

Memorandum

Date: July 8, 2024

To: County and City Assessors

From: Jon Klockziem, Property Tax Director

Treatment of Exempt Low-Income Residential Rental Property

On March 27, 2024, the Minnesota Supreme Court in [Alliance Housing Inc., et al., v. County of Hennepin](#) upheld a ruling by the Minnesota Tax Court that certain low-income housing properties owned by qualifying non-profit entities are exempt from ad valorem property tax. The ruling affirmed that low-income residential rental properties owned by entities that meet the requirements of an institution of purely public charity (IPPC) in Minnesota Statute 272.02, subdivision 7 are exempt if the mission of the entity is to provide low-income housing.

Low-Income Rental Housing

Previously, the Minnesota Supreme Court's rulings on residential use contained a "plus" factor. In those cases, the IPPC would use the property for residence "plus" some other use. In the [Alliance Housing](#) ruling, the Court stated, "we have never held that residence "plus" some other use is necessary for tax exemption." The Court held that:

"when the very purpose of an IPPC is to own and operate real property in a charitable manner for private residence, the exclusive residential occupancy of the property by the clients of the IPPC does not defeat the constitutional requirement that property be used to further a charitable purpose."

Data on specific ownership structures of qualifying low-income residential properties is not available. Assessors will need to analyze the ownership structure of potentially qualifying properties on a case-by-case basis. A low-income rental property may qualify for the property tax exemption if owned by a sole member LLC where that sole member is a qualifying IPPC. Minnesota Statute 272.02, subdivision 35 requires assessors to treat property owned by a sole member of the LLC as if owned by the member.

M.S. 272.02, subd. 7 specifically contemplates rental housing as a potentially exempt use for an IPPC and requires consideration of six factors. This section provides guidance when reviewing the funding sources for qualification. Nothing in this ruling changes how the IPPC should be reviewed for meeting this requirement:

*(c) In determining whether **rental housing property qualifies for exemption** under this subdivision, the following are not gifts or donations to the owner of the rental housing:*

(1) rent assistance provided by the government to or on behalf of tenants; and

(2) financing assistance or tax credits provided by the government to the owner on condition that specific units or a specific quantity of units be set aside for persons or families with certain income characteristics.

Implications for Tenants of Low-Income Rental Housing

With the determination that these properties may qualify for exemption, assessors must consider the implications for tenants of any low-income housing that has applied for, and been granted, exemption. The Court in *Alliance* stated the application of Minnesota Statute 273.19 and whether tenants of tax-exempt property are liable for personal property taxes was not considered because it was not properly before the court. Statute provides specific criteria for the taxation of otherwise exempt properties used by private individuals in M.S. 273.19, subd. 1:

*"tax-exempt property held under a lease for a term of at least one year, and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, **shall be considered, for all purposes of taxation, as the property of the person holding it.**"*

M.S. 273.19 subd. 1a further clarifies leases that meet this requirement as:

*"A lease has a "term of at least one year" if the term is for a period of less than one year and **the lease permits the parties to renew the lease without requiring that similar terms for leasing the property will be offered to other applicants or bidders through a competitive bidding or other form of offer to potential lessees or users.**"*

Because of this language, assessors will need to review leases in otherwise exempt low-income housing properties to determine if the lease or rental agreements would require a personal property tax account to be created. Statute is clear that temporary or short-term housing provided by a qualifying IPPC would not put the exemption at risk. However, more permanent, long-term housing will require more diligent review. This includes both leases over a year and those that meet the criteria in M.S. 273.19 subd. 1a where similar terms are not offered to other potential tenants (such as six-month leases with the option to renew before being offered to other tenants). Assessors may request lease information as part of the exemption application review and approval process to determine which tenants meet the requirements of M.S. 273.19.

As this decision came after the 2024 assessment date and after the statutory deadline for new exempt applications, any personal property tax statements that are required should be prepared starting with the assessment year 2025 for taxes payable 2026. Only personal property taxes related to manufactured homes are assessed and payable in the same year.

The requirements of M.S. 273.19 must be considered for all otherwise exempt property that is leased to a non-exempt person or entity. The department will continue to review this topic and provide guidance as necessary.

Classification and Valuation of Units Subject to Personal Property Tax

In situations where a unit has been determined to be subject to personal property tax per M.S. 273.19, the unit must be valued at market value and not the leasehold value pursuant to M.S. 273.11, subd. 1.

As the leasehold interest is personal property subject to general property tax, M.S. 273.13, subd. 1 requires the unit to be classified independently. As with all property, the classification determination is done prior to any consideration for exemption. In the case of units subject to a personal property tax, this will likely be 4a, 4b(1), or 4bb(1). The statutory language of M.S. 273.19, subd. 1 “shall be considered, **for all purposes of taxation**, as the property of the person holding it” does not provide the actual ownership required for homestead consideration. Therefore, the unit would not be eligible for 1a. It would also not qualify as 4d(1) since the tenant is receiving and not providing qualifying low-income rental housing.

Like required personal property tax statements, any changes to the classification of rental units meeting the requirements of M.S. 273.19 following the *Alliance* decision should be completed starting with the 2025 assessment date.

Reapplication Requirements

Currently, the department has determined that the exempt application requirements for IPPCs would also cover low-income rental properties and be on the same three-year cycle as other qualifying properties pursuant to M.S. 272.025. However, due to the potential for frequent changes to rental tenants, assessors may consider annual requests of the necessary information to determine the tax treatment of units within a tax-exempt building.

Renter’s Property Tax Refund

This ruling may also impact the qualifications for the Renter’s Property Tax Refund for certain renters in properties that now qualify for property tax exemption. Questions related to refunds should be directed to (651) 296-3781 or by visiting [Renter’s Property Tax Refund | Minnesota Department of Revenue \(state.mn.us\)](#).

Questions?

If you have questions about this memo contact proptax.questions@state.mn.us.