

PT 18-02  
Tax Type: Property Tax  
Tax Issue: Charitable Ownership/Use

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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<b>In re 2012 Property Tax</b>	)	Docket Nos.	13-PT-0028
<b>Exemption Application of</b>	)	Docket /	12-16-666
<b>THE HARRIS</b>	)	PIN	29-32-401-026-0000
<b>EDUCATIONAL CENTER, NFP,</b>	)	John E. White,	
<b>Applicant</b>	)	Administrative Law Judge	

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Effilyne Harris appeared, pro se, for The Harris Educational Center, NFP; Paula Hunter, Special Assistant Attorney General, appeared for the Illinois Department of Revenue.

**Synopsis:**

This matter involves The Harris Educational Center, NFP (the Center or Applicant) protest of the Illinois Department of Revenue's (Department) denial of the Center's application for a non-homestead property tax exemption regarding a parcel of property which is situated in Cook County, Illinois, for part of assessment year 2012. The issue is whether the property is entitled to the exemption authorized by § 15-65(a) of the Illinois Property Tax Code (PTC).

The hearing was held at the Department's offices in Chicago. Applicant presented evidence consisting of books and records and other documents, as well as the testimony of its executive director. I have reviewed that evidence, and I am including in this recommendation findings of fact and conclusions of law. I recommend the Director

finalize the Department's prior denial, and that the property remain on the tax rolls for 2012.

**Findings of Fact:**

**Facts Regarding the Center's Organization and Operations**

1. The Center was incorporated as an Illinois not-for-profit corporation in April 2011. Applicant Ex. 17 (copy of Illinois Secretary of State's Certificate of Incorporation for the Center).
2. Effilyne Harris (Harris) is the Center's registered agent, president, and a director, and she held that those offices during 2012. Applicant Ex. 17 (copy of cover letter, dated April 6, 2011, from the Illinois Secretary of State to the Center's registered agent, together with a copy the Center's filed Articles of Incorporation; Hearing Transcript (Tr.) pp. 4, 11 (Harris)).
3. Article 4 of the Center's Articles of Incorporation sets forth its purposes, which are:

ARTICLE 4 This corporation is organized and operated exclusively for one or more of the following purposes: Charitable, Educational, Religious and/or Scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)3 of the Internal Revenue Code, or corresponding sections of any future federal tax code. The specific purpose is to provide an educational training facility that will train economically challenges individuals and place them in employment, free of charge. The corporation will not operate a business or vocational school.

Applicant Ex. 17b.

4. In June 2011, the Internal Revenue Service (IRS) granted the Center's application to be treated as exempt from federal income tax, pursuant to § 501(c)(3) of the Internal Revenue Code (IRC). Applicant Ex. 20 (copy of IRS letter to the Center, dated June

10, 2011). Pursuant to the IRC, the Center was obliged to file an annual return, Form 990, with the IRS, as a condition of maintaining its federal tax exempt status. *Id.*

5. On May 15, 2014, the IRS revoked the Center’s federal tax exempt status, after the Center failed to file required annual tax Forms 990 for three consecutive years. <https://apps.irs.gov/app/eos/revokeSearch.do?ein1=&names=The+Harris+Educational+Center+NFP&city=&state=All...&zipCode=60419&country=US&exemptTypeCode=al&postDateFrom=&postDateTo=&dispatchMethod=searchRevocation&submitName=Search> (last viewed/searched on February 28, 2017);<sup>1</sup> Order, dated August 26, 2015 (“Applicant notified the Department that it needs time to resolve a dispute regarding its charitable status with the Internal Revenue Service”).
6. On its website, the IRS provides the following public information regarding the Center’s federal tax exempt status:

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Automatic Revocation of Exemption Information

The federal tax exemption of this organization was automatically revoked for its failure to file a Form 990-series return or notice for three consecutive years. The information listed below for each organization is *historical*; it is current as of the organization's effective date of automatic revocation. The information is not necessarily current as of today's date. Nor does this automatic revocation necessarily reflect the organization's tax-exempt or non-exempt status. The organization may have applied to the IRS for recognition of exemption and been recognized by the IRS as tax-exempt *after* its effective date of automatic revocation. To check whether an organization is currently recognized by the IRS as tax-exempt, call Customer Account Services at (877) 829-5500 (toll-free number).

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<sup>1</sup> The list of entities whose previously obtained tax exempt status has been automatically revoked by the IRS for failure to file required returns is public information.

**Revocation Date (effective date on which organization's tax exemption was automatically revoked):**

15-May-2014

**Employer Identification Number (EIN):**

27-4910503

**Legal Name:**

HARRIS EDUCATIOAL [*sic*] CENTER

**Doing Business As:**

THE CENTER

**Mailing Address:**

14833 LA SALLE ST  
DOLTON, IL 60419-1423  
United States

**Exemption Type:**

501(c)(3)

**Revocation Posting Date (date on which IRS posted notice of automatic revocation on IRS.gov):**

11-Aug-2014

**Exemption Reinstatement Date (effective date of tax exemption, determined by the IRS after the organization's exemption was automatically revoked and the organization applied for reinstatement of exemption.):**

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<https://apps.irs.gov/app/eos/displayRevocation.do?dispatchMethod=displayRevokeInfo&revocationId=580880&ein=274910503&exemptTypeCode=al&isDescending=false&totalResults=16&postDateTo=&ein1=&state=All...&dispatchMethod=searchRevocation&postDateFrom=&country=US&city=&searchChoice=revoked&indexOfFirstRow=0&sortColumn=ein&resultsPerPage=25&names=The+Harris+Educational+Center+NFP&zipCode=60419&deductibility=> (last viewed on February 28, 2017).

7. Prior to hearing, the parties requested, and were granted, a continuance of the hearing, so that Applicant could seek reinstatement of its federal tax exempt status. Order, dated August 26, 2015.
8. At hearing, the parties agreed to grant Applicant additional time to submit evidence to be admitted and considered regarding its property tax exemption application,

including evidence relevant to whether its federal tax exemption had been reinstated. Tr. pp. 7-10; Order, dated April 21, 2016. Applicant timely submitted some evidence pursuant to that agreement (Applicant Exs. 14-35), but none which showed that the IRS had reinstated the Center's federal tax exemption status.

9. As of February 28, 2017, the IRS' May 2014 revocation of Applicant's federal tax exempt status remains in effect. <https://apps.irs.gov/app/eos/displayRevocation.do?dispatchMethod=displayRevokeInfo&revocationId=580880&ein=274910503&exemptTypeCode=al&isDescending=false&totalResults=16&postDateTo=&ein1=&state=All...&dispatchMethod=searchRevocation&postDateFrom=&country=US&city=&searchChoice=revoked&indexOfFirstRow=0&sortColumn=ein&resultsPerPage=25&names=The+Harris+Educational+Center+NFP&zipCode=60419&deductibility=> (last viewed on February 28, 2017).
10. On its website, the IRS provides the following information regarding the effect of its automatic revocation of an entity's exempt status:

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**What does it mean if an organization is on the list?**

Because the list is an official IRS record of organizations that lost their exempt status for failing to file for three consecutive years, an automatically revoked organization whose exempt status is reinstated remains on the list. But for organizations that applied for and received reinstatement, the list gives the date of reinstatement. If you think your organization was erroneously listed as revoked, see our frequently asked questions.

Publication of an organization's name on the Auto-Revocation List is notice that the organization **is no longer eligible to receive tax-deductible contributions** under section 170. For purposes of claiming tax-deductible contributions, donors and others **may not rely on:**

- an IRS determination letter dated before the effective date of revocation,
- or on a prior listing in either *Exempt Organizations Select Check* (Pub. 78 data),
- or the IRS Business Master File extract.

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<https://www.irs.gov/charities-non-profits/automatic-revocation-of-exemption-list>

(emphasis original) (last viewed on February 28, 2017).

11. Applicant caused to have a Form 990 return prepared for each of the calendar years 2011, 2012, and 2013. Applicant Exs. 21, 23-24 (copies of, respectively, the Center's completed forms 990 for 2012, 2011, and 2013). Harris signed each of those returns, on the Center's behalf, and each return is dated February 5, 2016. Applicant Exs. 21, 23-24.
12. On each of the Forms 990 the Center admitted into evidence, it entered the numeral zero (that is, 0) on all lines which called for the amounts the taxpayer was required to report as amounts it received as revenues from its activities, or as amounts it incurred as expenses when conducting operations. *E.g.* Applicant Ex. 21, pp. 1 (Part I, Summary statements of revenue and expenses, lines 8-12, 13-19), 9 (Part VIII, Statement of Revenue, lines 1a-12), 10 (Part IX, Statement of Functional Expenses), 11 (Part X, Balance Sheet, lines 1-34).
13. On the Forms 990 the Center had completed for 2011-2013, the Center reported zeroes on the lines requesting its expenses for, and deductions allocable to, any real property it owned during 2011 through 2013. Applicant Exs. 21, 23-24 (p. 10 of each return, Part IX, Statement of Functional Expenses, line numbers 16 (requesting amounts expended for occupancy) and 22 (requesting amounts expended for depreciation, depletion, and amortization)).

#### **Facts Regarding the Center's Activities on the Property**

14. The property at issue has a Property Index Number (PIN) of 29-32-401-026-0000.



Development, Village of Homewood, sent Harris a letter regarding the Center's application for a business license for the property at issue. That letter provided, in pertinent part:

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Dr. Mrs. Harris:

Your application for a business license has been routed to the Community Development, Fire and Public Works Departments as part of the review process for approval. Your application indicated that the business license that you are applying for is for a job training and placement school. The school will include a day care facility for the care of children or program participants. We have previously discussed the need to obtain either a license or a waiver from the Department of Children and Family Services for the day care facility use in the building.

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Preliminary Building/Engineering/Fire Review

The building use and occupancy classification is B (Business). The following issues will need to be addressed prior to opening:

- [ ] Minimum plumbing fixtures need: \*\*\*
- [ ] Elevator must be registered with the Illinois State Fire Marshall's office. \*\*\*
- [ ] Construction plans will be reviewed by the Cook County Department of Public Health (CCDPH) for approval. A CCDPH pre-opening inspection must be scheduled and passed prior to final occupancy.
- [ ] Food service requires the installation of a triple basin sink. \*\*\*
- [ ] A permit is required by Thorn Creek Basin Sanitary District (TCBSD) and possibly the Illinois Environmental Protection Agency .... \*\*\*
- [ ] There are existing fire alarm and fire sprinkler systems. These systems must be functional with proof of current inspection/test/maintenance performed and all deficiencies corrected. \*\*\*
- [ ] Three health inspections will be conducted annually by CCDPH. \*\*\*
- [ ] Exterior signs must be approved. \*\*\*
- [ ] A final fire inspection is required once all remodeling is completed and approved and before opening.

Your business license will be issued once your construction has been completed, and you have received final approval from all Village departments, including building, fire, and public works, and the [CCDPH]. \*\*\*

Sincerely,

\_\_\_\_\_ [signature]

Paula J. Wallrich,  
Director of Community Development

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Department Ex. 2 (copy of September 7, 2012 letter from Wallrich to Harris).

19. As of the date of hearing, the Center had not received a business license from the Village of Homewood regarding the property. Tr. p. 26 (Harris).

20. During 2012, the Center had not conducted, on the property, any of the training or educational activities Harris described in her affidavit of use. *Compare* Applicant Ex. 14 *with* Tr. p. 26 (Harris).

**Conclusions of Law:**

Article IX of the 1970 Illinois Constitution generally subjects all real property to taxation. Eden Retirement Center, Inc. v. Department of Revenue, 213 Ill. 2d 273, 285, 821 N.E.2d 240, 247 (2004). When construing Article IX of the 1970 Illinois Constitution, the Illinois Supreme has held that:

Under Illinois law, taxation is the rule. Tax exemption is the exception. All property is subject to taxation, unless exempt by statute, in conformity with the constitutional provisions relating thereto. Statutes granting tax exemptions must be strictly construed in favor of taxation (*Board of Certified Safety Professionals of the Americas, Inc. v. Johnson*, 112 Ill.2d 542, 547, 98 Ill.Dec. 363, 494 N.E.2d 485 (1986)), and courts have no power to create exemption from taxation by judicial construction (*City of Chicago v. Illinois Department of Revenue*, 147 Ill.2d 484, 491, 168 Ill.Dec. 841, 590 N.E.2d 478 (1992)).

Provena Covenant Medical Center v. Department of Revenue, 236 Ill. 2d 368, 388, 925 N.E.2d 1131, 1143-44 (2010) (hereafter, Provena).

Article IX, § 6 of the 1970 Illinois Constitution permits the legislature to exempt certain property from taxation based on ownership and/or use. Ill. Const. Art. IX, § 6 (1970). One class of property that the legislature may exempt from taxation is property that is actually and exclusively used for charitable purposes. Ill. Const. Art. IX, § 6

(1970); Eden, 213 Ill. 2d at 286-87, 821 N.E.2d at 248. Section 15-65 of Illinois' Property Tax Code (PTC) provides, in relevant part:

§ 15-65 Charitable purposes. All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) Institutions of public charity.

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35 ILCS 200/15-65(a). For purposes of Article IX, § 6 of the Illinois Constitution and Illinois' tax statutes, the term "exclusively" means "primarily." People ex rel. Nordlund v. Assoc. of the Winnebago Home for the Aged, 40 Ill. 2d 91, 101, 237 N.E.2d 533, 539 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430, 435, 507 N.E.2d 141, 145 (1<sup>st</sup> Dist. 1987).

The Department denied the Center's application for exemption because it determined that the property was not in exempt ownership, and that it was not in exempt use. Department Ex. 1. Each of those determinations forms an independent basis for denial. Provena, 236 Ill. 2d at 390, 925 N.E.2d at 1145 ("Pursuant to section 15-65 of the Property Tax Code ... [citation omitted], eligibility for a charitable exemption requires not only that the property be 'actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit,' but also that it be owned by an institution of public charity or certain other entities ....").

To qualify for the statutory exemption authorized by PTC § 15-65(a), Illinois General Assembly required that the property at issue must be owned by an institution of public charity. 35 ILCS 200/15-65(a); Provena, 236 Ill. 2d at 390, 925 N.E.2d at 1145. Here, the evidence clearly and convincingly shows that the Center did not acquire title to and ownership of the property until late September 2015, almost three years after the end of the year at issue. Applicant Exs. 15-15g. Moreover, in the affidavit of use Harris

signed and submitted with the Center's PTAX-300, she identified *herself* as the owner of the property. Applicant Ex. 14. In short, during the year at issue, the property at issue was not the "property of ... [an] [i]nstitution[ ] of public charity ...." 35 ILCS 200/15-65(a).

Since the property was not owned by an institution of public charity in 2012, it did not meet one of the express restrictions the legislature set forth in PTC § 15-65(a). 35 ILCS 200/15-65(a). Based on that fact, alone, the property was not entitled to the exemption authorized by PTC § 15-65(a). As a result, there is no need to consider whether the property was actually and primarily being used for charitable purposes during 2012. *Id.*; Provena, 236 Ill. 2d at 390, 925 N.E.2d at 1145.<sup>2</sup>

**Conclusion:**

The evidence clearly and convincingly shows that the property was not owned by an institution of public charity during 2012, and, as a result, cannot be exempt under PTC § 15-65(a); Provena, 236 Ill. 2d at 390, 925 N.E.2d at 1145. Therefore, I recommend that the Director finalize the Department's prior Denial of the Center's application for a property tax exemption, and that the property remain taxable for all of 2012.

Date: March 8, 2017

John E. White, Administrative Law Judge

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<sup>2</sup> When making this latter determination, I note that, even if the Center had been the owner of the property during 2012, the evidence admitted at hearing is of a type which would tend to lead a reasonable fact-finder to conclude that the Center was *not* actually being operated as an institution of public charity during 2012 and thereafter. *See supra*, pp. 2-4 (finding of fact numbers 5-6), 6 (finding of fact numbers 12-13) (and evidence cited therein); Order, dated August 26, 2015; Order, dated April 21, 2016; Camco, Inc. v. Lowery, 362 Ill. App. 3d 421, 433, 839 N.E.2d 655, 665 (1<sup>st</sup> Dist. 2005) ("Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."). The admitted evidence would similarly tend to disprove any claim that — between the date the Center filed its PTAX-300 and the date of hearing — the property was actually being occupied and used primarily for charitable purposes, by anyone. Department Ex. 2; Tr. p. 26 (Harris). But since the Center did not own the property in 2012 (*see* Applicant Exs. 15-15g), such conclusions are unnecessary here. 35 ILCS 200/15-65(a).

