

**STATE OF INDIANA  
Board of Tax Review**

TRINITY SCHOOL OF NATURAL HEALTH,	)	On Appeal from the Kosciusko County
	)	Property Tax Assessment Board of
	)	Appeals
Petitioner,	)	
	)	
v.	)	Petition for Review of Exemption
	)	Form 132
KOSCIUSKO COUNTY PROPERTY TAX ASSESSMENT BOARD OF REVIEW,	)	Petition Nos. 43-032-98-2-8-00002
	)	43-033-98-2-8-00001
	)	
	)	Parcel Nos. 004-078-030
Respondent.	)	006-070-107
	)	Real and Personal Property

**Findings of Fact and Conclusions of Law**

The Indiana Board of Tax Review (State Board), as successor to the Appeals Division of the State Board of Tax Commissioners, having reviewed the facts and evidence, and having considered the issues, now makes the following findings of fact and conclusions of law.

**Issue**

Whether the land, improvements, and personal property owned by Trinity School of Natural Health qualifies for property tax exemption pursuant to Ind. Code § 6-1.1-10-16 for educational 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, Trinity School of Natural Health (Trinity) filed an application for property tax exemption with the Property Tax Assessment Board of Appeals (PTABOA) on May 14, 1998. The PTABOA denied the application on January 11, 1999, and gave Trinity proper notice of denial.
3. Pursuant to Ind. Code § 6-1.1-11-7, Trinity filed a Form 132 petition seeking a review of the PTABOA action by the State Board. The Form 132 petition was filed February 8, 1999.
4. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on June 23, 1999, before Hearing Officer Angela Smith Jones. Testimony and exhibits were received into evidence. Vern K. Landis, attorney, and Julie E. Kline, Treasurer of Trinity, represented Trinity. Sue Ann Mitchell represented the PTABOA. Kristy Mayer and Darby L. Davis represented Wayne Township.
5. At the hearing, the subject Form 132 petition was made part of the record and labeled Board Exhibit A. The Notice of Hearing on Petition was labeled Board Exhibit B. A request for additional evidence is labeled Board Exhibit C. In addition, the following exhibits were submitted as evidence:
  - Petitioner Exhibit 1 – Certificate of Incorporation.
  - Petitioner Exhibit 2 – Articles of Incorporation.
  - Petitioner Exhibit 3 – Not-for-profit Tax Registration Certificate.
  - Petitioner Exhibit 4 – Profit and Loss statement for 1998.
  - Petitioner Exhibit 5 – Balance sheet, as of December 31, 1998.
  - Petitioner Exhibit 6 – School Catalog.
  - Petitioner Exhibit 7 – Letter from Wendell W. Whitman, President of School.

Respondent Exhibit A – Article from unknown newspaper titled: “Herbal Solutions.”

Respondent Exhibit B – Minutes from County hearing.

6. The information requested by the Hearing Officer was received on June 28, 1998. The Power of Attorney form and Profit and Loss statement for 1997 is labeled as Petitioner Exhibit 8
7. Parcel Number 004-078-030 is located at 810 S. Buffalo Street, Warsaw, Wayne Township, Kosciusko County, Indiana. Parcel Number 006-070-107 is located at 501 Walnut Street, Winona Lake, Wayne Township, Kosciusko County, Indiana. The Hearing Officer did not view the properties. All real estate and personal property has been determined to be 100% taxable by the PTABOA.

### **Additional Facts**

8. Trinity is a not-for-profit corporation exempt from federal taxation. The building located at 810 S. Buffalo Street is a converted residence, which serves as the office for Trinity. The building located at 501 Walnut Street is also a residence with an office. Dr. George de la Torre lives and works at that residence.
9. Dr. de la Torre is a citizen of Spain and is the Hispanic Director of Trinity School. In the office, Dr. de la Torre grades papers, completes modules, and makes lessons. Dr. de la Torre does not have a license to practice medicine in Indiana.
10. Dr. de la Torre does not do any other work at the residence/office, nor does anyone live with him there. Dr. de la Torre owns a residence in Florida also. No information was provided indicating which state Dr. de la Torre spends most of his time, however testimony indicated he spends the majority of his time in Indiana.
11. Trinity offers a program of study leading to the non-traditional designations of Master Herbalist (M.H.), Certificate of Nutritional Counseling (C.N.C.), and Doctor of Naturalopathy (N.D.). These courses of study are designed to integrate the total person in the health building life style.

12. According to the school's catalog: "Programs of study are for personal enrichment, self-improvement and focus on a pure, unadulterated, natural lifestyle." Petitioner Exhibit 5.
13. Trinity is claiming an exemption under Ind. Code § 6-1.1-10-16, for educational purposes

### **CONCLUSIONS OF LAW**

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

#### **A. Burden**

2. In reviewing the actions of the County Board (or PTABOA), the Appeals Division 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). The taxpayer must overcome that presumption of correctness to prevail in the appeal.
3. 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. See also Ind. Code Section 4-21.5-2-4(a)(10) (Though the State Board is exempted from the Indiana Administrative Orders and Procedures Act, it is cited for the proposition that Indiana follows the customary common law rule regarding burden).
4. Where a taxpayer fails to submit evidence that is probative evidence of the error alleged, the State Board 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)).

5. The taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State Board is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State Board in the untenable position of making the taxpayer's case for him. Second, requiring the taxpayer to meet his burden in the administrative adjudication conserves resources.
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 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. 2 Charles H. Koch, Jr. at §5.1; 73 C.J.S. at § 128. See *Whitley*, 704 N.E. 2d at 1119 (The substantial evidence requirement for a taxpayer challenging a State Board determination at the Tax Court level is not "triggered" if the taxpayer does not present any probative evidence concerning the error raised. Accordingly, the Tax Court will not reverse the State Board's final determination even though the taxpayer demonstrates flaws in it).

## **B. Property Tax Exemptions**

8. 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.

9. Article 10, Section 1, of the State Constitution is not self-enacting. The General Assembly must enact legislation granting the exemption. In this appeal, exemption is claimed under Ind. Code § 6-1.1-10-16 which provides that all or part of a building is exempt from property taxes if it is owned, occupied, and used for educational or religious purposes.
10. For property tax exemption, the property must be predominantly used or occupied for the exempt purpose. Ind. Code § 6-1.1-10-36.3.

### **C. Basis of Exemption and Burden**

11. In Indiana, the general rule is that all property in the State is subject to property taxation. Ind. Code § 6-1.1-2-1.
12. 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).
13. 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*, 671 N.E. 2d 218 (Ind. Tax 1996) (*NAME*). Non-exempt property picks up a portion of taxes that the exempt property would otherwise have paid, and this should never be seen as an inconsequential shift.
14. This is why worthwhile activities or noble purpose is not enough for 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)).

15. 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).
16. As a condition precedent to being granted an exemption under the educational purpose clause of the statute, the taxpayer must demonstrate that it provides “a present benefit to the general public . . . sufficient to justify the loss of tax revenue.” *NAME*, 671 N.E. 2d at 221 (quoting *St. Mary’s Medical Center of Evansville, Inc. v. State Board of Tax Commissioners*, 534 N.E. 2d 277, 279 (Ind. Tax 1989), *aff’d* 571 N.E. 2d 1247 (Ind. 1991)).

#### **D. Exemption for Educational Purposes**

17. For purposes of an educational exemption, the term “education” is not restricted to academic curricula or to ivy covered halls. *State Board of Tax Commissioners v. Fort Wayne Sport Club*, 147 Ind. App. 129, 258 N.E. 2d 874 (1970).
18. To qualify for an education purpose exemption, Trinity must show that it “provides at least some substantial part of the educational training which would otherwise be furnished by our tax supported schools.” *NAME*, 671 N.E. 2d at 221 (quoting *Fort Wayne Sport Club*, 147 Ind. App. at 140, 258 N.E. 2d at 882).
19. “An educational exemption is available to taxpayers who provide instruction and training equivalent to that provided by tax supported institutions of higher learning and public schools because to the extent such offerings are utilized, the state is relieved of its financial obligation to furnish such instruction.” *NAME*, 671 N.E. 2d

at 222 (quoting *Fort Wayne Sport Club*, 147 Ind. App. at 140, 258 N.E. 2d at 881-82).

20. It is clear that Trinity offers courses and degrees. In the final analysis, however, it must be determined whether the curriculum offered by Trinity qualifies as an exempt activity, for educational purposes, pursuant to Ind. Code § 6-1.1-10-16.
21. Trinity is required to affirmatively show that its activities provide educational training that would otherwise be furnished by tax supported schools. The evidence does not show that the educational training provided by Trinity is training that would otherwise be provided by public schools and thus, relieve a government obligation.
22. Offering courses solely for the personal enrichment and self-improvement of students is not relieving a burden of the government. Trinity did not show how the public would benefit from the granting of an exemption from property taxes. For the reasons set forth above, Trinity's exemption claim is denied on both parcels. All land, improvements, and personal property is determined to be 100% taxable.

Issued this \_\_\_\_ day of \_\_\_\_\_, 2002  
By the Indiana Board of Tax Review