

PT 95-32  
Tax Type: PROPERTY TAX  
Issue: Charitable Ownership/Use  
Educational Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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INTERNATIONAL BROTHERHOOD OF ) Docket No.(s) 92-58-70  
ELECTRICAL WORKERS, LOCAL #146 )  
 ) PI No. 07-07-36-301-001  
 Applicant ) (Macon County)  
 )  
 v. )  
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 THE DEPARTMENT OF REVENUE ) George H. Nafziger  
 OF THE STATE OF ILLINOIS ) Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

SYNOPSIS: The hearing in this matter was held at 101 West Jefferson Street, Springfield, Illinois, on August 9, 1994, to determine whether or not Macon County parcel No. 07-07-36-301-001 and the one-story building and parking lot located thereon, should be exempt from real estate tax for the 1992 assessment year.

Did the apprentice and journeymen training programs conducted by the Joint Apprenticeship and Training Committee (hereinafter referred to as the "JATC") of the International Brotherhood of Electrical Workers, Local #146 (hereinafter referred to as the "Applicant"), qualify for exemption as a school, during the 1992 assessment year? Did the Applicant own the parcel here in issue and the building and parking lot located thereon, during the 1992 assessment year? Was the parcel here in issue and the building and parking lot located thereon, used for school purposes during the 1992 assessment year? Following the submission of all of the evidence and a review of the record, it is determined that the JATC did not qualify as a school during 1992. It is further determined that the Applicant, a labor

union, did own the parcel here in issue and the building and parking lot located thereon, during the 1992 assessment year. Finally, it is determined that a portion of this parcel and the building located thereon, were not used for school purposes by the JATC during the 1992 assessment year.

FINDINGS OF FACT: The position of the Illinois Department of Revenue (hereinafter referred to as the "Department"), in this matter, namely that no portion of the parcel here in issue and the building and parking lot located thereon, qualified for exemption during the 1992 assessment year, was established by the admission in evidence of Department's Exhibits numbered 1 through 5B.

Mr. Michael T. Carrigan, business manager/financial secretary of the Applicant, and Mr. Terry Tomer, the president of the Applicant, were present, and testified in this matter.

The JATC was established pursuant to a collective bargaining agreement between the Illinois Chapter National Electrical Contractors Association, Inc., and the Applicant. That collective bargaining agreement at Section 5.01, reads in part as follows:

"There shall be a Joint Apprenticeship and Training Committee (JATC) having three (3) members representing the Chapter of the National Electrical Contractors Association (NECA) and an equal number of three (3) members representing Local 146, International Brotherhood of Electrical Workers (IBEW). This Committee shall make local standards in conformity with the National Apprenticeship and Training Standards for the Electrical Contracting Industry governing the qualifications, selection, education and training of all apprentices. The JATC shall also be responsible for training Journeymen and others."

The apprentice and journeymen training activities of the JATC were financed, during 1992, by a trust fund established by the aforementioned collective bargaining agreement, to which each employer subject to the agreement contributed about seven cents an hour for every hour worked by a union member.

The Applicant acquired the parcel here in issue by a warranty deed

dated April 23, 1981. During the 1992 assessment year, this parcel was improved with a one-story building and a parking lot. Department's Exhibit 2F is a floor plan of the building. During the 1992 assessment year, the area outlined in red on Department's Exhibit 2F, was used by the JATC for the training of apprentices and journeymen. The area of the building outside of the red line was used by the Applicant for union activities, including the union administrative offices and the union meeting hall. The area of the building enclosed within the red line, which was used for the apprentice and journeymen training programs by the JATC, included an office, four classrooms, a shop, a laboratory, and a storage area. The area of the building on this parcel used for training, constituted approximately 35% of the total area of the building.

The apprentice training program operated by the JATC, was a five-year program. During 1992, there were 13 first year apprentices, 13 second year apprentices, 14 third year apprentices, 10 fourth year apprentices, and eight fifth year apprentices, for a total of 58 apprentices in the program. The JATC ran an advertisement in the local area newspapers for two weeks during 1992, concerning how and where to apply for its apprenticeship program. Copies of this advertisement were also sent to 15 area high schools, four JTPA organizations, several churches, the Decatur Housing Authority, and the Farm Bureau.

The qualifications for application for the apprenticeship program, during 1992, were that a person had to be at least 18 years of age and a high school graduate, or have a GED. The applicants were also required to have completed either one year of high school algebra, or one semester of college algebra, and be physically strong enough to handle the requirements of the job. After a person filed an application and provided the required evidence concerning age and math proficiency, they were interviewed by the JATC, consisting of three contractor representatives and three union

members. The JATC then made the determination of who was allowed to enter the apprenticeship program. It was not uncommon for the JATC to receive 200 completed applications for an apprenticeship class of 10 or 12.

The apprenticeship program requirements included 160 hours of classroom training each year for five years, as well as 2,000 hours of on-the-job training during the first year, and 1,500 hours of on-the-job training during the second, third, fourth, and fifth years. During 1992, the apprentices were only required to pay for their books. All other costs of their training was paid for out of the JATC trust fund. In the classroom portion of the training, 12 tests were given to the apprentices each year. For the on-the-job training, the JATC assigned each apprentice to one of the union contract signatory employers. Each apprentice was then assigned to work with a journeyman wireman. The classroom portion of the training was held in the evening from 6:00 or 6:30 P.M. to 10:00 or 10:30 P.M. one night a week, with perhaps an additional night per month, so that the classroom work for that year could be completed in the time available.

During 1992, the JATC was a party to an Articulation Agreement with Richland Community College (hereinafter referred to as "Richland"), which is a junior college. Under this agreement, Richland provided a portion of the pay for the teachers in the JATC apprenticeship program. Also, if an apprentice completed the JATC training program and became a journeyman with at least an 80 average, and also enrolled in an associate degree or certificate program at Richland and completed eight or more semester hours in that program, Richland would award that student 14 semester hours of credit for his or her apprenticeship training.

During the first year that an apprentice is in training, he or she is considered a probationary apprentice. At the end of the first year, the apprentice is required to join the union.

During 1992, out of a total of 58 apprentices, four were females and

two were members of ethnic minorities. The only general school subject taught in the apprenticeship program, was mathematics.

The JATC educational program also included continuing education courses for the journeyman wiremen. These courses ranged from three or four weeks, up to one course which lasted 26 weeks. Each of those courses met for four hours one night a week. No evidence was offered that these continuing education courses followed any sort of a systematic course of study.

1. Based on the foregoing, I find that the Applicant owned the parcel here in issue and the building and parking lot located thereon, during the 1992 assessment year.

2. I further find that the JATC operated an apprenticeship training program and journeyman wireman continuing education program in the area of the building enclosed within the red line, as shown on Department's Exhibit No. 2F.

3. The area enclosed within the red line on Department's Exhibit 2F constituted approximately 35% of the total square footage of the building.

4. The Applicant, I find, is only seeking an exemption in this proceeding for the portion of the building enclosed within the red line on Department's Exhibit 2F.

5. The remainder of the building, I find, was used for general union activities.

6. The JATC, I find, was established, pursuant to a collective bargaining agreement between the Illinois Chapter National Electric Contractors Association, Inc., and the Applicant.

7. The apprentice and journeymen training activities of the JATC, I find, were financed during 1992, by a trust fund established by the aforesaid collective bargaining agreement, to which the contractors contributed seven cents an hour for each hour worked by each member of the

Applicant.

8. While Richland paid a portion of the salary of the JATC instructors, and the apprentices who completed the apprentice training could receive 14 hours of credit for that training, if they met other Richland requirements, no evidence was offered that Richland offered any degree, or certificate. to the persons completing the JATC apprenticeship training program.

9. I find that the persons who completed the JATC apprenticeship training, became journeymen wiremen members of the Applicant.

10. The only general education course taught in the JATC apprentice training program, I find, was mathematics.

11. The journeymen continuing education courses offered by the JATC, I find, did not follow a systematic course of study, and ranged in duration from three to 26 weeks, one night a week for four hours.

CONCLUSIONS OF LAW: Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 205/19.1 (1992 State Bar Edition), exempts certain property from taxation in part as follows:

"...and including the real estate on which the schools are located...not leased by such schools or otherwise used with a view to profit,...."

35 ILCS 205/19.16 (1992 State Bar Edition), exempts certain property from taxation in part as follows:

"Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided...and owned by any...school...which meets the qualifications for exemption."

In People ex rel. McCullough v. Deutsche Gemeinde, 249 Ill. 132 (1911), at page 137, the Court stated as follows:

"A school within the meaning of the constitutional provision, is a place where systematic instruction in useful branches is given by methods common to schools and institutions of learning which would make the place a school in the common acceptance of the word."

In *People ex rel. Brenza v. Turnverein Lincoln*, 8 Ill.2d 188 (1956), citing a Minnesota case, the Court said:

"It seems clear from the foregoing that this constitutional tax exemption for private educational institutions was intended to extend only to those private institutions which provide at least some substantial part of the educational training which otherwise would be furnished by the various publicly supported schools...which to such extent, thereby lessen the tax burden imposed upon our citizens as the result of our public educational system."

The case of *People ex rel Brenza v. Turnverein Lincoln* involved an organization which only taught swimming and gymnastics. At page 202, the Court stated:

"In the ordinary school, physical education is a part, but only a part of the curriculum. And while instruction in swimming and gymnastics is educational in a broad sense, it is not sufficient, standing alone, to bring an institution within the scope of our statute,...."

I conclude that the same could be said of the JATC apprenticeship program, which only taught mathematics of the subjects commonly taught in schools.

In *Coyne Electrical School v. Paschen*, 12 Ill.2d 387 (1957), the Court reaffirmed these two tests and the decisions in the previously cited cases in a case involving an electronics school.

In *Winona School of Professional Photography v. Illinois Department of Revenue*, 211 Ill.App.3d 565 (1st Dist. 1991), the First District Appellate Court determined that a school of photography owned by a professional trade association, Professional Photographers of America, did not qualify as a school. The Court went on to state again the two tests set forth in the Coyne case, first does the Applicant teach a course of study which fits into the general scheme of education, and second, is the teaching of that

course of study one which would otherwise be a governmental function.

In referring to the Public Community College Act, the Court in Winona pointed out that in the establishment of technical or vocational programs the Act mandated a comprehensive program including courses in liberal arts and sciences and general education. The Court, in that case, went on to point out that Winona offered no general education courses. The JATC only offers one, mathematics.

While the Applicant does not charge tuition to its students, it is funded by the collective bargaining agreement between the Applicant and the electrical contractors, who I conclude are the primary beneficiaries of the apprenticeship training program. It should also be pointed out that the JATC, which consists of three representatives of the electrical contractors, and three representatives of the Applicant union, control who is admitted to the apprenticeship program.

I therefore conclude that the apprenticeship program of the JATC did not qualify as a school during 1992.

Concerning the JATC journeymen continuing education courses, as previously pointed out, no evidence was offered that said courses followed a systematic course of study. In addition, said courses ranged from 3 or 4 weeks, up to 26 weeks. Said courses met one night each week, for four hours. Since it was not established that said courses followed a systematic course of study, and were of very limited duration, I conclude that the journeymen continuing education program of the JATC did not qualify as a school.

I therefore recommend that Macon County parcel No. 07-07-36-301-001 remain on the tax rolls for the 1992 assessment year, and be assessed in its entirety to the Applicant, the International Brotherhood of Electrical Workers, Local #146.

Respectfully Submitted,

George H. Nafziger  
Administrative Law Judge

July , 1995