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& Taxation v. N. Balt. Ctr.: A Nonprofit  
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## ***State Dep't of Assessment & Taxation v. N. Balt. Ctr.:***

### **A Nonprofit Organization Not Receiving Significant Private Donations May be Eligible for a Charitable Property Tax Exemption**

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By Ed Biggin

The Court of Appeals of Maryland held that a nonprofit organization which does not receive significant private donations may be eligible for a charitable property tax exemption based on the application of a four-factor balancing test. *State Dep't of Assessment and Taxation v. N. Balt. Ctr.*, 361 Md. 612, 762 A.2d 564 (2000). In so holding, the court reinforced its reluctance to adopt a hard-and-fast, or single-factor charitable donation test for determining whether an institution qualifies for the charitable property tax deduction. *Id.* at 625, 762 A.2d at 571.

North Baltimore Center, Inc., (“NBC”) is a community mental health center operating in Baltimore City. NBC’s mission is to provide counseling and rehabilitative services to mentally ill patients who are indigent. The majority of NBC’s funding comes from the state and federal government. NBC receives less than one percent of its total revenue from private charitable donations.

NBC applied to the State Department of Assessment and Taxation (“SDAT”) for a charitable property tax exemption for its building. The SDAT denied NBC’s application for the tax exemption, relying on the test [enunciated by the

Court of Appeals of Maryland in *Supervisor of Assessments v. Group Health Ass’n*, 308 Md. 151, 517 A.2d 1076 (1986)] for determining whether an organization is charitable. SDAT’s denial was based solely on the fact that NBC had failed to secure significant private donations, a factor that the SDAT found to be dispositive in determining whether an institution or organization is charitable under the *Group Health* test. NBC appealed to the Property Tax Assessments Appeals Board for Baltimore City (“PTAAB”), which affirmed the SDAT’s decision.

The Maryland Tax Court reversed the decision of the PTAAB, holding that the significant private donations factor was not meant to be the dispositive factor in determining whether an organization is charitable for purposes of the charitable property tax deduction. In addition, the tax court held that any decision should be made only after weighing all of the *Group Health* factors.

The SDAT appealed to the Circuit Court for Baltimore City, which affirmed the tax court’s decision. The Court of Special Appeals of Maryland then heard the case and also affirmed the tax court’s decision, reading the *Group Health* test as not “necessarily

requiring significant private donations but as having identified factors to be considered in making what is always a factual determination.”

The court of appeals granted certiorari to settle the conflict among the lower courts concerning how the *Group Health* test should be used to determine whether an organization is “charitable” for purposes of the charitable property tax exemption. *Id.* at 615, 762 A.2d at 566.

The court began its analysis by recognizing that section 7-202(b)(1) of the Tax Property Article of the Annotated Code of Maryland governed this case. *Id.* at 613, 762 A.2d at 564. The statute allows for a charitable property tax exemption “if the property: i) is necessary for and actually used exclusively for a charitable or educational purpose to promote the general welfare of the people of the State, ... and ii) is owned by: 2) a non-profit charitable, fraternal, educational, or literary organization.” *Id.* at 613, 762 A.2d at 565. The issue before the court, therefore, was how to determine the meaning of “charitable” under section 7-202(b)(1). *Id.*

The court continued its analysis by revisiting an earlier

decision that addressed the issue of whether an organization is “charitable” for purposes of the property tax exemption under the predecessor of section 7-202(b)(1). *Id.* at 613-14 (citing *Supervisor of Assessments v. Group Health Ass’n*, 308 Md. 151, 517 A.2d 1076 (1986)). In *Group Health*, the court held that Group Health Association, Inc., a non-profit health maintenance organization (HMO), was not a “charitable organization” for purposes of the property tax exemption. *Id.* at 614-15, 762 A.2d at 565. In its holding, the court declined to establish a hard-and-fast rule regarding the meaning of “charitable” under the statute. Instead, the court stated that a determination of “whether an institution is ‘charitable’ must include a careful examination” of four factors. *Id.* at 616, 762 A.2d at 566. The four factors in the *Group Health* test are: “examination of 1) the stated purpose of the organization, 2) the actual work performed, 3) the extent to which the work performed benefits the community and the public welfare in general and 4) the support provided by donations.” *Id.* (quoting *Group Health*, 308 Md. at 156, 517 A.2d at 1079).

The court of appeals then reviewed its application of the four-factor test to the facts in *Group Health*. *Id.* at 617-18, 762 A.2d at 566-67. The court found that the stated purpose of Group Health was not charitable but rather “to provide health care to its members for a fee.”

*Id.* (quoting *Group Health*, 308 Md. at 160-61). Also, the court found that Group Health’s charitable work is only incidental to its purpose of providing health care to its members. *Id.* Further, the court found that Group Health’s benefit to the community and the public welfare in general was only secondary to the benefit given to its members. *Id.* Finally, the court found that Group Health only receives very small contributions or donations, and “is supported almost entirely by membership fees.” *Id.* at 617, 762 A.2d at 567. Based on the analysis of the four factors, the court concluded that Group Health was not “charitable” for purposes of the charitable property tax exemption under the predecessor of section 7-202(b)(1). *Id.* at 618, 762 A.2d at 567.

The court then reviewed the decision of the tax court in the case at hand based on the four-factor test described in *Group Health*. The court noted with approval the tax court’s reliance on the court of appeals’ statement in *Group Health* “that it was not attempting ‘to establish a hard-and-fast rule as to the meaning of charitable.’” *Id.* at 619, 762 A.2d at 568. The court further stated that the tax court’s reversal of the PTAAB decision was based on a consideration and balancing of the *Group Health* factors. *Id.* at 620, 762 A.2d at 568. The court of appeals then concluded its review by stressing the tax court’s finding that “substantial charitable contributions were not required to meet the *Group Health*

test.” *Id.* at 621, 762 A.2d at 569.

The court then examined the ruling of the court of special appeals, which found that the meaning of “charitable” under section 7-202(b)(1) “did not require significant private donation.” *Id.* at 621 (quoting *State Dep’t of Assessments & Taxation v. N. Balt. Ctr.*, 129 Md. App. 588, 743 A.2d 759, (2000)). The court also emphasized that the court of special appeals did not use a single-factor significant private donation test, but instead applied the four-factor *Group Health* test for determining if an organization is “charitable” for purposes of the charitable property tax exemption. *Id.* at 621-22, 762 A.2d at 569. The court of appeals held that the court of special appeals did not err as a matter of law in affirming the decision of the tax court. *Id.* at 622, 762 A.2d at 570.

The court of appeals concluded its analysis by discussing a series of Maryland cases where the four-factor *Group Health* test was applied. *Id.* at 623, 762 A.2d at 570. Noting that in applying the four-factor test courts had considered the level of charitable donations received by an organization, the court observed that none of the decisions in which the four-factor *Group Health* test was applied “turned on whether, and if so, what level of, private donations are required to qualify for the charitable exemption.” *Id.* Rejecting SDAT’s reliance on the level of charitable donations received by NBC, the court explained that reliance on any one

factor in the *Group Health* test would be inconsistent with the court's refusal to enunciate a hard-and-fast rule for charitable exemptions. *Id.* at 624, 762 A.2d at 571. Instead, because no one factor is intended to be determinative, the trier of fact should apply a balancing test which encompasses each of the *Group Health* factors. *Id.*

The court's decision in *State Dep't of Assessment and Taxation v. N. Balt. Ctr.* clarified the standard for determining whether an organization is "charitable" for purposes of the charitable property tax exemption under Md. Code (1986, 1994 Repl. Vol. 2000 Supp.) section 7-202(b)(1) of the Tax Property Article. The court reaffirmed that the standard is a four-factor balancing test and not a single-factor substantial contribution test. This decision is especially important to organizations in Maryland, such as NBC, because it relieves them of the burden of ensuring that they receive significant private donations in order to qualify for the property tax exemption.