

98-0503

TAX TYPE: LOCALLY ASSESSED PROPERTY

TAX YEAR: 9/28/1998

COMMISSIONERS: R. MCKEOWN, J. PACHECO, P. HENDRICKSON

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	ORDER	
Petitioner,)		
v.)	Appeal No.	98-0503
)	Parcel No.	#####
)		
BOARD OF EQUALIZATION OF)	Tax Type:	Property Tax/Locally Assessed
COUNTY-1,)		
UTAH,)	Presiding:	Phan
)		
Respondent.)		

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: REPRESENTATIVE-1 FOR PETITIONER, Co-Manger PETITIONER CITY-1 Division
REPRESENTATIVE-2 FOR PETITIONER, PETITIONER NAME OF SCHOOL Director

For Respondent: RESPONDENT-1, COUNTY-1 Commissioner
RESPONDENT-2, COUNTY-1 Commissioner
RESPONDENT-3, COUNTY-1 Commissioner
RESPONDENT-4, COUNTY-1 Assessor

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on September 28, 1998. Petitioner is appealing Respondent's disallowance of the property tax exemption for real and personal property used in educational purposes pursuant to Utah Code Ann. §59-2-1101(2)(d). The tax year at issue is 1998.

Petitioner is a non-profit corporation, exempt from federal income tax under 501(c)(3) of the Internal Revenue Code. Its Articles of Incorporation indicate that no one would benefit personally from its assets on dissolution. It is run by a Board of Trustees and has no shareholders. Petitioner operates an international school teaching outdoor and wilderness skills. The school has branch locations world wide. One branch operates the subject property which is located in COUNTY-1, near CITY-1, Utah. This property is 30 acres of unirrigated pasture with a metal and frame building which contains an area for gear storage, office space, a library, showers and kitchen. The County's assessed value for the real property is \$\$\$\$\$. The personal property was assessed at approximately \$\$\$\$\$.

Although the subject property branch is only a few years old, Petitioner has been operating its school for over 30 years. It's literature indicates that it is a school and not a tourist or vacation operation. Courses last 12 to 30 days. From their outlines the courses appear to be highly structured educational experiences. Students have the option of obtaining credit and a letter grade for courses through the University of Utah. All other participants receive a grade like evaluation. One course taught at the subject property is the (X) Course which is thirty days long. As stated in the course literature the objective is to have the course graduates be "capable of responsibly leading groups of novices through education experiences on wilderness waters." Although, the courses taught are not the traditional educational courses¹ such as reading or mathematics, they do provide

¹Both the Utah Code and the Utah Constitutional provide for a property tax exemption for

knowledge such as increased wilderness safety and environmental protection. In addition the University of Utah finds the courses sufficiently educational in nature such that it gives college credit for the courses.

In its literature Petitioner indicates that financial aid and scholarships are available. In 1997 eleven percent of Petitioner's revenue came from donations. Seventy-eight percent of revenue came from tuition and fees. From Petitioner's 1997 school report 4% of its total expenses went to outreach programs, although these outreach programs did not take place in COUNTY-1.

APPLICABLE LAW

Certain properties are exempt from property tax. Utah Code Ann. §59-2-1101 (2) provides:

The following property is exempt from taxation: . . . (c) property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes.

property used "exclusively for . . . educational purposes." The Utah Tax Administration Standards of Practice, Sec. 14.6, limit the exemption further to "institutions used to provide services equivalent to traditional public education." This Commission can find no support in the law or case law for this narrow definition and does not apply the definition as the Standards can not limit an exemption from what was granted by the Utah Constitution and Legislature.

DECISION AND ORDER

After review of the information presented at the hearing and the law and case law² in this matter the Commission determines that Petitioner fulfills the requirements for property tax exemption.

Based on the foregoing, it is the order of the Utah Tax Commission that the subject real and personal property be given the exemption for property used exclusively for educational purposes for the 1998 tax year.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

² The Commission could find no prior Commission or judicial decisions that dealt directly with the educational purposes property tax exemption. However, the Courts have expressed the view that the three exemptions listed in Utah Code Ann. §59-2-1101(2)(d) should be treated similarly. The Utah Supreme Court stated in Corporation of the Episcopal Church in Utah v. Utah State Tax Comm'n et. al., (1996), "Recognizing that each exemption is rooted in the same policy concerns, this Court has always treated the three exempt categories similarly." Citing Benevolent & Protective Order of Elks v. Tax Comm'n, 53 P.2d 1214, 1217 (Utah 1975).

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Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of _____, 1998.

Jane Phan
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this _____ day of _____, 1998.

Richard B. McKeown
Chairman

Joe B. Pacheco
Commissioner

Pam Hendrickson
Commissioner