

01-1340
PROPERTY TAX
TAX YEAR: 2001
SIGNED: 07-22-2002

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER	:	
	:	Initial Hearing Decision and Order
Petitioner,	:	
	:	Appeal No. 01-1340
v.	:	
	:	Parcel No. #####- 1 & #####- 2
Board of Equalization of RURAL	:	
County, Utah,	:	Tax Type Property Tax
	:	
Respondent.	:	Tax Year 2001

Presiding:
Marc B. Johnson, Commissioner

Appearances:
For Petitioner: PETITIONER REP. 1, Program Director and PETITIONER REP. 2,
CFO
For Respondent: RESPONDENT REP., Legal Counsel

STATEMENT OF THE CASE

Petitioner brings this appeal from a decision of the RURAL County Board of Equalization. This matter was argued in an Initial Hearing on March 27, 2002.

ISSUE

The issue pending in this appeal is whether Petitioner's property in RURAL County is exempt from ad valorem tax due to its use for charitable or educational purposes.

APPLICABLE LAW

All tangible property in the state, not exempt under the laws of the United States, or under this Constitution, shall be taxed in proportion to its value, to be ascertained as provided by law. However, property of a non-profit association used exclusively for either religious, charitable, or educational purposes is exempt from taxation. Utah States Constitution, Art. XIII, Sec. 2 and Utah Code Ann. §59-2-1101 (2) (d).

Generally, tax exemptions are strictly construed and all doubts are resolved against the exemption, and the burden of proof is on the party claiming the exemption. See, e.g., Corporation of Episcopal Church v. Utah State Tax Commission, 919 P.2d 556 (Utah 1996); County Board of Equalization of Salt Lake County v. Utah State Tax Commission, 927 P.2d 176 (Utah 1996); and Howell v. County Board of Equalization of Cache County v. Utah State Tax Commission, 881 P.2d 880 (Utah 1994). However, the Utah Supreme Court has ruled that statutes exempting property used for charitable purposes should be construed more liberally than those exempting property used for gain or profit. Friendship Manor Corp. v. Tax Comm'n., 487 P.2d 1272 (Utah 1971). The more liberal standard applies to charitable property because the private charitable organization presumably relieves the state of the burden of providing the service at public expense. Id.

In determining whether property is used for charitable or educational purposes, the nonprofit character of the corporation claiming the exemption is essential, but it is only one factor to be considered. Also to be considered for charitable purposes is whether the service provided is one that the state has an obligation to provide and whether the organization bestows a gift on the community.

DISCUSSION

Petitioner (PETITIONER) is a 501(c)(3) non-profit organization. PETITIONER offers (WORDS REMOVED). (SENTENCE REMOVED) The articles of incorporation state that “[t]he particular purposes and objectives of the corporation are exclusively educational and charitable.” The bylaws identify a board of trustees and an education committee with the responsibilities of “examining the course content . . . to insure that such courses are in conformity with the mission of the School as the School seeks to achieve its educational goals.” Petitioner provides financial aid for individuals who lack financial resources to pay for the courses.

Respondent argues against exemption on two grounds. First, the County contends that the requirement for relieving the burden of government, applied to charitable institutions, should be extended to educational organizations. Some case law from other states was provided to support this position. These cases appear to apply to conservation clubs and organizations that provided training, rather than actual educational and training organizations. Respondent also quoted from “Educational, Religious, and Other Like Associations, Institutions, and Organizations” in 71 Am Jur. 2d State and Local Taxation § 362 (1973), which states:

The fundamental ground upon which the exemption is based is the benefit conferred upon the public by such institutions and the consequent relief, to some

extent, of the burden imposed on the state to care for and advance the interest of its citizens.

Second, Respondent argues that the educational exemption must be applied only to “traditional” educational activities. In support of this position, Respondent cites the Property Tax Division’s Property Tax Standards of Practice, 2.16.9, *Educational Purpose*, which states that traditional education benefits the general public and lessens government’s burden.

In 1998 the Commission issued a decision from an initial appeal TAXPAYER v. Board of Equalization of RURAL County, 98-053, on a similar issue for a similar taxpayer. In fact, according to testimony, that organization (TAXPAYER) was a spinoff from the Petitioner. In that decision the Commission found the property of TAXPAYER to be exempt for educational purposes. The Commission reaffirms its position. The only limitation on the education exemption provided in law is exclusivity. Respondent’s references to case law outside Utah, and to the Property Tax Division’s Standards of Practice, notwithstanding, the Commission finds no basis to restrict the exemption beyond that provided by law. Respondent has not shown, nor do they contend, that PETITIONER is not an educational institution. Further, Respondent has made no showing that Petitioner’s property is used for anything other than educational purposes.

The Commission finds that the requirements for offering a gift to the community or for lessening a governmental burden apply specifically to charitable purposes. The Court applied these standards only in cases where a charitable exemption was being sought. It is apparent that the Court set these parameters in order to distinguish charity from other non-profit uses. There is obviously no need to apply them for religious uses, and we see no compelling reason to apply the standards to educational uses. Nor do we find any requirement for, much less a definition of, “traditional” education as a qualification for exemption.

DECISION AND ORDER

On the evidence and testimony presented, the Commission finds that Petitioner fulfills the requirements for property tax exemption on the basis that the property is used exclusively for educational purposes. All property owned by Petitioner and used exclusively for its educational mission is exempt from property tax.

BY ORDER OF THE COMMISSION:

DATED this _____ day of _____, 2002.

Marc B. Johnson
Commissioner

The undersigned Commissioners have reviewed this matter and concur in this decision.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Palmer DePaulis
Commissioner

NOTICE OF APPEAL RIGHTS: This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become final unless a party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. The written request must include the appeal number and the above captioned case name, and it must be delivered to the Tax Commission Appeals Unit, 210 North 1950 West, Salt Lake City, Utah 84134. Failure to timely request a Formal Hearing will preclude any further appeal rights in this matter.