
**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

In the matter of:

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| HORIZON CHRISTIAN FELLOWSHIP) | Petition for Review of Exemption, Form 132 |
| OF INDIANAPOLIS,) | |
|) | Petition No: 49-407-06-2-8-03805 |
| Petitioner,) | |
|) | County: Marion |
| v.) | |
|) | Township: Lawrence |
| MARION COUNTY PROPERTY) | |
| TAX ASSESSMENT BOARD) | Parcel No: 4006306 |
| OF APPEALS,) | |
|) | Assessment Year: 2006 |
| Respondent.) | |

Appeal from the Final Determination of the
Marion County Property Tax Assessment Board of Appeals

October 2, 2007

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

Findings of Fact and Conclusions of Law

Issue

1. The issue presented for consideration by the Board was:
Whether the Petitioner is entitled to an exemption under Ind. Code § 6-1.1-10-16 even though the Petitioner failed to timely file the exemption application.

Procedural History

2. On October 12, 2006, Horizon Christian Fellowship of Indianapolis (“Petitioner”) filed a Form 136, Application for Property Tax Exemption, for property located at 7524 Indian Lake Road, Indianapolis. The Form 136 shows the year filing for to be 2006. *Ex. C.*
3. On April 27, 2007, the Marion County Property Tax Assessment Board of Appeals (“PTABOA”) issued the Form 120, Notice of Action on Exemption Application. The PTABOA disallowed the exemption because the Petitioner did not timely file the application for the March 1, 2006, assessment date. The PTABOA also noted the Petitioner purchased the property on May 31, 2006. *Ex. B.*
4. On May 25, 2007, the Petitioner filed a Form 132, Petition for Review of Exemption, petitioning the Board to conduct an administrative review of the above petition. The Form 132 petition shows the year on appeal as March 1, 2006. *Ex. A.*

Matters of Record

5. The following items are officially recognized as part of the record of proceedings:
Exhibit A – Form 132 petition filed May 31, 2007.
Exhibit B – Form 120, Notice of Action on Exemption Application, dated April 27, 2007.
Exhibit C – Form 136, Application for Property Tax Exemption, signed October 9, 2006.
Exhibit D – Warranty Deed executed May 31, 2006.

Jurisdictional Framework

6. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible personal property; (2) property tax deductions; or (3) property tax exemptions; that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

Discussion of Issue

Whether the Petitioner is entitled to an exemption under Ind. Code § 6-1.1-10-16 even though the Petitioner failed to timely file the exemption application.

7. On the Form 132 petition, the Petitioner admits it “missed the filing deadline” and “did not file the application for exemption on time.” *Ex. A.*

8. The PTABOA disallowed the exemption stating that the Petitioner did not file the application timely pursuant to Ind. Code § 6-1.1-11-3(a). In addition, the PTABOA noted the Petitioner purchased the property on May 31, 2006. *Ex. B.*

9. The applicable rules governing this issue are:

Ind. Code § 6-1.1-10-16(a)

All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes.

Ind. Code § 6-1.1-11-1

An exemption is a privilege that may be waived by a person who owns tangible property that would qualify for the exemption. If the owner does not comply with the statutory procedures for obtaining an exemption, he waived the exemption. If the exemption is waived, the property is subject to taxation.

Ind. Code § 6-1.1-11-3(a)

An owner of tangible property who wishes to obtain an exemption from property taxation shall file a certified application in duplicate with the county assessor of the county in which the property that is the subject of the exemption is located. The application must be filed annually on or before May 15 on forms prescribed by the department of local government finance.

Indiana C.A.P. Directors Association v. Department of Local Government Finance, 797 N.E. 2d 878 (Ind. Tax 2003)

“CAP, not having received a tax exemption for the previous year, filed its application seeking a tax exemption for the 1998 tax year on April 28, 1999. CAP was required to file its application by May 15, 1998. As a result, CAP’s exemption application was properly denied.”

10. Evidence considered particularly relevant to this determination include the following:

- a. The Form 136 application was filed with the county assessor on October 12, 2006. *Ex. A.* The application shows the year filing for as 2006. *Ex. C.*
- b. In order to obtain an exemption for the 2006 year, the Petitioner was required to file the exemption application on or before May 15, 2006. Ind. Code § 6-1.1-11-3(a). The Petitioner filed the exemption application approximately five months after the required due date.
- c. If the owner does not comply with the statutory procedures for obtaining an exemption, the exemption is waived and the property is subject to taxation. Ind. Code § 6-1.1-11-1.
- d. The PTABOA denied the exemption application for the March 1, 2006, assessment date because the application was not timely. *Ex. B.*
- e. The Form 132 petition shows the assessment date under appeal to be March 1, 2006. *Ex. A.* The Petitioner admits it missed the filing deadline and did not file the application for exemption on time. *Ex. A.*

Analysis of the Issue

11. The Petitioner filed a Form 136 application for property tax exemption on October 12, 2006. In order to claim an exemption for 2006, the Form 136 application was required to be filed on or before May 15, 2006.
12. The statute is clear; an owner who wishes to obtain an exemption shall file an application on or before May 15 of the year for which the exemption is desired. If the owner does not comply with the statutory procedures for obtaining an exemption, he waives the exemption. The Petitioner failed to file the exemption application on or before May 15, 2006, therefore, the Petitioner has waived the exemption for 2006.
13. In *Indiana C.A.P. Directors Association v. Department of Local Government Finance*, 797 N.E.2d 878 (Ind. Tax 2003), the Tax Court found that the State Board properly denied CAP's exemption application. CAP was seeking an exemption for the 1998 tax year, but did not file until April 28, 1999.

Summary of Final Determination

Whether the Petitioner is entitled to an exemption under Ind. Code § 6-1.1-10-16 even though the Petitioner failed to timely file the exemption application.

14. The Board cannot grant any relief to the Petitioner. The statutes and case law are very clear. The Petitioner admits it failed to timely file the exemption application. By failing to comply with the statutory procedures for claiming an exemption, the Petitioner has waived the exemption. For the reasons herein, the Board hereby dismisses the above referenced petition.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>