Victory Baptist Church

v.

Town of Londonderry

Docket No.: 12869-92EX

DECISION

The "Taxpayer" appeals, pursuant to RSA 76:34-a (1992 supp.); the "Town's" denial of its request for a charitable exemption (RSA 72:23 III), for a portion of the year, on Property described as map 11, lot 90.

The facts in this case are straightforward. As of April 1, 1992 the Property was owned by Henry and Inez Paul. At that time, the Property consisted of 49.25 acres of unimproved land. The Taxpayer purchased the lot on July 29, 1992 and subsequently improved a portion of the Property soccer/softball field. The Taxpayer then applied for an exemption seeking the exemption from July 1992 to March 31, 1993.

Legally, the exemption statute, RSA 72:23 III must be read in context of all the tax statutes, i.e. RSA ch. 72, 73, 74 and 75. These statutes establish the tax year runs from April 1 to March 31. Thus, changes that have occurred after April 1 are not considered. See, RSA 73:1, 10; RSA 74:1, 2. The most instructive statute is RSA 74:2, which requires towns to inventory property as of April 1.

Based on the above, the board rules the Taxpayer was not entitled to an exemption for part of 1992. The board declines to comment on the Property's eligibility for an exemption for 1993 as an appeal for that year has not been properly filed with the board at this time.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within twenty (20) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Paul B. Franklin, Member

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Michele E. LeBrun, Member

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CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Calvin Fuller, Pastor of Victory Baptist Church, Taxpayer; and Chairman, Selectmen of Londonderry.

Dated: February 25, 1994

0008 Valerie B. Lanigan, Clerk