ISSUE GUIDE

What's the Issue?

CITY

Payments in Lieu of Taxes (PILOTs)

Background:

Laws in all 50 states provide property tax exemptions for nonprofits[1]. The idea behind states providing nonprofit exemptions on real estate, "business income" and other taxes is that such organizations provide immensely valuable services that should be nurtured but that the for-profit sector is not likely to provide. Growing at a faster rate than business, the nonprofit sector is also a major employer. Nonprofit organizations are exempt from many taxes, but in municipalities like New York City that have income taxes, the employees of nonprofits do provide estimable revenue to those municipalities.

Still, some assert that the nonprofit sector can impose fiscal hardships on cities. Though not receiving tax income on properties owned by nonprofits, municipalities still need to pay to provide these nonprofits with public services like police, fire protection and street maintenance. For cities heavily reliant on the property tax, the exemption of nonprofits from property taxation means that homeowners and businesses bear a greater share of the property tax burden. The challenge is particularly acute in cities where there have been losses in manufacturing and other businesses and where institutions like hospitals and universities are an increasingly large share of the property owning base[2].

New York City is not one of those cities. In 2013, only 27 percent of New York City's revenues came from property taxes (this is a bit lower compared to other major cities in the United States) and, while the city has many large property holding universities, hospitals, cultural organizations nonprofit housing organizations and other institutions, it maintains a healthy balance of for-profit property ownership. Some institutions, especially educational institutions, have been expanding their property significantly in New York City. But looking at the total number of nonprofit real estate tax exemptions, there has not been a significant increase because other nonprofits have been selling property and still others have lost their exemptions.

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[1] The exemption applies only to nonprofits recognized as "charities" registered as 501(c)3 organizations. Other organizations like trade associations, chambers of commerce, unions, credit unions, and the like do not qualify for property tax exemptions. Churches are also exempt from property taxes, but are generally not the targets of PILOTs.

[2] Properties owned by the state and federal government also are not subject to real estate taxes. The United Nations properties and the properties owned by foreign governments and used as diplomatic housing/embassy buildings are also exempt, according to a 2nd U.S. Circuit Court of Appeals decision of 2010.

Nationwide, the value of exempt property owned by nonprofits accounts for 8.4 percent of total property value. In NYC, property owned by nonprofits[3] was valued at $43.3 billion in 2013. The Urban Institute estimates (2009) that *nationally*, property tax revenues forgone due to the charitable exemption was roughly 4 to 8 percent of total property taxes. According to the New York City Independent Budget Office, the $43.3 billion owned by nonprofits represents 4 percent of all property in the City.[4] In NYC, forgone tax revenue from nonprofit institutions, according to NYC IBO, was $1.725 billion in 2013. Property taxes collected in 2013 were $18.969 billion. Taxes forgone on nonprofits were 9.1 percent of what where actually collected in property taxes, but that forgone amount would only be 2.5% of the $68.7 billion the Bloomberg Administration budgeted to spend in 2013.

Some local leaders have recently floated the idea of Payments in Lieu of Taxes (PILOTs) for property owning nonprofits in New York City. PILOTs are payments made "voluntarily" by tax-exempt nonprofits as a substitute for property taxes. Since 2000, they have been used in at least 177 municipalities in at least 18 states. According to the Urban Institute, while PILOTs have rarely brought in more than 1 percent of total revenues, the dollar value can be quite large. Boston, which has been the most aggressive municipality in developing its PILOT program, is bringing in $17.4 million in additional revenues (which is only .73% of its $2.4 billion annual budget).

The PILOTs issue concerns not just the relatively few philanthropic organizations that own the buildings in which they do their work, but all donors who are concerned about equitable government revenue generation and the fiscal health of nonprofit organizations.

Arguments FOR:	**Arguments AGAINST:**
In some instances, nonprofit organizations occupy such a large amount of land that even a modest PILOT could offset significant lost tax revenues[5].	PILOTs implemented in other municipalities have not generated anywhere near the revenue that would match the value of taxes that would have been levied on exempt properties. Instead of squeezing nonprofit organizations for revenue, the City might consider other methods to produce greater revenue or target other, less desirable activities. (i.e. NYC's Comptroller estimated legalizing and taxing marijuana would yield $431 million annually)

[3] These are properties exempt under section 420-a and 420-b of the state real property tax law that provide exemptions of nonprofit status and include educational, medical, charitable, cultural and other nonprofit organizations.

[4] Some large nonprofits in NYC are housed in city-owned property (such as Metropolitan Museum of Art and Natural History Museum) and the value of their buildings is not included in the $43.3 billion cited above.

[5] Nonprofits also receive exemptions on payments for water and sewer fees in the City.

Arguments FOR:	Arguments AGAINST:
Some of the largest nonprofit property owners – hospitals, universities and cultural institutions – are huge revenue generating “businesses” that are nearly indistinguishable in form and function from their for-profit counterparts, and therefore should pay the same taxes to support essential city services they use.	All nonprofit organizations—including nonprofit hospitals, nonprofit schools and universities, and cultural institutions – must demonstrate that they offer benefits to communities that would most likely not be provided through local government and collected tax revenue in order to maintain their nonprofit status. Forcing nonprofits that provide valuable community benefits – even if they appear similar to other for-profit entities – to provide PILOTs may compromise their effectiveness and ability to fulfill their charitable missions.
PILOTs are technically voluntary since state laws prohibit property taxation on nonprofits, so large property-holding nonprofits that use significant city services can make these payments in good conscience.	In cities where PILOTs have been sought, agreements with individual nonprofits have required considerable negotiations and have produced highly idiosyncratic payment agreements. A 2010 study published by the Lincoln Institute of Land Policy found that PILOTs "are often haphazard, secretive, and calculated in an ad hoc manner that results in widely varying payments among similar nonprofits."
With the number of nonprofits growing rapidly and manufacturing decreasing, New York City may, like other cities, face the danger of not producing adequate revenues because of the exemption for nonprofits.	The City’s time and resources would be better spent working to increase business and manufacturing in the city rather than targeting nonprofits, which, while growing in numbers, are not sizably increasing the percentage of property holdings in the City.
In New York City, nonprofits are also exempt from garbage collection, water and sewer fees. If not PILOTs, some form of “user fees” might be appropriate for nonprofits to pay to contribute more to cost of the City services they consume.	When the Bloomberg Administration put forth a plan in 2012 to charge nonprofits for garbage collection, Human Services Coalition president Michael Stoller said “this amounts to a service cut” because the payments would deplete nonprofit budgets. The proposal met with vehement opposition from many nonprofit and City Council leaders and did not advance any further.

Arguments FOR:	Arguments AGAINST:
Even though PILOTs might not bring in a high proportion of revenue to the city budget, the dollars that might accrue from payment agreements with some of the largest universities and hospitals could represent a significant amount of dollars.	The City could pursue more creative methods of utilizing the assets that universities and hospitals represent. For example, Yale University's contribution to the city of New Haven includes paying a stipend for Yale employees buying homes in the city, redeveloping several blocks of the city's retail center and funding an organization that taps New Haven's civic resources to tackle its social problems. New York City's large nonprofit property owning institutions could be engaged in similar ways that might be even more valuable contributions than PILOTs.
The charitable property tax exemption can be thought of as an unfunded state mandate: it is granted at the state level but local municipalities bear the cost in in the form of forgone property tax revenues.	Instead of PILOTs, the City could pursue reimbursements from the State. In Connecticut, for example, the law calls for the state to make grants to local governments that host tax-exempt colleges, universities and hospitals equal to 77 percent of the property taxes those institutions would pay if they were taxable. Rhode Island law calls for grants to municipalities equal to only 27 percent of the property taxes forgone, but applies this to a wider range of nonprofits.

Philanthropy New York's Position:

Philanthropy New York has not taken an official position on this issue.

We recognize that our membership may have widely varying views on this issue. The Public Policy Committee of Philanthropy New York is tracking the issue, but has not yet recommended taking a position.

We are generally supportive of the work of the National Council of Nonprofits, the president of which has spoken out against PILOTs: "Nonprofits earn their tax-exempt status every day through the work they already do in the community. In exchange for doing public good, we already give up a lot, including any profits, privacy and partisan politics."

Check out these additional information sources:

Payments in Lieu of Taxes: Balancing Municipal and Nonprofit Interests - The Lincoln Institute of Land Policy
The Property Tax Exemption for Nonprofits and Revenue Implications for Cities – The Lincoln Institute of Land Policy, Urban Institute
The Nonprofit Property Tax Exemption: Who Benefits, Who Pays, and by How Much? – George Washington University Center on Nonprofits and Philanthropy and Urban Brookings Tax Policy Center
Understanding New York City's Budget: A Guide – New York City Independent Budget Office
Distribution of the Burden of New York City's Property Tax – The Furman Center for Real Estate & Urban Policy
Taxes, Fees, and PILOTs (Payments in Lieu of Taxes) – National Council of Nonprofits
How Nonprofits Can End Up Becoming a Drain on City Budgets – The Atlantic Cities
N.Y. Plans to Impose Trash-Service Fee on Nonprofits – Chronicle of Philanthropy

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