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Real Property Tax Uncertainty Remains for New Jersey Not-for-Profit Hospitals

Real property tax uncertainty remains for New Jersey not-for-profit hospitals in the wake of Gov. Christie's pocket veto of S3299/A4903 (the Bill). The Bill was the New Jersey Legislature's response to the New Jersey Tax Court's decision this past year in *AHS Hospital Corp., d/b/a Morristown Memorial Hospital v. Towns of Morristown*, 28 N.J. 456 (Tax Ct. 2015).[1] The Bill would have required the owner of an acute care not-for-profit hospital to make an annual "community service contribution" to the municipality where the hospital was located based on a formula of "$2.50 a day for each licensed bed" in the hospital in the prior tax year. The annual community service contribution for a satellite emergency care facility was $250 per day.

According to the Senate Budget and Appropriations Committee Report:

> [T]his bill maintains the property tax exempt status of a nonprofit hospital with for-profit medical providers on site as long as the hospital remains organized as a nonprofit institution under State law, and requires nonprofit hospitals to, in lieu of property taxes, pay an annual community service contribution to their host municipalities. The clarified property tax exemption under the bill extends to the portions of hospital property used for medical purposes, and the community service contributions are required to be used to offset the costs of public safety services, such as police and fire safety services, or to reduce the property tax levy.

The Bill also would have allowed an owner "required to remit the community service contribution" to apply to the New Jersey Health Care Facilities Financing Authority for a certificate exempting the owner from the payment of the community service contribution if the owner was "in financial distress or at risk of being in financial distress." The Bill did not define "financial distress."

With no legislative guidance, many uncertainties (and likely additional costs for legal and other expert valuation services) remain for both not-for-profit hospitals and municipalities. All parties will be looking to assert and defend their positions regarding the extent of the applicable exemption as well as the valuation and assessment of the nonexempt portions of the hospitals' properties. Indeed, the examination of whether a hospital is tax-exempt will continue to be an analysis based on the factual circumstances of how each hospital is organized and conducts its operations.

[1] See Day Pitney Alert, *New Jersey Tax Court Invalidates Hospital's Tax Exemption*, June 29, 2015.

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