

# TAXING NOT-FOR-PROFITS

## *Is Maine Starting a Trend?*

By Michael Reyen, Hodgson Russ, LLP

Maine Gov. Paul LePage's 2016-17 state budget, if passed, will require colleges, hospitals and other large, not-for-profit organizations to lose their tax exemption and be placed on the property tax rolls in their respective municipalities. The rationale behind this proposal is that these institutions utilize local services provided by municipalities at the expense of the non-exempt property owners and should pay their fair share. The proposal is groundbreaking, and, if successful, it may be the beginning of a trend among states in which local budgets are highly reliant on real property taxes.

Not-for-profit corporations in New York State can apply for exemption from real estate taxes if they utilize the property for a statutorily exempt use. This is a bedrock principle — something that all municipalities in New York understand well. This is not only the standard practice in New York; it is commonplace nationally. Gov. LePage is seeking to change this practice in Maine, and this presents an interesting case study on the feasibility of such a radical shift in tax policy.

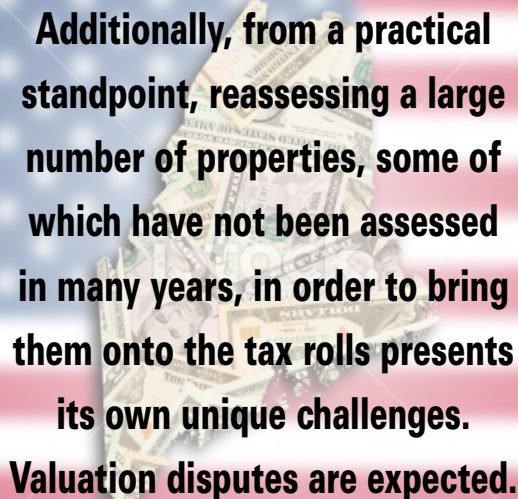
In an effort to cut taxes on Maine families and businesses, and to ensure that not-for-profits pay for their fair share of local services, Gov. LePage has included in his 2016-17 State of Maine Biennial Budget a proposal to require colleges, hospitals, and other not-for-profits to pay property taxes.<sup>1</sup> Like many other states in the Northeast, Maine's state and local tax system is heavily reliant on property taxes,<sup>2</sup> to the tune of 51.4 percent of local government revenue in 2012, compared with the national average of 29.7 percent.<sup>3</sup> The proposal will allow Maine municipalities to collect property taxes from large not-for-profit institutions and would be the first of its kind nationally. The tax on not-for-profit institutions would be 50 percent of assessed value over \$500,000.<sup>4</sup> The ability to tax would also be coupled with the elimination of approximately \$60 million in state

revenue sharing with municipalities.

Not surprisingly, the plan to tax not-for-profit institutions is facing serious opposition from schools, hospitals and not-for-profit associations. Although the ability to tax not-for-profits would increase the tax rolls for many municipalities, the idea has not taken off among municipalities in Maine. The Maine Municipal Association has stated that the majority of towns and cities will not be able to make up for the lost revenue sharing through the increased taxes from not-for-profits.<sup>5</sup> Additionally, from a practical standpoint, reassessing a large number of properties, some of which have not been assessed in many years, in order to bring them onto the tax rolls presents its own unique challenges. Valuation disputes are expected.

The Maine Hospital Association has stated that its "members are not in a position where they can afford to absorb tens of millions of dollars (in taxes) from the state."<sup>6</sup> Presidents of Maine educational institutions

have also been vocal in their opposition to the plan, claiming that it will place an undue economic burden on students and adversely affect the affordability of college.<sup>7</sup> The Maine Independent College Association also released a statement that "[t]hese institutions are a major industry in many localities, create significant local economic activity, and provide cultural benefits to their communities" and that "[w]ithout the property tax exemption, Maine private nonprofit educational institutions would be placed at a competitive disadvantage with other states' institutions."<sup>8</sup> The Maine Association of Nonprofits has also opposed the budget, issuing guidance on its Web site that included a breakdown of "why nonprofit organizations are tax-exempt and why it makes sense



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to preserve these tax-exemptions,”<sup>9</sup> and lists one of its 2015 legislative priorities as opposition to any policies that unnecessarily increase nonprofit business costs. Its stance is that “[n]onprofits earn their property tax exemption by alleviating some of the burdens of government and by improving our communities.”<sup>10</sup> The association also released in January a polished report detailing the positive economic and social impacts of the Maine not-for-profit sector.<sup>11</sup>

Overall, if Gov. LePage’s tax reforms are successful, they would mark a national turning point on the issue of real property tax exemption for not-for-profits. The lessons learned on both sides in this battle will be instructive should New York ever consider making changes to its real property tax policies. □

(Endnotes)

1 2016-2017 State of Maine Biennial Budget Briefing, January 9, 2015, Governor Paul R. LePage, <http://www.maine.gov/budget/documents/2016-2017StateofMaineBiennialBudgetBriefing.pdf>.

2 2016-2017 State of Maine Biennial Budget Briefing, January 9, 2015, Governor Paul R. LePage, <http://www.maine.gov/budget/documents/2016-2017StateofMaineBiennialBudgetBriefing.pdf>.

3 Main Gov. LePage Wants to Tax Big Nonprofits, The Wall Street Journal, Jennifer Levitz, January 23, 2015.

4 Main Gov. LePage Wants to Tax Big Nonprofits, The Wall Street Journal, Jennifer Levitz, January 23, 2015.

5 LePage’s Tax Reform Plan Rattles Maine Towns, Nonprofits, Press Herald, Kevin Miller, <http://www.pressherald.com/2015/01/12/governors-tax-reform-plan-rattles-towns-nonprofits/>.

6 LePage’s Tax Reform Plan Rattles Maine Towns, Nonprofits, Press Herald, Kevin Miller, <http://www.pressherald.com/2015/01/12/governors-tax-reform-plan-rattles-towns-nonprofits/>.

7 Maine College Officials Question LePage Plan to Allow Communities to Tax Large Nonprofits, Bangor Daily News, Beth Brogan, January 12, 2015, <http://bangordailynews.com/2015/01/12/politics/state-house/maine-college-officials-question-lepage-plan-to-allow-communities-to-tax-large-nonprofits/>.

8 Maine College Officials Question LePage Plan to Allow Communities to Tax Large Nonprofits, Bangor Daily News, Beth Brogan, January 12, 2015, <http://bangordailynews.com/2015/01/12/politics/state-house/maine-college-officials-question-lepage-plan-to-allow-communities-to-tax-large-nonprofits/>.

9 Maine Association of Nonprofits, <http://www.nonprofitmaine.org/about-nonprofits/nonprofit-faqs/reasons-for-tax-exemption/>.

10 Maine Association of Nonprofits Web site, <http://www.nonprofitmaine.org/blog/2015-legislative-priorities/>.

11 Adding Up Impact: Maine Nonprofits at Work, January 2015, <http://www.nonprofitmaine.org/wp-content/uploads/Adding-Up-Impact-2015-for-web.pdf>.

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