

NONPROFIT ORGANIZATIONS

MARCH

A L E R T

2015

## REPRIEVE GRANTED TO PHILADELPHIA TAX-EXEMPT PROPERTY OWNERS

*By Noel A. Fleming and Joyce C. Sun*

### Introduction

In response to an overwhelming outcry from the Philadelphia nonprofit community, the Philadelphia Office of Property Assessment (OPA) has extended to June 1, 2015 the filing deadline for nonprofits to certify that they continue to qualify for real estate tax exemption for properties they own in Philadelphia. The OPA also recently reported on its website that it has eliminated the requirement for nonprofit organizations to provide most of the documentation that it had previously requested be provided as part of the certification process.

However, even broader relief may be on the horizon. On March 26, 2015, City Council passed a bill introduced by Councilwoman Jannie Blackwell that would completely eliminate the current certification requirement mandating that nonprofit organizations annually certify their eligibility for property tax exemption. Mayor Nutter has ten days to veto or sign the bill. If he does neither, the bill will become law without further action.

### Annual Certification Requirement

In June 2013, Philadelphia City Council passed an ordinance amending The Philadelphia Code to require Philadelphia tax-exempt property owners to annually file with the OPA a sworn statement certifying: (i) that they continue to qualify as purely public charities; (ii) the charitable purposes

for which their tax-exempt properties are being used; and (iii) the portion of the exempt properties that are being used for those charitable purposes. The ordinance also gave the OPA the authority to request that tax-exempt property owners provide various documents to support their continued eligibility for property tax exemption.

In mid-February 2015, the OPA sent letters to approximately 6,500 tax-exempt property owners in Philadelphia requiring them to complete a two-page certification form and provide a laundry list of supporting documentation by **March 31, 2015** or risk losing their property tax exemption beginning January 1, 2016. The list of supporting documentation the OPA requested included:

- A copy of the organization's Articles of Incorporation and Bylaws (including all amendments)
- A copy of the organization's IRS 501(c)(3) letter of determination
- The organization's most recent income and expense statement and current statement of assets and liabilities
- A statement of all fundraising activities conducted by the organization
- A copy of any leases entered into by the organization for space at the subject property

- A copy of the recorded deed

Because of the OPA's onerous filing requirements and the potential draconian results for noncompliance, there was a huge backlash from the Philadelphia nonprofit community. Largely as a result of this backlash, City Council held hearings on February 27, 2015, at which time two bills were introduced to address the nonprofit community's concerns. As noted above, Councilwoman Blackwell's bill would eliminate the requirement for nonprofits to annually certify their continuing eligibility for property tax exemption. A "competing" bill introduced by Councilman David Oh (and which we believe has since been tabled) would have reduced the annual certification requirement to once every three years and extended the due date for responding to the OPA until June 30, 2015.

Perhaps in response to these bills, the OPA appears to have adopted a middle ground approach by extending the current response due date to June 1, 2015 and requiring nonprofit organizations to submit only a copy of their IRS 501(c)(3) determination letter in addition to completing the two-page certification form.

### **Conclusion**

While it is unclear whether Mayor Nutter will sign Councilwoman Blackwell's bill in its current form (since it would essentially eviscerate the June 2013 ordinance that established the annual certification requirement), we understand that the Mayor may be willing to compromise by reducing the certification requirement to once every three years and vastly reducing the number of supporting documents that would need to be filed. However, even if Mayor Nutter exercises his veto right, because City Council passed the bill by a vote of 16-0, and only 12 votes are required to override a veto, it appears as though the bill has a good chance of being successful. Whatever the final outcome, the one thing that is clear at the moment is that Philadelphia nonprofit owners of tax-exempt property are not required to respond to the OPA's certification request until at least June 1, 2015.

The Schnader Nonprofit Group will continue to monitor this developing issue and will provide additional reports as new developments occur. ♦

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*For more information about Schnader's Nonprofit Organizations group, or to speak with a member of the firm, please contact:*

*Marla K. Conley*  
Co-Chair, Nonprofit Organizations Practice Group  
215-751-2561  
[mconley@schnader.com](mailto:mconley@schnader.com)

*Cynthia G. Fischer*  
Co-Chair, Nonprofit Organizations Practice Group  
212-973-8175  
[cfischer@schnader.com](mailto:cfischer@schnader.com)

*Noel A. Fleming*  
215-751-2444  
[nfleming@schnader.com](mailto:nfleming@schnader.com)

*Joyce C. Sun*  
215-751-2303  
[jsun@schnader.com](mailto:jsun@schnader.com)

*Joseph E. Lundy*  
215-751-2525  
[jlundy@schnader.com](mailto:jlundy@schnader.com)

*Molly Sharbaugh Unterseher*  
215-751-2517  
[munterseher@schnader.com](mailto:munterseher@schnader.com)