

VETERAN'S SERVICE ORGANIZATION (VSO) PROPERTY TAX ISSUE

Presentation to the interim Joint Committee on State Government Aug. 22, 2019
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* BACKGROUND

Veteran's Service Organizations (VSOs) such as the Veterans of Foreign Wars, the American Legion, AMVETS and many others serve a vital function in assisting active military, veterans and their families, and also contribute substantially to non-veteran community services such as youth groups, police and first responders, homeless shelters, high school patriotic programs and many others. There are 36,200 members in Kentucky among the three largest VSOs.

VSOs are recognized by the IRS as not-for-profit 501(C)(19) organizations and do not pay federal income tax. They qualify annually for this when they submit their Form 990 tax returns to show their public support activities as detailed in the IRS rules.

* THE PROBLEM

However VSOs who own their own property and buildings do pay Kentucky state and local county and city property taxes. For many organizations these property taxes have become increasingly burdensome and, in some cases, threatening their very ability to continue operations.

Section 170 of the Kentucky Constitution states that certain groups are exempt from taxation such as institutions of religion, education, cemeteries and "Institutions of Purely Public Charity." "Public charity" is nowhere defined in Kentucky laws or regulations, although it is in Federal IRS rules. (IRS Pub. 3386).

Past efforts by Kentucky VSOs applying for exemption under this clause have been denied because the determination is very subjective. In 2018 Representative DJ Johnson pre-filed BR 7 for the 2019 legislative session which would exempt VSOs from property tax if they could show that the majority of their net revenue was donated to charitable causes. That bill became HB 153 sponsored by Rep. Walker Thomas, Tim Moore and others. It did not make it out of the Appropriations Committee in the short 2019 legislative session.

* SOLUTIONS

Representative Bratcher has pre-filed BR 127 for the 2020 legislative session. That bill would amend the constitution to include property owned by VSOs as exempt from property taxation if they qualify for exemption under federal law. That would require 60% passage in the House and Senate and a vote on the 2020 general election Ballot.

We have been advised by the attorney at KDVA that there are other methods of accomplishing our goal that would not require a constitutional amendment, but would simply change some language in existing law stating that a VSO that donates 50% or more of its net revenue to charitable causes is a "purely public charity" and therefore eligible for exemption. We are investigating those options.

* IMPACT ON REVENUE TO THE STATE AND COUNTIES/CITIES if BR127 PASSES

The following numbers are preliminary estimates based on information gathered to date. They will be refined in the weeks to come, but we believe they are accurate to plus or minus 10%.

Local county PVAs collect property taxes and a portion of this is passed on to the state.

STATE

Loss to the state from all the three largest VSOs combined (VFW, Legion, AMVETS)....
\$25,000-\$30,000

Rationale: If all VSO property in the state is valued at \$20,000,000 (highly unlikely)
 $\$20,000,000 \times 0.122$ per \$100 assessed value = **\$24,400 loss**

COUNTIES AND CITIES

Loss to all counties and cities combined in the state.....**\$250,000 to \$300,000 loss**

Impact to counties and cities will vary widely depending on the assessed value of the VSO property in their jurisdiction. They range from \$43,000 in one of the largest tax districts to a range of a few hundred dollars to \$8,000 with a median of around \$4,000 to counties statewide.