d 837, 840 (Iowa 1996) (citing Camp Foster YMCA v. Dickinson County, 503 N.W.2d 409, 411 (Iowa 1993)); St. Ambrose University v. Board of Review, 503 N.W.2d 406, 407 (Iowa 1993) (citing Congregation B'Nai Jeshurun v. Board of Review, 301 N.W.2d 755, 756 (Iowa 1981)).

¹⁴ Bethesda Foundation v. Board of Review of Madison County, 453 N.W.2d 224 (Iowa Ct. App. 1990) (citing Richards v. Iowa Department of Revenue, 414 N.W.2d 344, 351 (Iowa 1987)).

¹⁵ Richards, 414 N.W.2d at 353; Evangelical Lutheran Good Samaritan Society, 200 N.W.2d 509, 512 (Iowa 1972).

¹⁶ Bethesda Foundation, 453 N.W.2d at 227 (citing Dow City Senior Citizens Housing, Inc. v. Board of Review, 230 N.W.2d 497, 499 (Iowa 1975)).

¹⁷ South Iowa Methodist Homes, 173 N.W.2d at 532; Readlyn Hospital v. Hoth, 272 N.W. 90, 91 (Iowa 1937).



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B. Use of the Property

Of the three factors listed above, the courts have identified the use of the property as paramount in determining exempt status. "[W]hen determining the charitable status of an institution, the actual use of a facility is more important than its stated purpose."¹⁸ Whether an organization and its "appropriate objects" are charitable is a question of fact.¹⁹

1. Presumption of Charitable Use

The Iowa Supreme Court has recognized that in situations where it is generally agreed that the institution or society is a religious, educational, or charitable organization under Iowa Code Section 427.1, subsection 8, it is an organization deserving of a presumption as to charitable status.

*[A] more demanding "actual use" test is imposed in those situations in which the challenged use is the primary basis for the claim of exemption. In contrast, the phrase "solely for their appropriate objects" is a much less demanding requirement for those religious, education, and charitable organizations who clearly qualify as such without regard to the use of the property at issue. This is because the very reason for the existence of those institutions is to carry on charitable, educational, and religious activities. Consequently, the use of their property for an activity within their mission will ordinarily be consistent with exempt status.*²⁰

This reasoning was also contained in *Camp Foster YMCA*, where the court stated:

*In St. Ambrose University v. Board of Review, . . . we recognized that the actual use requirement . . . is more strictly applied in those situations in which the taxpayer must rely on the challenged use to establish its charitable, religious, or educational purpose. . . . In contrast, if the taxpayer is shown to be a charitable, religious, or education organization or society independent from its use of the property for which exemption is being claimed, the exemption may be granted if that use fosters an activity that falls fairly within the mission of the institution.*²¹

So, in the case of a nonprofit corporation which carries out a unified operation at a single site, the actual-use test used to determine charitable status and taxable status is a more demanding requirement than for those religious, educational, and charitable organizations that clearly qualify as such without regard to the use of the property at issue.²²

2. Homes for the Elderly and Gratuitous Care

The bulk of the cases on charitable use have concerned the granting of an exemption to institutions which provide housing and care for the elderly. "For an institution to be charitable it should provide care in addition to housing."²³ However, providing housing and

¹⁸ Bethesda Foundation, 453 N.W.2d at 227 (citation omitted).

¹⁹ Dow City, 230 N.W.2d at 499; Friendship Center West, Inc. v. Harman, 464 N.W.2d 455, 457 (Iowa Ct. App. 1990). Moreover, the courts have reiterated a commitment to a broad definition of charity. See Carroll Area Child Care Center, Inc. v. Carroll County Board of Review, 613 N.W.2d 252, 255 (Iowa 2000).

²⁰ St. Ambrose University, 503 N.W.2d at 407.

²¹ Camp Foster YMCA, 503 N.W.2d at 411.

²² Friendship Haven, 542 N.W.2d at 841.

²³ Richards, 414 N.W.2d at 351 (citing Dow City, 230 N.W.2d at 499).



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care services is not enough to qualify the institution as charitable. A charitable purpose is evidenced by the provision of gratuitous or partly gratuitous care of elderly persons.²⁴

The requirement of gratuitous or partly gratuitous care espoused in *South Iowa Methodist Homes* is restated in *Atrium Village*.²⁵ Additionally, the court in *Victor Health Center v. Board of Review* provided a concise description of the gratuitous or partly gratuitous care requirement.

[G]ratuitous or partly gratuitous care, can be provided in two ways. An institution can subsidize the care of those who are unable to pay, or it can "use charitable contributions to cover the costs of establishing the facility and some portion of the ongoing operating expenses, thereby subsidizing the cost of the facility for all persons who use it, regardless of their ability to pay."²⁶

Facilities will not be entitled to an exemption if "admission is limited to the physically and financially independent."²⁷ Courts have looked beyond the policies of an organization memorialized in writing to the actual practice of the facility. The assessor and board of review must also look beyond the organization "on paper" to the policies actually practiced by the organization. The principal issue on which to focus is whether *admission is limited to the physically and financially independent*. The facts of the following cases will illustrate the importance of this question.

a. Atrium Village. The facts of *Atrium Village* provide a good example of how important the provision of gratuitous or partly gratuitous care is when determining whether the use of the property is charitable. The Atrium Village nursing home was a nonprofit corporation exempt from federal income taxes. The corporation's articles of incorporation stated a charitable purpose. The facility was constructed by means of a private donation which, at the same time, established a limited time trust to help pay maintenance and operation of the facility. No endowment or gift was required of an applicant for occupancy of Atrium Village and the facility maintained a reserve fund to provide care to any resident unable to pay the monthly charges. However, applicants to the facility were required to provide reports on medical history and financial resources and the facility did not accept persons who at the time of the application were receiving benefits under Title XIX of the federal Social Security Act (Medicaid) or persons who were not financially capable of paying the monthly charge. At times, applicants were required to provide the name of a financial guarantor. Also, the court noted that "[a]ny failure of an occupant to pay monthly charges would result in an increase in the monthly charge made to all others."²⁸ The court also discovered that tenants were not informed of the reserve fund, and it had not yet been used for residents in need of

²⁴ Id.; see also *South Iowa Methodist Homes*, 173 N.W.2d at 533; *Bethesda Foundation*, 453 N.W.2d at 226-27; *Twilight Acres v. Board of Review*, 346 N.W.2d 40, 41 (Iowa Ct. App. 1984); *Evangelical Lutheran Good Samaritan Society v. Board of Review of Fayette County*, 267 N.W.2d 413, 414 (Iowa Ct. App. 1978).

²⁵ *Atrium Village v. Board of Review*, 417 N.W.2d 70 (Iowa 1987).

²⁶ *Victor Health Center v. Board of Review*, 705 N.W.2d 340 (Table), 2005 WL 1964479, at *3 (Iowa App.) (quoting *Carroll Area Child Care Center v. Carroll County Board of Review*, 613 N.W.2d 252, 257 (Iowa 2000)).

²⁷ Id. at 72 (quoting *South Iowa Methodist Homes*, 173 N.W.2d at 533).

²⁸ Id. at 71.



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financial assistance.²⁹ Based on this evidence, the denial of the property tax exemption to Atrium Village was upheld by the court.³⁰

The court in *Atrium* cited *Richards* to support its determination of taxability. "[I]n assaying the genuineness of the charity, example is more important than precept."³¹ The assessor must look at application processes, policies, and stated principles, but also, and more importantly, at actual practice to determine whether charitable care, as a fact, is available and is being provided to residents. In this regard, as the following cases illustrate, the court has shown particular sensitivity.

b. Friendship Center West, Inc. v. Harman. In *Friendship Center West*, a retirement center owned by a nonprofit organization appealed a district court ruling which upheld the Marshalltown board of review's decision denying the organization's facility a property tax exemption.³² The organization was exempt from federal and state income taxes. The organization's articles of incorporation stated a charitable purpose. The organization's facility was established through a combination of gifts, pledges, and bond financing. Although the organization's stated policy was not to terminate a residency if a resident was unable to pay, but rather to subsidize the fees of the resident, the court found that in actual practice that was not the case. The facility required applicants to report on medical and financial history. The facility also had a policy which allowed it to terminate residency if the monthly fee was in default for three months. At times, a financial guarantor was required of applicants.³³

Again, the exemption from taxation was denied by the court because, despite the fact that the facility provided a "valuable service to the elderly,"³⁴ it did not make concessions on fees for residents unable to pay them, only four of its 75 units provided nursing care, and its actual practice was to limit admission to the physically and financially independent.³⁵

In both *Atrium Village* and *Friendship Center West*, the courts cited *South Iowa Methodist Homes* and *Richards* as examples where a policy of providing gratuitous or partly gratuitous care was practiced, even sought out. *South Iowa Methodist Homes* had a policy to admit not less than 10 percent of its residents without a room gift even though a room gift was required of most other residents, and residents unable to pay the monthly charges were subsidized by a reserve fund.³⁶

²⁹ Id.

³⁰ Id. at 73.

³¹ Id. (citing *Richards*, 414 N.W.2d at 351).

³² *Friendship Center West*, 464 N.W.2d at 455-56.

³³ Id. at 456.

³⁴ Id. at 460.

³⁵ This is the "beauty shop" case, which has caused some consternation. The case is not as much of an anomaly, however, as its ruling may suggest. The court in *Friendship Center West* focused on the phrase "solely for its appropriate objects" to determine that because 20 percent of the facility's revenue was derived from a beauty shop leased and operated in the facility, the entire facility was not eligible for exemption. The court indicated, however, that had either party requested partial exemption, the court would have considered granting such a request. The court then went on to analyze whether the facility would have qualified as a charitable facility consistently using the standards and factors developed in prior case law.

³⁶ *South Iowa Methodist Homes*, 173 N.W.2d at 533.

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c. Mayflower Homes, Inc. v. Wapello County Board of Review. Mayflower Homes was a nonprofit corporation which operated two residential facilities for elderly people.³⁷ Although the purpose of the facility in question was to provide homes for the elderly and "other needy and homeless persons," the one-time occupancy fee required at admission had been waived only five times in over 20 years and the residency fee had never been waived.³⁸ A full exemption was denied by the court because the general policy of the facility, and its actual practice, was to limit the number of residents to whom gratuitous or partly gratuitous care would be provided to no more than 10 percent of the units.³⁹ This is in contrast with the facility in *South Iowa Methodist Homes* which set the lower limit of gratuitous care at no less than 10 percent of the units. In the court's view, the facility in *South Iowa Methodist Homes* evinced an intent to provide more than the self-imposed minimum, whereas the policy of Mayflower Homes set a limit on the maximum amount of gratuitous or partly gratuitous care. Again, the standard used was whether admission was limited to the physically and financially independent.⁴⁰

d. Summary. The cases exhibit some confusion about what type of care is necessary when determining that a facility is exempt from property taxation on the basis that it provides gratuitous or partly gratuitous care to the elderly. Although the cases mention many different kinds of care, such as transportation, housekeeping, and provision of meals, the recurring theme — the type of care that is a necessity — is some kind of medical or nursing care. In *Mayflower Homes*, the court cited *Atrium Village* and *Dow City* when it averred that "in our review of the cases, a determining factor is whether any *nursing care* is provided to the residents."⁴¹ The court went on to deny a full exemption even though it found that the facility did provide "a type of intermediate care between living at home and a nursing home."⁴² So, although the provision of nursing care was cited as the determinative factor as to whether an exemption would be granted, the court found that the gratuitous or partly gratuitous (nursing) care provided by the facility was not available in sufficient degree as to make the provision of such care charitable in nature.

³⁷ *Mayflower Homes, Inc. v. Wapello County Board of Review*, 472 N.W.2d 632, 633 (Iowa Ct. App. 1991).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ The 10 percent policy was the basis for the assessing jurisdiction requesting that only 10 percent of the property be declared tax exempt. The organization claiming exemption asked the court to grant a full exemption on the property. The court indicated that, by its calculation, Mayflower Homes was deserving of only a 3 percent exemption based on the actual number of units to which a concession on fees was being granted. The court acquiesced to the assessing jurisdiction's determination that 10 percent of the facility was entitled to exemption. *Id.* at 635.

⁴¹ *Id.* at 634.

⁴² *Id.* at 633.



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C. Pecuniary Profit

The third factor which must be satisfied to receive a property tax exemption is that the organization or institution claiming the exemption based on charitable use must not be operating the facility, or engaging in the activity, with a view to pecuniary profit.⁴³

*Pecuniary profit refers to monetary gain which inures to the benefit of private individuals and is not simply an excess of income over expenses. It is clear a charitable organization is not required to run in the red; its income may exceed expenses as long as the excess is not used for anything but charitable purposes.*⁴⁴

The Iowa Supreme Court has also declared it unrealistic to ascribe a pecuniary profit motive because of growth in equity of the institution or organization, particularly where the growth in equity is due to payments on the mortgage incurred in building the facility⁴⁵ or where it occurred simply because "[i]nflation, good management, and improvements [to the nursing home] account for its increase in value."⁴⁶

In challenging an organization's claim of absence of a pecuniary profit motive, expert testimony is at times required to testify to the average net income return on equity and the average earning before deductions of depreciation, interest, and taxes.⁴⁷ Easier-to-determine factors include: (1) whether the organization paid dividends; (2) whether its board members worked without pay;⁴⁸ and (3) whether all income was used to meet expenses, make renovations and improvements, and retire debt.⁴⁹

In *Northwest Community Hospital v. Board of Review*, the court affirmed that the board of review was correct in refusing to grant an exemption to a nonprofit corporation where the nonprofit corporation had been purchased for its tax-exempt status by a profit-making corporation solely to vest ownership in a tax-exempt vendor.⁵⁰ This was precisely the situation uncovered in *Care Initiatives v. Union County Board of Review*. Care Initiatives was a nonprofit corporation which owned 41 nursing homes in Iowa. The court, in denying Care Initiatives a property tax exemption, found that Care Initiatives had surrendered control over the operation of the facility in question to a for-profit corporation related by ownership to Care Initiatives.⁵¹ The court also found that the facility was established not with contributions of money, goods, and services, but rather the establishment of the facility was capitalized entirely by debt. Furthermore, the court found evidence of admission of only one resident who was not capable of paying the standard fee and even that

⁴³ In 2003, the Iowa Court of Appeals held that the analysis for a similar "pecuniary profit" requirement relating to the municipal property tax exemption is not equivalent to the analysis used for the "pecuniary profit" requirement for the charitable property tax exemption. *Orange City Municipal Hospital v. Board of Review*, 672 N.W.2d 333 (Iowa Ct. App. 2003). The court noted that the municipal property tax exemption, unlike the charitable property tax exemption, does not require a showing of charitable purpose to be exempt. *Id.*

⁴⁴ Bethesda Foundation, 453 N.W.2d at 228 (citing Richards, 414 N.W.2d at 352).

⁴⁵ See *Id.* (citing Twilight Acres, 346 N.W.2d at 42; Evangelical Lutheran Good Samaritan Society, 267 N.W.2d at 415).

⁴⁶ *Id.* (citation omitted).

⁴⁷ See e.g., Twilight Acres, 346 N.W.2d at 42.

⁴⁸ The court in *Atrium Village* noted that the nursing home's board of directors did not receive compensation for their duties. *Atrium Village*, 417 N.W.2d at 71-72.

⁴⁹ See e.g., Twilight Acres, 346 N.W.2d at 42.

⁵⁰ *Northwest Community Hospital v. Board of Review*, 229 N.W.2d 738, 741 (Iowa 1975).

⁵¹ *Care Initiatives v. Union County Board of Review*, 500 N.W.2d 14, 17 (Iowa 1993).

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concession on the fees still resulted in a rate in excess of the corporation's calculated average cost per patient.⁵²

IV. Other Issues

A. Residences

Student housing owned by an educational institution is not considered a charitable activity deserving of an exemption under Iowa Code Section 427.1, subsection 8, particularly where the housing is made available without regard to the financial status of the student or resident.⁵³ In *Congregation B'Nai Jeshurun*, the court ruled that housing of a religious institution or society which is separate from the religious edifice itself and occupied by nonecclesiastical personnel does not qualify for a property tax exemption under Code Section 427.1, subsection 8.⁵⁴ The court made clear in this case and in *Wisconsin Evangelical Lutheran Synod v. Regis* that it is not enough to show that the property is owned by an eligible institution and occupied as a residence by the institution's personnel.⁵⁵

B. Partial Exemptions

Partial property tax exemptions are allowed by statute and case law.⁵⁶ The court has allowed partial exemption if property was partially used with a view to pecuniary profit if the primary use was solely for the appropriate objects of the institution or society.⁵⁷ Offering a partial exemption may be one way an assessing jurisdiction is able to avoid the expense of litigation and is able to collect revenue on the portion of the property that both parties agree is taxable. Partial exemptions have been granted based on a portion of the property being put to charitable use at all times or on the entire property being put to charitable use for only a portion of the year. For a partial exemption of property to be considered by the court, it must be requested of the court by at least one of the parties.⁵⁸

C. Leased Property

Ownership of property by a charitable organization using the property is not a prerequisite for receiving an exemption under Iowa Code Section 427.1, subsection 8. The plain language of the statute contemplates leased property being qualified for an exemption under the subsection. In *Warden Plaza v. Board of Review*,⁵⁹ the court went beyond claiming simply that ownership is not a criterion for exemption. In that case, the court considered whether "use of the property" by the owner, besides the use of the property by the renter or charitable organization, was solely for the organization's appropriate objects and not for pecuniary gain.

⁵² Id. at 17-18.

⁵³ Iowa Lakes Foundation v. Board of Review, 387 N.W.2d 377, 378 (Iowa Ct. App. 1986).

⁵⁴ Congregation B'Nai Jeshurun, 301 N.W.2d at 759.

⁵⁵ Id. at 758; Wisconsin Evangelical Lutheran Synod v. Regis, 197 N.W.2d 355, 357 (Iowa 1972).

⁵⁶ See Iowa Code § 427.1(14)(a); Aerie 1287, Fraternal Order of Eagles v. Holland, 226 N.W.2d 22, 24 (Iowa 1975).

⁵⁷ Aerie 1287, 226 N.W.2d at 24.

⁵⁸ Id.

⁵⁹ Warden Plaza v. Board of Review, 379 N.W.2d 362 (Iowa 1985).



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Warden Plaza was a facility operated by a nonprofit corporation and designed to provide housing for the elderly, low-income persons, and persons with mental retardation. The facility was leased from a private corporation. The board of review denied the facility's application for property tax exemption. The district court overruled the board of review. The Iowa Supreme Court overruled the district court's ruling and remanded the case for further proceedings declaring that there were unresolved material factual issues remaining on the record. The court ruled that the property was not exempt unless the owner was leasing the property without a view to pecuniary profit. The court noted that the record indicated that the owner made a profit through the leasing arrangement. Furthermore, the lease provided that if a tax exemption was not granted, the leasing party would be required to pay increased rent to compensate for property taxes owed.⁶⁰

V. Conclusion

A. Charitable Status, Charitable Use, and Pecuniary Profit

To receive a property tax exemption for charitable use under Iowa Code Section 427.1, subsection 8, an eligible institution or society must independently prove its charitable status, charitable use, and the absence of a pecuniary profit motive. Charitable status is shown by federal tax-exempt status and language in articles of incorporation proclaiming a charitable purpose, but these are not controlling factors. Charitable status is presumed when the institution or society claiming the exemption is one generally considered to be one of those listed in statute: a literary, scientific, charitable, benevolent, agricultural, and religious institution or society. With regard to homes for the elderly, evidence that gratuitous or partly gratuitous care is actually provided (including concessions on fees for those unable to pay) is paramount in determining whether property for which an exemption is claimed is put to charitable use.

An institution or society claiming exemption must show that any monetary gain it realizes does not inure to the benefit of private individuals. Growth in equity should be studied for its source – decreasing debt and inflationary growth in capital are not good indicators of a pecuniary profit motive. A nonprofit corporation claiming charitable status should be viewed suspiciously when it appears that it is controlled by a private for-profit corporation.

B. Residences, Partial Exemptions, and Leased Property

Housing provided by an educational institution cannot be claimed as tax exempt on the basis of charitable use when no concessions on fees are made or when the housing is made available to students regardless of their financial status. To be exempt housing provided by a religious institution to its personnel, the housing must be provided to ecclesiastical personnel whose presence in such housing is necessary to fulfilling the appropriate objects of the institution.

Partial property tax exemptions are allowed by statute and case law. Offering a partial exemption may be one way an assessing jurisdiction can avoid the expense of litigation and still collect tax revenue on the portion of the property that both parties agree is taxable.

⁶⁰ Id. at 363-65.

Charitable Property Tax Exemption



Partial exemptions have been granted based on a portion of the property being put to charitable use at all times or on the entire property being put to charitable use for only a portion of the year.

It is not necessary for a charitable organization to own the property for which an exemption is being claimed. Property leased by a charitable organization and used for a charitable purpose is eligible for a property tax exemption if the owner is not leasing the property with a view to pecuniary profit. To determine this, one should consider whether the lease payments provide a profit to the owner and whether the lease provides that if the property is not granted an exemption, the leasing party shall be responsible for payment of property taxes.

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