

**STATE OF INDIANA  
Board of Tax Review**

CHRIST MISSIONARY ECONOMICAL TRAINING CENTER, INC.,	) On Appeal from the Marion County ) Property Tax Assessment Board ) of Appeals
Petitioner,	)
	)
v.	) Petitions for Review of Assessment ) Form 132
	)
MARION COUNTY PROPERTY TAX ASSESSMENT BOARD OF APPEALS,	) Petition Nos. 49-101-00-2-8-13657 ) 49-101-00-2-8-13658 ) 49-101-00-2-8-13659 ) 49-101-00-2-8-13660 ) 49-101-00-2-8-13661 ) 49-101-00-2-8-13662 ) 49-101-00-2-8-13663 ) 49-101-00-2-8-13664 ) 49-101-00-2-8-13665
	)
Respondent.	) Parcel Nos. See attachment. )

**Findings of Fact and Conclusions of Law**

On January 1, 2002, pursuant to Public Law 198-2001, the Indiana Board of Tax Review (IBTR) assumed jurisdiction of all appeals then pending with the State Board of Tax Commissioners (SBTC), or the Appeals Division of the State Board of Tax Commissioners (Appeals Division). For convenience of reference, each entity (the IBTR, SBTC, and Appeals Division) is hereafter, without distinction, referred to as "State". The State having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

## Issue

Whether the land and improvements owned by Christ Missionary Economical Training Center, Inc., (Christ Missionary) qualifies for property tax exemption pursuant to Ind. Code § 6-1.1-10-16 for educational and charitable purposes.

## Findings of Fact

1. If appropriate, any finding of fact made herein shall also be considered a conclusion of law. Also, if appropriate, any conclusion of law made herein shall be considered a finding of fact.
2. Pursuant to Ind. Code § 6-1.1-11-3, Christ Missionary filed an application for property tax exemption with the Marion County Property Tax Assessment Board of Appeals (PTABOA) on May 14, 2001. The PTABOA denied the application on June 22, 2001, and gave Christ Missionary proper notice of denial.
3. Pursuant to Ind. Code § 6-1.1-11-7, Christ Missionary filed Form 132 petitions seeking a review of the PTABOA action by the State. The Form 132 petition was filed July 18, 2001.
4. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on October 24, 2001, before Hearing Officer Alyson Kunack. Testimony and exhibits were received into evidence. Reverend M. B. Girton, Sr. and Steven R. Hall, attorney, were present on behalf of Christ Missionary; Melissa Tetrick, Exemption deputy for Marion County, and Andrew P. Seiwert, attorney, represented Marion County.
5. At the hearing, the subject Form 132 petition and attachments were made part of the record and labeled Board Exhibit A. The Notice of Hearing on Petition was labeled Board Exhibit B. In addition, the following items were received into evidence:

Petitioner Exhibit 1- Packet of information regarding subject property including:

(a) financial statements, (b) background information; (c) list of activities; (d) correspondence with Bank One; (e) policies and procedures for the ice cream parlor; (f) plat of the subject; (g) renovation proposal with articles of incorporation

Respondent Exhibit 1 – *National Association of Miniature Enthusiasts v. State Board of Tax Commissioners*, 671 N.E. 2d 218 (Ind. Tax 1996)

Respondent Exhibit 2 – case history for *LeSea Broadcasting Corp. v. State Board of Tax Commissioners*, 525 N.E. 2d 637 (Ind. Tax 1988).

6. The subject property consists of nine parcels located in the 2900 block of Dr. Martin Luther King Jr. Street, Indianapolis, Indiana, Marion County, Center Township.
7. The Hearing Officer did not view the property.

### **Administrative Proceedings**

8. The subject property was purchased by Christ Missionary Baptist Church in April of 1988. Originally constructed as a strip mall with an auto service center, the subject property had been empty for about ten years when purchased. The Church purchased the property with a loan provided by Bank One, and renovated and refurbished the structure. *Girton Testimony. Petitioner's Exhibit 1(b)(d)(g)*.
9. As set up and run by the Church, the center provides a variety of services to the area. A low-cost Laundromat, senior daycare, and thrift shop are all contained within the center, and staffed by Church volunteers. In addition, there is also a restaurant and an ice cream parlor, which is operated as a youth training/

outreach program. *Girton Testimony. Petitioner's Exhibit 1(c)(e)*.

### **Conclusions of Law**

1. The State is the proper body to hear an appeal of the action of the PTABOA pursuant to Ind. Code § 6-1.1-15-3.

#### **A. Burden In General**

2. The courts have long recognized that in the administrative review process, the State is clothed with quasi-judicial power and the actions of the State are judicial in nature. *Biggs v. Board of Commissioners of Lake County*, 7 Ind. App. 142, 34 N.E. 500 (1893). Thus, the State has the ability to decide the administrative appeal based upon the evidence presented.
3. In reviewing the actions of the County Board (or PTABOA), the State is entitled to presume that its actions are correct. "Indeed, if administrative agencies were not entitled to presume that the actions of other administrative agencies were in accordance with Indiana law, there would be a wasteful duplication of effort in the work assigned to agencies." *Bell v. State Board of Tax Commissioners*, 651 N.E. 2d 816,820 (Ind. Tax 1995).
4. It is a fundamental principle of administrative law that the burden of proof is on the person petitioning the agency for relief. 2 Charles H. Koch, Jr., *Administrative Law and Practice*, § 5.51; 73 C.J.S. Public Administrative Law and Procedure, § 128
5. Where a taxpayer fails to submit evidence that is probative evidence of the error alleged, the State can properly refuse to consider the evidence. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E. 2d 1113, 1119

(Ind. Tax 1998)(citing *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1239, n. 13 (Ind. Tax 1998)).

6. If the taxpayer is not required to meet his burden of proof at the State administrative level, then the State would be forced to make a case for the taxpayer. Requiring the State to make such a case contradicts established case law. *Phelps Dodge v. State Board of Tax Commissioners*, 705 N.E. 2d 1099 (Ind. Tax 1999); *Whitley, supra*; and *Clark, supra*.
7. To meet his burden, the taxpayer must present probative evidence in order to make a prima facie case. In order to establish a prima facie case, the taxpayer must introduce evidence “sufficient to establish a given fact and which if not contradicted will remain sufficient.” *Clark*, 694 N.E. 2d at 1233; *GTE North, Inc. v. State Board of Tax Commissioners*, 634 N.E. 2d 882, 887 (Ind. Tax 1994).
8. In the event a taxpayer sustains his burden, the burden then shifts to the local taxing officials to rebut the taxpayer’s evidence and justify its decision with substantial evidence.

### **B. Property Tax Exemption**

9. Generally, all property in the State is subject to property taxation. Ind. Code § 6-1.1-2-1.
10. Article 10, § 1 of the Indiana Constitution reads:
  - (a) The General Assembly shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property real and personal. The General Assembly may exempt from property taxation any property in the following classes:

(1) Property being used for municipal, educational, literary, scientific, religious, or charitable purposes.

11. Article 10, § 1 of the Constitution is not self-enacting. The Indiana General Assembly must enact legislation granting exemption. Ind. Code § 6-1.1-10-16 is the provision enacted by the General Assembly for the exemption of property owned, occupied and used for the above stated purposes in general. It reads in pertinent part:

(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, or charitable purposes.

12. The justification for tax exemption is the public benefit. *State Board of Tax Commissioners v. Wright* (1966), 139 Ind. App. 370, 215 N. E. 2d 57. The purpose of tax exemption, whether for religious or other classification, is to insure that the property and funds devoted to one public benefit are not diminished by being diverted through taxation for another public benefit. *Id.*

13. The grant of tax exemption releases property from the obligation of bearing its share of the cost of government and disturbs the equality and distribution of the common burden of government upon all property. *St. Mary's Medical Center of Evansville, Inc. v. State Board of Tax Commissioners*, 534 N.E. 2d 277, 280 (Ind. Tax 1989), *aff'd.*, 571 N.E. 2d 1247 (Ind. 1991). The grant of tax exemption shifts the tax burden to others or results in the loss of tax revenue. *NAME*, 671 N.E. 2d at 220.

14. Accordingly, exemptions are strictly construed against the organization seeking exemption and in favor of taxation. *Id.* at 220; *Indiana Association of Seventh-Day Adventists v. State Board of Tax Commissioners*, 512 N.E. 2d 936, 938,

(Ind. Tax 1987). A taxpayer seeking exemption bears the burden of proving that it is entitled to exemption. *NAME*, 671 N.E. 2d at 220 (citing *Monarch Steel Co., Inc. v. State Board of Tax Commissioners*, 611 N.E. 2d 708, 714 (Ind. Tax 1993)). As a condition precedent to being granted an exemption for charitable or educational purposes, the taxpayer must demonstrate that it provides "a present benefit to the general public...sufficient to justify the loss of tax revenue." *St. Mary's Medical Center*, 534 N.E. 2d at 279.

15. In determining whether the property qualifies for exemption, the predominant and primary use of the property controls. *NAME*, 671 N.E. 2d at 220, (citing *Fort Wayne Sports Club*, 258 N.E. 2d at 881 and *Indianapolis Elks Buildings Corp. v. State Board of Tax Commissioners*, 251 N.E. 2d 673, 679 (Ind. App. 1969)).
16. The use of the property for exempt purpose is the minimum requirement for exemption, but the General Assembly may add other requirements when enacting exemption statutes. *Sangralea Boys Fund, Ind. v. State Board of Tax Commissioners*, 686 N.E. 2d 954, n. 2 (Ind. Tax 1997).

### **C. Conclusions Regarding the Exemption Claim**

17. Christ Missionary seeks property tax exemption under Ind. Code § 6-1.1-10-16, claiming educational and charitable purposes.
18. Before exploring the question of whether Christ Missionary meets the requirements set forth under Ind. Code § 6-1.1-10-16, the State must first determine whether Christ Missionary statutorily complied with the requirements and limitations regarding the filing of the exemption application set forth under Ind. Code § 6-1.1-11.

19. Christ Missionary requests the application be granted despite failing to meet the statutory filing date established under Ind. Code § 6-1.1-11-3 to achieve an exemption from property taxes for the taxes due and payable in 2000. The State must decline the Petitioner's request that the statutory requirement be ignored.
20. Property taxes that are assessed and imposed for a year are due and payable in two equal installments the following year. (Ind. Code § 6-1.1-22-9.) Thus, property taxes that become due and payable in 2000 were assessed and imposed in 1999.
21. To repeat, an application for property tax exemption must be filed in the same year that property tax exemption is sought. Therefore, if Christ Missionary wished to have exemption from the property taxes assessed and imposed in 2000, then Christ Missionary was required to file an application for exemption on or before May 15, 2000. However, Christ Missionary filed an application for exemption in May 2001 requesting property tax exemption for property taxes assessed and imposed in 2000. Thus the application for exemption was filed after the statutory deadline to achieve property tax exemption for the taxes assessed and imposed in 2000.
22. Again, an exemption is a privilege that may be waived if the owner of the property does not comply with the statutory procedures for obtaining an exemption. Christ Missionary did not comply with the statutory filing date set forth under Ind. Code § 6-1.1-11-3 and -3.5 and has waived property tax exemption for the year 2000. As such, property tax exemption is denied and the subject property is wholly subject to property taxation for the year 2000 with the property taxes due and payable in 2001.
23. Finally, the State will not examine the merits of the case or explore the charitable or educational nature of Christ Missionary in the matter before it today. As stated in the above findings, Christ Missionary did not comply with the statutory



procedures pertaining to the application for exemption. As such, the exemption has been waived and must be denied without delving into the issue of whether Christ Missionary is entitled to exemption pursuant to the cited statute.

The above stated findings and conclusions are issued in conjunction with, and serve as the basis for, the Final Determination in the above captioned matter, both issued by the Indiana Board of Tax Review this \_\_\_\_ day of \_\_\_\_\_, 2002.

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Chairman, Indiana Board of Tax Review