



**“AN UPDATE ON THE MORRISTOWN TAX COURT  
DECISION CASE AND ITS IMPACT ON TAX  
EXEMPTIONS FOR NEW JERSEY NON-PROFIT  
HOSPITALS” WEBINAR**

**JANUARY 29, 2016  
11:00A.M.-12:50P.M.**

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# Agenda



- **LEGISLATIVE UPDATE**
- **THE CASE:**  
**A.H.S. HOSP. CORP. V. TOWN OF MORRISTOWN**
- **THE EXEMPTION LAW**
- **LOOKING FORWARD**

# Legislative Update



- **S-3299 POCKET VETOED BY THE GOVERNOR ON JANUARY 19**
- **NO EXPLANATION GIVEN.**
  - New Tax?
  - Unconstitutional?
  - Opposed by the League
  - Supported by Hospital Association
- **NEW LEGISLATION LIKELY**
  - Where will there be changes?

# Legislative Update

## S-3299 Contined



- **MAJOR ELEMENTS,  
COMMUNITY CONTRIBUTION FEE**
  - \$2.50 per day, per licensed bed
  - \$250 per day for satellite locations.
  
- **MUNICIPAL OPPOSITION**
  - Unconstitutional
  - Inadequate
  
- **INDUSTRY SUPPORT**
  - Uncertainty over assessments.
  - Fear of litigation.

# The Case:

## A.H.S. Hosp. Corp. v. Town of Morristown



- INVALIDATED A NON-PROFIT HOSPITAL'S PROPERTY TAX EXEMPTION DUE TO **THE INTERMINGLING OF FOR-PROFIT AND NON-PROFIT ACTIVITIES ON EXEMPT PROPERTY.**
- UNDER EXISTING LAW, SUCH INTERMINGLING OF FOR-PROFIT AND NON-PROFIT USES ARE PROHIBITED.
- FOR MORE, PLEASE SEE:

**[HTTP://WWW.NJSLOM.ORG/LEGISLATION/MORRISTOWN/  
ALLEN MORRISTOWNDECISION.PDF](http://www.njslom.org/legislation/morristown/allen_morristowndecision.pdf)**

# The Exemption Law

N.J.S.A 54:4-3.6



- **THE LONG AND WINDING LAW**
- **TAX COURT REQUEST FOR RE-CODIFICATION**

# Poll



## **POLL QUESTION 1**

# The Exemption Law Continued



- **PAPERMILL PLAYHOUSE V. MILLBURN, 95 N.J. 503 (1984)**
  - **Organized for Exempt Purpose**
  - **Used for Exempt Purpose**
  - **Follow the Money to Someone's Pocket**



# The Exemption Law Continued



## **BURDEN ON PROOF ALWAYS ON TAXPAYER**

- **FIELDS, ETC. V. PRINCETON**
  - Does not matter who filed the Complaint

# Poll



## **POLL QUESTION #2**

# The Exemption Law Continued



## **OMITTED ASSESSMENTS**

- **ASSESSMENTS 2 YEARS BACK**
  - Original Method
  - Alternate Method
  
- **USE EXEMPT VALUE ON TAX LIST,  
N.J.S.A. 54:4-63.7**

# The Exemption Law Continued



## ISSUES AND DECISION

- **COMINGLING OF FOR PROFIT AND NOT FOR PROFIT**
  - International Schools etc. v. West Windsor Twp., 207, N.J. 3 (2011)

# The Exemption Law Continued



## **INTERMINGLING FACTS OF CASE:**

- **LOANS—OPERATING**
- **GUARANTY (INSURANCE)**
- **COVERED FOR PROFIT'S LOSSES**
- **OWNED FOR PROFITS (NOT FOR PROFIT OFFICERS SERVING FOR PROFITS).**

# The Exemption Law Continued



## **OFFICERS AND EMPLOYEES:**

### ➤ **EXECUTIVE SALARIES**

- Unreasonable, service rendered to for profits Papermill Playhouse.
  
- IRS Test Resulted in Net Opinion
  - Committee
  - Consultant
  - Report

# The Exemption Law Continued



## **Physicians Relationships:**

- **R.A.P. EXCLUSIVE CONTRACTS:**
- **EMPLOYED PHYSICIANS – INCENTIVES  
HUNTERDON MEDICAL ETC. V.  
READINGTON, 22 N.J. TAX 302 (TAX 2005)**
- **VOLUNTARY PHYSICIANS (WORKSHOP  
MODEL, PHYSICIANS WITH “PRIVILEGES”)**
- **RUN OF THE HOSPITAL**
- **PHYSICIAN OFFICES AND TIME SHARES**

# The Exemption Law Continued



## **SERVICE CONTRACTORS**

- **LINENS AND SERVICE FIRMS PROFIT  
MOTIVE OF AGREEMENT**
- **CAFÉ SHARING REVENUES**
- **GARAGE OVERLOOK HOSPITAL V. SUMMIT,  
6 N.J. TAX 90 (TAX 1983)**



# The Exemption Law Continued



## **HOSPITAL PURPOSE TEST**

- **GIFT SHOP**
- **OLD TEST: “REASONABLY NECESSARY”**
- **NEW TEST: HUNTERDON MEDICAL ETC. V. READINGTON, 195 N.J 549 (2008) MEDICAL SERVICES PREADMISSION, DURING HOSPITAL STAY, POST ADMISSION**

# The Exemption Law Continued



➤ **AREAS HELD EXEMPT:**

Auditorium – no profit motive

Fitness area – de minimis activity

Garage

➤ **NOT ADDRESSED BY COURT:**

- Charge Master – fees & costs, basis for charged deductables, co-pays – unreasonable?

# Poll



## **POLL QUESTION #3**

# The Exemption Law Continued



## **GOING FORWARD: ASSESSORS TOOLS:**

- **Initial Statement/Further Statement**
  - Are All Hospitals the Same?
  - Additional Inquiries
  
- **Chapter 91 Inquiries**
  - Failure to Answer: Defense to Exemption Complaint
  - Must strictly comply with requirements



# The Exemption Law Continued



## **LITIGATION STRATEGIES: BURDEN ALWAYS ON THE CLAIMANT**

- Omitted Assessment Appeals
- Challenge Assessor's Failure to Impose Omitted Assessments
- Direct Appeal Under Original Method
- Leave the Exemption in Place
  - Municipal Challenge to the Exemption
- Settlement Strategies
- **DISCOVERY ISSUES AND PROTECTIVE ORDERS**

# Looking Ahead



- **NEW LEGISLATION**

- Legislative Calendar

- **PRINCETON CASE**

- Moving through the Tax Courts.
- On the horizon but arguments not yet scheduled.

# Monitor Developments



**PLEASE MONITOR LEAGUE ALERTS  
FOR ANY SUCH DEVELOPMENTS.**

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**THANK YOU!**

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