

# NOW

BGR's Spotlight on Local Government Issues

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## The Nonprofit Exemption: Bad News for Taxpayers

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PROPERTY TAX EXEMPTIONS are a matter of subtraction. Each time another property receives an exemption, it is subtracted from the tax base. Government must either absorb the loss or mitigate it by raising taxes on non-exempt property. In many cases, exemptions mean taking from Peter and giving to Paul.

So there should be a good reason for granting Paul an exemption.

Unfortunately, when it comes to nonprofit tax exemptions in Louisiana, the question of whether a nonprofit property warrants an exemption is scarcely considered. The scope of exemptions is unusually large, and the bar for receiving an exemption is set unusually low. This approach needlessly subtracts property from the tax base. Other property owners suffer to the extent that tax rates rise to make up the difference. Everyone suffers to the extent that services are reduced.

In New Orleans, a hub of nonprofit activity, there is particular cause to be concerned. BGR found that, between 1996 and 2011, the number of exempt properties owned by nonprofits in the city jumped [a whopping 61%](#). This means that a greater number of properties now generate no property taxes as a result of the exemption.

Those who do pay property taxes make up for the loss by paying at a higher tax rate. BGR estimated that the nonprofit exemption cost the average taxpayer 44 mills in 2011. That was equivalent to nearly one-third of the tax bill.

Recognizing the unfairness in local property taxation, the Landrieu administration in late 2010 [formed a Tax Fairness Commission](#). The commission was charged with examining the fairness, adequacy and competitiveness of the tax structure. It ended up calling for significant reforms, including reforms related to the nonprofit exemption.

Citing the commission's recommendations, the Louisiana Legislature passed [a resolution](#) during

its 2011 Regular Session calling for a house committee to study the issue of tax exemptions. It directed the committee to consult 11 entities, 10 of which were nonprofits with a vested interest in preserving the status quo with respect to exemptions. Only one entity, the City of New Orleans, had an interest in change.

The City of New Orleans sent staff members to appear before the committee twice, but they did not advocate for reform. At the last committee meeting, the city informed the committee that it would not move forward with reform of the nonprofit exemption at this time.

It should press on.

### **Louisiana's Excessive Approach to Nonprofit Exemptions**

All states have some form of exemption for nonprofit-owned property used for cemetery, religious, educational and charitable purposes. Louisiana's exemption, however, casts a far wider net. The [constitution](#) specifically exempts properties owned by nonprofits that serve other purposes, such as labor organizations and trade groups. More importantly, neither the constitution nor state law clearly defines the scope of the "catch-all" exemptions, such as educational, charitable and cultural purposes. Because of the breadth and vagueness of these terms, nonprofit organizations can easily qualify for the exemption regardless of whether they provide important public benefits.

Just as troubling as the scope of exempt purposes is Louisiana's lax use requirement. Common sense would dictate that property be exempt only if it is actually *used* for an exempt purpose. But in Louisiana, there is no such requirement. In most cases, a property need only be *owned* by a nonprofit in order to be eligible. Taxation comes into play only if the property is used for a commercial purpose that is unrelated to the nonprofit enterprise.

In effect, Louisiana law focuses on the nonprofit status of the owner, virtually ignoring the question of whether the property is actually being used to provide a community benefit that the state would like to subsidize. This approach forecloses the possibility of a strategically sound exemption. It also means that nonprofits can accumulate property, do nothing with it and pay no property taxes.

### **Options for Reform**

There is a wide range of options for reforming the nonprofit exemption, ranging from eliminating it completely to addressing the most egregious abuses and holes.

In its 2011 report [The Nonprofit Margin: Address-](#)

*ing the Costs of the Nonprofit Exemption in New Orleans*, BGR recommended:

- Narrowing the universe of exemptions.
- Tying the exemption to the use of the property, rather than nonprofit ownership.
- Giving local government greater authority over exemptions.
- Tightening up administration of exemptions.
- Using revenue-raising alternatives, such as drainage fees, that apply to nonprofits as well as others.

A few months later, the Tax Fairness Commission released [recommendations of its own](#), including several focused on the nonprofit exemption. It called for constitutional amendments to allow for greater local control over nonprofit tax exemptions, to narrow the types of entities and uses of property eligible for exemptions “in a manner more consistent with what is done in other states,” and to mandate that “property owned by a nonprofit, but not used directly for the exempt purpose of the nonprofit, be subject to property taxes.”

### **Whither Reform?**

In mid-December 2011, the House Committee on Municipal, Parochial and Cultural Affairs heard from a city official on the nonprofit exemption issue. In her remarks, she signaled to the public [that the city would not pursue exemption reforms](#) for the time being.

An advocacy group that lobbies on behalf of nonprofits [applauded state and local officials](#) for “generously” abandoning the reform effort. While abandonment would indeed be generous to the beneficiaries of the current system, it would also be grossly unfair and ungenerous to the residents and businesses who foot the bill and live with sub-standard government services.

Some of the reforms proposed by the Tax Fairness Commission, such as narrowing the types of eligible entities and tightening the use requirement, are far from radical. They are modest steps needed to create a fair, equitable and competitive tax system. Until they are taken, nonprofit property will be shielded from taxation regardless of whether it provides benefits to the public. And the public will continue to pick up the tab.

Whenever it comes to reforming exemptions, someone’s ox gets gored. So far, it has been easier to keep going after the same group of taxpayers than to take on a sacred cow. Only by pushing this issue to the forefront can the city prevent that scenario from continuing to play out.

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