

# **Bond Case Briefs**

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## **TAX - NEW YORK**

### **In re Brookdale Physicians' Dialysis Associates, Inc.**

**Supreme Court, Appellate Division, First Department, New York - December 3, 2019 - 178 A.D.3d 443 - 113 N.Y.S.3d 691 - 2019 N.Y. Slip Op. 08636**

Building owner, which was a not-for-profit healthcare fund, and for-profit healthcare provider brought article 78 petition to annul determination by city department of finance denying application for exemption from real property taxation.

The Supreme Court, New York County, found building qualified for tax-exempt status and granted petition, denying finance department's cross-motion to dismiss petition. Finance department appealed.

The Supreme Court, Appellate Division, held that use of nonprofit healthcare fund's building by for-profit lessee for dialysis was reasonably incident to fund's purpose.

Use of building owned by not-for-profit healthcare fund and leased to for-profit healthcare provider was reasonably incident to fund's purpose of funding its affiliated hospital and nursing institute, and, thus, building qualified for tax-exempt status, where for-profit provider provided dialysis services in building to patients of hospital and nursing institute at little to no direct cost to not-for-profit healthcare affiliates, dialysis provider was staffed exclusively by employees of hospital, majority of dialysis patients were referred by hospital and nursing institute, and fund placed profits from rent receipts back into healthcare affiliates.