

**State of Indiana  
Board of Tax Review**

Charlestown Hospital, Inc. d.b.a. The	)	On Appeal from the Clark County Board
Medical Center of Southern Indiana &	)	of Review
The City of Charlestown,	)	
	)	
Petitioner,	)	
	)	Petition for Review of Exemption, Form 132
v.	)	
	)	
	)	Petition No. 10-009-92-2-8-00022
Clark County Board of Review,	)	Parcel No. 18-43-24 & Personal Property
	)	
Respondent.	)	

**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 real and personal property owned by the City of Charlestown and leased to the Charlestown Hospital d.b.a. Medical Center of Southern Indiana is exempt from property taxation pursuant to Ind. Code § 6-1.1-10-5.

## 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 also be considered a finding of fact.
  
2. Pursuant to Ind. Code § 6-1.1-11-3, the Medical Center of Southern Indiana (Medical Center), on behalf of the City of Charlestown (City), filed an Application for Property Tax Exemption, Form 136 with the Clark County Auditor. The Form 136 was filed on May 14, 1992. The Clark County Board of Review (County Board) denied the application and gave the Medical Center notice on June 23, 1992.
  
3. Pursuant to Ind. Code § 6-1.1-15-3, the Medical Center filed a Form 132 petition seeking a review by the State. The Form 132 petition was filed July 20, 1992.
  
4. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on July 6, 1994, before Hearing Officer Jim Cornwell. Neither party was represented at the hearing.
  
5. At the hearing, the subject Form 132 Petition was made a part of the record as Board Exhibit A and the Notice of Hearing was marked as Board Exhibit B.
  
6. The Medical Center was requested, by mail, to provide information relevant to the exemption. Specifically, the Medical Center was asked to submit a copy of its Indiana State Department of Health License. As a result of this request, the Medical Center provided a copy of its 1994, 1993, and 1992 license issued by the State Department of Health. This information was entered into the record and labeled Petitioner's Exhibit A.
  
7. The real property subject to this appeal consists of 12.6847 acres of land and buildings located at 2200 Market Street, Charlestown, Clark County. This appeal also includes a claim of exemption for personal property. The year for which

exemption is sought is 1992. The Hearing Officer did not view the subject property.

8. The City obtained ownership of the subject property in December 1991 by quitclaim deed from Charlestown Hospital, Inc. (Board Ex. A).
9. The City uses the subject property in the operation of a community hospital and health facility. (Board Ex. A.) The hospital is licensed by the State Department of Health (Pet. Ex. A).
10. Charlestown Hospital, Inc., d.b.a. the Medical Center of Southern Indiana, operates the subject property as a private not-for-profit hospital. (Board Ex. A)
11. Charlestown Hospital, Inc. was organized as a public benefit corporation for the purpose of operating a hospital in Charlestown, Indiana for the benefit of the community and to acquire and operate other hospitals or related facilities to promote health care. (Board Ex. A, Articles of Incorporation.)
12. The Medical Center is licensed by the State Department of Health to conduct and maintain a hospital and home health agency subject to the provisions of Ind. Code § 16-10-1, 410 IAC 15-1, 410 IAC 15-2, 410 IAC 25, and Ind. Code § 16-10-2.2, 410 IAC 17-1.1. (Pet. Ex. A.)
13. According to a note in the County Auditor's Statement section of the Form 132; for the 1992-93 billing year, the real and personal property assessment will be zero because the property is in the City of Charlestown's name. (Board Ex. A)

### **Conclusions of Law**

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

## Burden

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. 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 (Ind. Tax 1998)).
5. If the taxpayer were 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*.
6. 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).

7. In the event the taxpayer sustains his burden, then the burden shifts to the local taxing officials to rebut the taxpayer's evidence and justify its decision with substantial evidence.
8. If the taxpayer fails to meet his burden of proof at the administrative level, the State does not have to support its decision with substantial evidence if that decision is challenged in court. *Whitley*, 704 N.E. 2d at 1116-21.

### **Constitutional and Statutory Basis for Exemption**

9. The General Assembly may exempt from property taxation any property being used for municipal, educational, literary, scientific, religious, or charitable purposes. Article 10, Section 1, of the Constitution of Indiana.
10. Article 10, Section 1 of the Constitution is not self-enacting. The Indiana General Assembly must enact legislation granting exemption. In this appeal, the provisions that are applicable to this case are Ind. Code § 6-1.1-10-5, which provide property tax exemption for property owned by a city and used for a municipal service.
11. In Indiana, use of property by a nonprofit entity does not establish any inherent right to exemption. The grant of federal or state income tax exemption does not entitle a taxpayer to property tax exemption because income tax exemption does not depend so much on how the property is used but on how much money is spent. *Raintree Friends Housing, Inc. v. Indiana Department of Revenue*, 667 N.E. 2d 810 (Ind. Tax 1996)(501(c)(3) status does not entitle a taxpayer to tax exemption). For property tax exemption, the property must be predominately used or occupied for the exempt purpose. Ind. Code § 6-1.1-10-36.3.

## Basis of Exemption and Burden

12. In Indiana, the general rule is that all property in the State is subject to property taxation. Ind. Code § 6-1.1-2-1.
13. The courts of some states construe constitutional and statutory tax exemptions liberally, some strictly. Indiana courts have been committed to a strict construction from an early date. *Orr v. Baker* (1853) 4 Ind. 86; *Monarch Steel Co., Inc. v. State Board of Tax Commissioners*, 669 N.E. 2d 199 (Ind. Tax 1996).
14. Strict construction construes exemption from the concept of the taxpayer citizen. All property receives protection, security, and services from the government, e.g., fire and police protection and public schools. This security, protection, and other services always carry with them a corresponding obligation of pecuniary support – taxation. When property is exempted from taxation, the effect is to shift the amount of taxes it would have paid to other parcels that are not exempt. *National Association of Miniature Enthusiasts v. State Board of Tax Commissioners* (NAME), 671 N.E. 2d 218 (Ind. Tax 1996). Non-exempt property picks up a portion of taxes that the exempt would otherwise have paid, and this should never be seen as an inconsequential shift.
15. This is why worthwhile activities or noble purpose is not enough to justify tax exemption. Exemption is justified and upheld on the basis of the accomplishment of a public purpose. NAME, 671 N.E. 2d at 220 (citing *Foursquare Tabernacle Church of God in Christ v. State Board of Tax Commissioners*, 550 N.E. 2d 850, 854 (Ind. Tax 1990)).
16. The taxpayer seeking exemption bears the burden of proving that the property is entitled to the exemption by showing that the property falls specifically within the statute under which the exemption is being claimed. *Monarch Steel*, 611 N.E. 2d at 714; *Indiana Association of Seventh Day Adventists v. State Board of Tax Commissioners*, 512 N.E. 2d 936, 938 (Ind. Tax 1987).

### **Conclusions Regarding the Exemption Claim**

17. The City seeks property tax exemption claiming the subject property is a hospital. The City specifically noted “Other” on the application and typed in Hospital.
18. Property that is owned by a city or town and is used to provide a municipal service is exempt from property taxation. Ind. Code § 6-1.1-10-5. Municipal services, under Ind. Code § 6-1.1-10-5, include, but are not limited to, public schools, municipally owned parks, swimming pools, *hospitals*, and any other municipally owned property, utility, or institution. Ind. Code § 6-1.1-10-5(b)1 through –3.
19. The evidence in the record leaves no question regarding the ownership and use of the subject property. Clearly, the City owns the subject property and, thereby, satisfies the first requirement under Ind. Code § 6-1.1-10-5. Thus, the question remaining is whether the subject property is used for a municipal service.
20. Again, as stated above, municipal services include hospitals. There is no doubt that the subject property is, in fact, a community hospital and, thereby, meets the second requirement under Ind. Code § 6-1.1-10-5.
21. The City bore the burden of showing that the subject property fell specifically within the exemption statute. The City has met this burden. The City has shown through evidence that it owns the subject property and uses the subject property in the operation of a hospital. As such, the subject property is owned by the City and used for a municipal service.
22. Therefore, for all of the above reasons, the subject property is wholly exempt from property taxation pursuant to Ind. Code § 6-1.1-10-5.

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