SUPREME COURT OF OHIO

Girl Scouts-Great Trail Council v. Levin

113 Ohio St. 3d 24 (Ohio 2007) · Decided March 21, 2007

SUMMARY

The Ohio Supreme Court affirmed the Board of Tax Appeals' determination that property used by the Girl Scouts-Great Trail Council, including a membership store, qualified for exemption from real estate taxation under R.C. 5709.12(B). The court held that generating limited revenue does not necessarily establish use with a view to profit, particularly where the store primarily serves the organization's charitable purposes and does not compete with commercial enterprises. The court concluded that the BTA's decision was reasonable and lawful.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Donnell, J.; Grendell, J.; Pfeifer, J.; Lundberg Stratton, J.; O'Connor, J.; Lanzinger, J.; Moyer, C.J.; Resnick, J.; Cupp, J.
JURISDICTION	Ohio
DECIDED	March 21, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Tax Commissioner appealed the Board of Tax Appeals' decision granting the Girl Scouts a real-estate-tax exemption for the portion of its property occupied by a membership store.
STANDARD OF REVIEW	Under R.C. 5717.04, the court determines whether the Board of Tax Appeals' decision is reasonable and lawful. Factual determinations are affirmed when supported by reliable and probative evidence.
PRECEDENTIAL VALUE	published and precedential Ohio Supreme Court opinion
PARTIES	Tax Commissioner v. Girl Scouts-Great Trail Council

TOPICS

property tax · tax exempt organizations · tax court procedure · statutory interpretation · administrative law

PRACTICE AREAS

property taxation · administrative law · statutory interpretation · tax-exempt organizations

QUESTIONS PRESENTED

1. Whether the portion of the Girl Scouts' property occupied by its membership store was used exclusively for charitable purposes and not with a view to profit under R.C. 5709.12(B) and R.C. 5709.121.
2. Whether the Board of Tax Appeals properly affirmed the real-estate-tax exemption despite the store's generation of revenue and limited profit.

HOLDINGS

1. The store portion of the property was used exclusively for charitable purposes and not with a view to profit because its primary use was to serve the Girl Scouts' charitable function rather than to generate income.
2. The Board of Tax Appeals' decision was reasonable and lawful and therefore was affirmed.

KEY QUOTATIONS

> *"The fact that an institution generates revenue from its use of property does not necessarily defeat the claim for tax exemption"* (26)

> *"we conclude that the primary use of the property is to fulfill the charitable function served by the Girl Scouts"* (27)

FACTUAL BACKGROUND

The Girl Scouts, a nonprofit organization, owned approximately three acres in North Canton, Ohio, including an office building used for administration, meetings, volunteer training, and Girl Scout activities. A 256-square-foot portion housed a store selling Girl Scout-related merchandise, including uniforms, badges, books, and insignia items, which were not marketed to the general public or unrelated to Girl Scout participation. The store generally priced merchandise to cover costs or maintained a nationally required 20 to 25 percent markup, operated without profit for eleven years before making a $2,363 profit in 2003, and did not compete with commercial enterprises.

PROCEDURAL HISTORY

The Girl Scouts applied for an exemption under R.C. 5709.12(B) and remission of prior-year taxes, penalties, and interest. The Tax Commissioner determined that the store portion was not exempt and ordered the property split-listed. The Board of Tax Appeals reversed, concluding that the property was used for charitable purposes and not with a view to profit. The Supreme Court of Ohio affirmed the BTA under R.C. 5717.04.

DISPOSITION

affirmed

CASES CITED

- Am. Soc. For Metals v. Limbach, 59 Ohio St. 3d 38, 569 N.E.2d 1065 (1991)
- Howard v. Cuyahoga Cty. Bd. of Revision, 37 Ohio St. 3d 195, 524 N.E.2d 887 (1988)
- Ameritech Publishing, Inc. v. Wilkins, 111 Ohio St. 3d 114, 855 N.E.2d 440 (2006)

- Am. Natl. Can Co. v. Tracy, 72 Ohio St. 3d 150, 648 N.E.2d 483 (1995)
- Bowers v. Akron City Hosp., 16 Ohio St. 2d 94, 243 N.E.2d 95 (1968)
- True Christianity Evangelism v. Zaino, 91 Ohio St. 3d 117, 742 N.E.2d 638 (2001)
- Moraine Hts. Baptist Church v. Kinney, 12 Ohio St. 3d 134, 465 N.E.2d 1281 (1984)

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