

**STATE OF INDIANA  
Board of Tax Review**

ST. JOSEPH MISHAWAKA HEALTH SERVICES, INC.	) On Appeal from the St. Joseph County Board of Review
	)
Petitioner,	)
	)
v.	) Petition for Review of Exemption, Form 132
	)
ST. JOSEPH COUNTY PROPERTY BOARD OF REVIEW	) Petition No. 71-023-94-2-8-00084*
	) Parcel No. 16-1050-2192
	)
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 property owned by St. Joseph Mishawaka Health Services, Inc. qualifies for property tax exemption pursuant to Ind. Code § 6-1.1-10-16 under a claim of charitable purpose.

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\* The petition number has been updated. The original petition number was 94-712-84.

## **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, St. Joseph Mishawaka Health Services, Inc. (Petitioner) filed an Application for Property Tax Exemption, Form 136, with the St. Joseph County Auditor. The Form 136 was filed on May 9, 1994. The St. Joseph County Board of Review (County) denied the application and gave the Petitioner notice on August 26, 1994.
  
3. Pursuant to Ind. Code § 6-1.1-15-3, the Petitioner filed a Form 132 petition seeking a review by the State. The Form 132 petition was filed September 7, 1994.
  
4. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was scheduled for June 11, 1996 before Hearing Officer Carolyn Ives. Neither party appeared at that hearing. At the request of the Petitioner, the hearing was rescheduled and held on July 11, 1996. Neither the Petitioner nor the County appeared at the hearing.
  
5. The Form 132 petition with attachments was labeled as Board Exhibit A. The original Notice of Hearing was marked as Board Exhibit B. The request from the Petitioner to reschedule the hearing was marked as Board Exhibit C and the second Notice of Hearing was marked as Board Exhibit D.
  
6. The real property is identified as Lot 5 Lincoln Gardens Realty, 1st Add, Mishawaka, Indiana, and the improvement is said to be a physician clinic.

## Conclusions of Law

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

## Burden

2. 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).
3. A taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State is an impartial adjudicator and relieving the taxpayer of his burden of proof would place the State 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.
4. To meet its 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 v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1233 (Ind. Tax 1998); *GTE North, Inc. v. State Board of Tax Commissioners*, 634 N.E. 2d 882, 887 (Ind. Tax 1994).

## Constitutional and Statutory Basis for Exemption

5. 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.

6. Article 10, Section 1 of the Constitution is not self-enacting. The Indiana General Assembly must enact legislation granting exemption. In this appeal, the Petitioner seeks exemption under Ind. Code § 6-1.1-10-16, which provides that property is exempt from property taxation if it is owned, used, and occupied for educational, literary, scientific, religious, or charitable purposes.
7. 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**

8. In Indiana, the general rule is that all property in the State is subject to property taxation. Ind. Code § 6-1.1-2-1.
9. 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).
10. 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.

11. 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)).
12. 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**

13. The Petitioner filed an Application for Property Tax Exemption seeking exemption for the real property used as a physician clinic.
14. As noted previously, the Petitioner has the responsibility of presenting evidence showing that the subject property expressly meets the requirements set forth under Ind. Code § 6-1.1-10-16 and, thereby, qualifies for property tax exemption.
15. The Form 132 petition is denied for the failure of the Petitioner to show that the subject property meets the requirements of Ind. Code § 6-1.1-10-16. Therefore, the real property is 100% taxable.

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