

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE: INTERNATIONAL CONGRESS OF CHURCHES)	HAMILTON COUNTY
AND MINISTERS)	
PROPERTY ID: 148KA00211)	
)	
CLAIM OF EXEMPTION)	APPEAL NO. 67588

INITIAL DECISION AND ORDER

Statement of the Case

This is an appeal pursuant to T.C.A. § 67-5-212(b)(5) from the initial determination revoking the exemption of the subject property from ad valorem taxation. The State Board of Equalization (“State Board”) on May 11, 2016 determined there was probable cause to revoke the property tax exemption of the subject property. In their letter, State Board Executive Secretary, Kelsie Jones, notified the applicant, International Congress of Churches and Ministers (hereinafter, “ICCM”), that their previously approved exemption has been revoked and that the revocation should be applied retroactively to June 4, 2012. ICCM, contesting the revocation of their exemption, timely filed this appeal before an Administrative Law Judge.

The undersigned Administrative Judge conducted a hearing of this matter on September 9, 2020, in Chattanooga, Hamilton County, Tennessee. ICCM was represented by their attorneys, Gary Henry and R. Wayne Peters. The Hamilton County Assessor of Property’s Office was represented by the assistant General Counsel from the State Comptroller’s office, John Sharpe (hereinafter, “Assessor’s Office”).

Summary of Evidence

The following was submitted as an exhibit by the appellant, Exhibit 1- the Initial Decision and Ordered issued on December 13, 2013, Exhibit 2- the May 26, 2016 notice of revocation of exemption status from the State Board, Exhibit 3- state filed charter of the Church Management and Tax Conference, Exhibit 4- the May 26, 1994 letter from the Internal Revenue Service, Exhibit 5- the warranty deed for the subject property, Exhibit 6- the October 10, 2014 letter from the Internal Revenue Service, Exhibit 7- photographs of the subject property and of it being used, Exhibit 8- ICCM event flyer, Exhibit 9- photograph of banner used on Sunday mornings, Exhibit 10- ICCM church calendar, Exhibit 11- Leastman's business card, and Exhibit 12- Leastman's termination letter. The following witnesses testified at the hearing: Herman Chitwood- President of ICCM, Roma Hamby- a volunteer and member of ICCM, and Ronnie Shaw- a member of ICCM.

Findings of Fact and Conclusions of Law

The subject property is located at 6425 Lee Highway, Chattanooga, Hamilton County, Tennessee. The property was acquired by the appellant on June 4, 2012.

The procedural history of this case is as follows:

- 07/06/12- ICCM filed for tax exempt status on the subject property
- 04/13/13- State Board denied the ICCM application
- 04/30/13- the State Board decision was affirmed by Administrative Law Judge
- 11/13/14- the State Board conducted a site visit to the subject property
- 05/12/15- the State Board granted exemption and applied to 06/04/12
- 05/11/16- ICCM notified of probable cause to remove exemption

Article II, section 28 of the Tennessee Constitution permits, but does not require, the legislature to exempt from taxation property which is “held and used for purposes purely religious, charitable, scientific, literary, or educational.” Tenn. Code Ann. §67-5-212(a)(1) provides that:

There shall be exempt from property taxation the real and personal property, or any part of the real or personal property, owned by any religious, charitable, scientific or nonprofit educational institution that is occupied and actually used by such institution or its officers purely and exclusively for carrying out one (1) or more of the exempt purposes for which the institution was created or exists. There shall further be exempt from property taxation the property, or any part of the property, owned by an exempt institution that is occupied and actually used by another exempt institution for one (1) or more of the exempt purposes for which it was created or exists under an arrangement in which the owning institution receives no more rent than a reasonably allocated share of the cost of use, excluding the cost of capital improvements, debt service, depreciation and interest, as determined by the board of equalization.

In Tennessee, contrary to most other states, property tax exemptions are liberally construed in favor of religious, charitable, scientific, and nonprofit educational institutions. *See, e.g., Youth Programs, Inc. v. State Board of Equalization*, 170 S.W.3d 92 (Tenn. Ct. App. 2004). Nonetheless, as the party appealing from the initial determination on its application for exemption, the appellant has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(2).

In the original application for exemption that was filed on July 6, 2012, it was determined by the State Board that the subject property did not qualify for tax exemption due to the subject property not being used for religious purposes. After a site visit was conducted by the State Board and their attorneys, the State Board’s initial determination denying tax exempt status was reversed and tax exempt status was granted and applied retroactively to June 4, 2012.

On May 11, 2016, the State Board through their executive secretary notified the ICCM by letter that there was probable cause to revoke the previously granted tax exemption based on

statements provided to them by persons familiar with the ICCM's use of the subject property.¹ The allegations that led to the revocation include the following: 1) the only regular worship uses of the property were from April to August, 2015, 2) property use agreements prohibit ICCM from employing external markings or signage of church use, 3) the property has been used regularly by non-church as well as church organizations for events and conferences, 4) ICCM principal, Michael Chitwood, or others acting on his behalf a) employed ICCM staff to promote and facilitate non-church fee and non-generating events; b) instructed ICCM staff to install church trappings temporarily to convince Board staff during their visit that the property was used for regular worship services; c) instructed ICCM staff to delete non-church events from a listing provided to Board staff in support of ICCM's claim of exempt use; and d) instructed ICCM staff to execute a false affidavit concerning the non-church uses of property.

At the hearing, the President of ICCM, Herman Chitwood (hereinafter, "Chitwood"), testified that the ICCM was a federally recognized 501(c)(3) charitable organization and that the property is used for conferences and other church purposes. Chitwood testified among the activities conducted on the subject property are worship services and church functions by Celebration Church, fellowship lunches provided every Sunday, Bible school classes conducted every Monday night, and religious conferences held every year. He also testified that only church related groups can use the property and they are only charged to reimburse costs such as security, cleaning, etc. Chitwood also testified that the setup staged for the November 13, 2014 State Board inspection was to demonstrate how the church would look on a normal Sunday for regularly scheduled services and not staged in any way to deceive members of the State Board conducting the inspection.

¹ Exhibit 2

The Assessor's Office, through their attorney, relied on the State Board's previously stated reasons for revoking the ICCM's tax exemption status including that the ICCM does not qualify due to the subject property being used for non-religious purposes.

The State Board in their May 11, 2016 letter determining there was probable cause to revoke the taxpayer's exemption status stated that they relied on persons familiar with ICCM's uses of the subject property. The Board's allegations appear to be based on statements obtained from Meredith Leastman, a former employee who was terminated in August 2015.² ICCM through its witnesses and evidence responded to each of the allegations raised by the Board in their letter in the following manner.

Only regular worship uses of the property were from April to August 2015

Chitwood testified that regular services were held there every Sunday, which was corroborated by witnesses, Roma Hamby and Ronnie Shaw, who are each members of the church.

1. Property use agreements prohibit ICCM from employing external markings or signage of church use

There was no evidence or testimony introduced to support this allegation.

2. The property has been used regularly by non-church as well as church organizations for events and conferences

There was no evidence introduced to support this allegation. Indeed, the only evidence regarding its non-church use was introduced by the taxpayer and it involved the use of the property by Ms. Leastman without the knowledge of the ICCM staff and for her own benefit.

3. ICCM principal, Michael Chitwood, or others acting on his behalf a) employed ICCM staff to promote and facilitate non-church fee and non-generating events; b) instructed ICCM staff to install church trappings temporarily to convince Board staff during their visit that the property was used for regular worship services; c) instructed ICCM staff to delete non-church events from a listing provided to Board staff in support of ICCM's claim of exempt use;

² Ms. Leastman did not appear at the hearing nor was an affidavit submitted on her behalf.

and d) instructed ICCM staff to execute a false affidavit concerning the non-church uses of property

There was no evidence introduced to support any of the aforementioned allegations regarding Mr. Chitwood to direct staff to act in a way to deceive the State Board regarding church activities.

With regard to Ms. Leastman’s allegations against ICCM, I find them to be not credible and unfounded. Further the State Board’s reliance on this former disgruntled employee’s unsubstantiated and unreliable statements as the basis to revoke the tax exemption status of ICCM to be troubling. Indeed, it appears from the testimony and evidence that Ms. Leastman was using the subject property for her own personal benefit and after being terminated for her deception intended to get back at the church with these unproven allegations. Further, the financial documentation provided at the hearing, I believe demonstrates that the subject property is being used for the religious purposes intended for continuation of their tax exempt status.³

Order

It is, therefore, ORDERED that the taxpayers tax exemption status is to remain in effect.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with

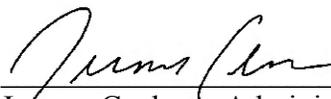
³ The taxpayer also requested attorney fees to be awarded in this matter, however, there is no authority to award attorney fees in this matter.

the Executive Secretary of the State Board and that the appeal “**identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order**”; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

The result of this appeal is final only after the time expires for further administrative review, usually seventy-five (75) days after entry of the Initial Decision and Order if no party has appealed.

Entered this 11th day of December 2020.



Jerome Cochran, Administrative Judge
Tennessee Department of State
Administrative Procedures Division
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Ave., 8th Floor
Nashville, Tennessee 37243

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing Order has been mailed or otherwise transmitted to:

Int'l Congress of Churches and Ministries
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Hamilton County Assessor
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This the 11th day of December 2020.



Janice Kizer
Department of State
Administrative Procedures Division