

REPRESENTATIVE FOR PETITIONER: Christopher J. Irak, Irak Law Office

REPRESENTATIVE FOR RESPONDENT: Hannah L. Alderks, Mark E. GiaQuinta, Sarah L. Schreiber, HallerCovin PC

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

BERNING MUSEUM, INC.,)	Petition No.:	02-039-23-2-8-00435-23
)		
Petitioner,)	Parcel No.:	02-041-5023024
)		
v.)	County:	Allen
)		
ALLEN COUNTY ASSESSOR,)	Assessment Date:	January 1, 2023
)		
Respondent.)		

March 10, 2025

FINAL DETERMINATION

The Indiana Board of Tax Review ("Board"), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

INTRODUCTION

1. Berning Museum, Inc. ("Berning") appeals the denial of its application for property tax exemption for two travel trailers it owns and displays at its museum. It sought charitable and educational exemptions under the general exemption statute, Indiana Code § 6-1.1-10-16. However, Berning did not prove that it owned, occupied, and used the travel trailers for charitable or educational purposes. Alternatively, Berning argued that its two travel trailers qualified for a 100% exemption under Indiana Code § 6-1.1-3-7.2, which provides an exemption for certain business personal property with an acquisition cost less than \$80,000. But Berning waived the exemption by failing to claim it on its personal property tax return. We therefore conclude that Berning's travel trailers are 100% taxable.

PROCEDURAL HISTORY

2. Berning filed a Form 136 exemption application with the Allen County Assessor's Office seeking a charitable exemption for two travel trailers. On May 24, 2023, the Allen County Property Tax Assessment Board of Appeals ("PTABOA") found the personal property to be 100% taxable and denied the exemption.
3. On July 6, 2023, Berning filed a Form 132 petition with the Board. On September 10, 2024, our Administrative Law Judge ("ALJ"), Tammy Sierp, held a telephonic hearing on the petition. Neither she nor the Board inspected the subject property.
4. Attorney Christopher J. Irak represented Berning. Hannah L. Alderks represented the Assessor. Nathan Berning testified under oath.
5. Berning offered the following exhibits:

Petitioner Ex. 1:	Photos of Berning family, early airstreams and letters
Petitioner Ex. 2:	Photos of Berning Museum
Petitioner Ex. 3:	Additional Museum Photos
Petitioner Ex. 5:	Articles of Incorporation
Petitioner Ex. 6:	Amended and Restated Bylaws
Petitioner Ex. 7:	Berning Museum IRS-501(c)(3) Letter
Petitioner Ex. 8:	Berning Museum Website
Petitioner Ex. 9:	Berning Museum Facebook Page
Petitioner Ex. 10:	Visitor Log
Petitioner Ex. 11:	Berning Museum Board Meeting Minutes
Petitioner Ex. 12:	Personal Property Donation Agreements
Petitioner Ex. 13:	Personal Property Trailers Affidavits of Ownership
Petitioner Ex. 15:	Lease Agreement
6. The Assessor offered the following exhibits:

Respondent Ex. A:	2023 Business Tangible Personal Property Assessment Return (Pages 1-4 Confidential)
Respondent Ex. B:	2021 990-EZ
Respondent Ex. E:	Berning Museum, Inc. Forms 132, 120, Articles of Incorporation, 136, 990-EZ, 103 (Pages 15-18 Confidential) Long Form and 104

7. The official record for this matter also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all orders, and notices issued by the Board or our ALJ; and (3) an audio recording of the hearing.

OBJECTIONS

A. Assessor's Objections

8. The Assessor objected to the admission of Petitioner's Exhibits 1, 2 and 3 because Berning failed to exchange them with the Assessor's office five business days ahead of the hearing. Berning argued that Exhibits 1 and 2 were exchanged as part of discovery, and while Exhibit 3 was not exchanged in discovery it was an impossibility because the photos were just taken a few days before the hearing.
9. Our procedural rules require parties to exchange copies of their documentary evidence at least five business days before a hearing. 52 IAC 4-8-1(b)(1). This requirement allows parties to be better informed and to avoid surprises. It also promotes an organized, efficient, and fair consideration of the issues. Failure to comply with the exchange rule may serve as grounds to exclude the evidence. 52 IAC 4-8-1(f). We may waive the deadlines for materials that were previously tendered to the opposing party or that were made part of the record at the PTABOA hearing from which the appeal arises. 52 IAC 4-8-1(d).
10. Because Berning exchanged Exhibits 1 and 2 in discovery, we find no prejudice and overrule the Assessor's objection. As for Exhibit 3, we sustain the Assessor's objection because it was never tendered to the Assessor and exclude it on those grounds.

B. Berning's Objections

11. Berning objected to pages 1 to 4 of Respondent's Exhibit A and pages 15 to 18 of Respondent's Exhibit E, both of which contain a copy of Berning's January 1, 2023 Long Form 103 Business Tangible Personal Property Assessment Return, because they were not marked confidential. The Assessor acknowledged the confidential nature of the documents and agreed to comply with 52 IAC 4-6-10 and Indiana Administrative Rule 9. Because the Assessor has since corrected the failure by submitting the confidential exhibits on green paper, we overrule the objections and admit both exhibits.

FINDINGS OF FACT

12. As early as the 1930s, Nathan Berning's great grandparents and grandparents started selling mobile homes, travel trailers, and RVs. In 1952, Nathan's great grandfather, Paul Berning, opened Berning Trailer Sales, which is now recognized as the first Airstream dealership. Nathan and his wife purchased Berning Trailer Sales in 2020. After Nathan started digging around, he found that his family had kept everything related to their businesses since the 1930s and he realized that he needed to create a museum to support his family's heritage and the heritage of Airstream. *Nathan Berning testimony; Pet'r Exs. 1, 2, 8, 9.*
13. On July 16, 2020, Nathan formed Berning with his wife, grandparents and a few friends. Berning is an Indiana nonprofit corporation organized and operated exclusively for charitable and educational purposes, and it is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. Berning is dedicated to collecting and displaying a collection of vintage travel trailers and trailer memorabilia. It leases approximately 7,000 square feet of space at 5520 New Haven Avenue in Fort Wayne (the "museum") to house and display its collection, which among other things, includes the records for the first Airstream trailer ever sold. *Nathan Berning testimony; Pet'r Exs. 5, 6, 7, 15.*

14. The personal property that is the subject of this appeal consists of two travel trailers that were donated to Berning at no cost. The first is a 1951 Vagabond travel trailer donated to Berning on August 13, 2021, by Ken and Petey Faber Vintage Trailers. The second is a 1930 Covered Wagon travel trailer donated to Berning on November 19, 2021, by Kenneth M. Faber. The donation agreements Berning entered into to acquire the two travel trailers require Berning to store and display them at the museum, and both of the donated travel trailers have been on display inside the museum since their arrival. The Vagabond and Covered Wagon trailers had appraised values of \$55,000 and \$89,500, respectively at the time Berning acquired them in 2021. *Nathan Berning testimony; Pet'r Exs. 2, 12.*
15. In 2022, Berning opened the museum to the public by appointment only. During that year, Berning hosted at least three private tours and at least eight visitors at the museum. The tours were free and typically lasted about an hour. Nathan personally conducted the tours, during which he described his family's history in the industry, the history of the travel trailers on display, and the history of Airstream and the travel trailer industry. The tours did not follow any formal educational curriculum, but visitors were provided with pamphlets and brochures. Berning has also assisted several other travel trailer museums and dealerships by providing them with information and documents from its collection. *Nathan Berning testimony; Pet'r Ex. 10.*
16. On March 27, 2023, Berning timely filed a Business Tangible Personal Property Return for the Vagabond and Covered Wagon trailers for the January 1, 2023 assessment date using Form 103-Long and Form 104. On its Form 103-Long, Berning reported that the total cost of its tangible depreciable personal property (i.e. - the two travel trailers) was [REDACTED]. And on both forms, Berning self-reported the combined true tax value of the two travel trailers to be \$80,920. Berning did not check the box at the top of either form declaring that it was claiming the business personal property exemption provided for by Indiana Code § 6-1.1-3-7.2. Nor is there any indication in the record that Berning filed an amended return for the January 1, 2023 assessment date seeking to claim the exemption. *Nathan Berning testimony; Resp't Ex. A.*

CONCLUSIONS OF LAW AND ANALYSIS

A. CHARITABLE AND EDUCATIONAL EXEMPTIONS

17. Although tangible property in Indiana is generally taxable, the Legislature has exercised its constitutional power to exempt certain types of property. *Hamilton County Prop. Tax Assessment Bd. of App. v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654, 657 (Ind. 2010). Because exemptions relieve properties from bearing their fair share of the cost of government services, they are strictly construed against the taxpayer. A taxpayer therefore bears the burden of proving by a preponderance of the evidence that its property qualifies for an exemption. *Indianapolis Osteopathic Hospital, Inc. v. Dep't of Local Gov't Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004); I.C. § 6-1.1-15-4(j) (providing that the Board's findings must be based on a preponderance of the evidence). Every exemption appeal "stand[s] on its own facts," and it is the taxpayer's duty to walk us through the analysis. *Jamestown Homes of Mishawaka, Inc. v. St. Joseph Cty. Ass'r*, 914 N.E.2d 13, 15 (Ind. Tax Ct. 2009).
18. Under Indiana's general exemption statute, all or part of a building is exempt from taxation if it is owned, occupied, and used for educational, literary, scientific, religious, or charitable purposes. I.C. § 6-1.1-10-16(a); I.C. § 6-1.1-10-36.3(c). Additionally, the legislature has provided for the exemption of personal property if it is owned and used in a way that would qualify as exempt if it were a building. I.C. § 6-1.1-10-16(e).
19. Property is predominantly used for an exempt purpose if it is used for those purposes during more than 50% of the time that it is used in the year ending on the assessment date. I.C. § 6-1.1-10-36.3(a). Property is 100% exempt if it is exclusively used or occupied for exempt purposes or if it is predominantly used or occupied for exempt purposes by a church, religious society, or nonprofit school. I.C. § 6-1.1-10-36.3(c)(1)-(2). Otherwise, a property qualifies only for an exemption that "bears the same proportion to the total assessment" as the amount of time the property's exempt use bears to its total use. I.C. § 6-1.1-10-36.3(c)(3). Where a property is not used exclusively for

exempt purposes, a taxpayer must offer evidence comparing the relative distribution of time between exempt and non-exempt uses. *See Hamilton Cnty. Ass'r v. Duke*, 69 N.E.3d 567, 572 (Ind. Tax Ct. 2017) (“[F]ailure to provide the Indiana Board with a comparison of the relative amounts of time that a property was used for exempt and non-exempt purposes is fatal to a claim of exemption under Indiana Code § 6-1.1-10-36.3.”).

20. Here, Berning is seeking 100% exemptions for two travel trailers because it claims to own and use them for charitable and educational purposes. The term “charitable” must be understood in its broadest constitutional sense. *Knox Cnty. Prop. Tax Assessment Bd. of Appeals v Grandview Care, Inc.*, 826 N.E.2d 177, 182 (Ind. Tax Ct. 2005). A charitable purpose will generally be found if: (1) there is evidence of relief of human want manifested by obviously charitable acts different from the everyday purposes and activities of man in general; and (2) there is an expectation that a benefit will inure to the general public sufficient to justify the loss of tax revenue. *Id.*
21. To receive an educational exemption, a taxpayer must show that it provides a public benefit through educational instruction that is the “substantial equivalent” to instruction offered in Indiana’s tax-supported institutions. *Dep’t of Local Gov’t Fin. v. Roller Skating Rink Operators Ass’n*, 853 N.E.2d 1262, 1266 (Ind. 2006). The closer the taxpayer’s activity is to traditional educational programs offered in public schools, the more obvious the public benefit. But a taxpayer need not offer courses that are directly analogous to courses taught in public schools; rather, the taxpayer’s courses simply need to be related to public-school offerings. *Id.* (citing *Trinity School of Natural Health v. Kosciusko Cnty. Prop. Tax Assessment Bd. of Appeals*, 799 N.E.2d 1234, 1238 (Ind. Tax Ct. 2003)). And the taxpayer need only relieve the state’s burden of providing public education to “some limited extent.” *Id.* (quoting *Trinity School*, 799 N.E.2d at 1238).
22. Berning is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code, but the grant of a federal or state income tax exemption does not automatically entitle a taxpayer to a property tax exemption. *See Raintree Friends Housing, Inc. v. Ind. Dep’t of State Revenue*, 667 N.E.2d 810, 816 (Ind. Tax Ct. 1996)

(rejecting the Indiana Department of Revenue's argument that IRS guidelines represented the appropriate test for determining whether the taxpayer was a charitable organization for state income tax purposes); *see also*, *National Ass'n of Miniature Enthusiasts v. State Bd. of Tax Comm'rs*, 671 N.E.2d 218, 220-222 (Ind. Tax Ct. 1996) (denying taxpayer a charitable purposes exemption despite the fact that it was exempt under 501(c)(3)). We therefore turn to evaluating whether Berning's remaining evidence was sufficient to prove that it owned and used the two travel trailers for charitable or educational purposes.

23. We start with Berning's charitable exemption claim. In support of its claim, Berning relied on the Tax Court's decision in *McClain Museum, Inc. v. Madison Cty. Ass'r*, 134 N.E.3d 1096 (Ind. Tax Ct. 2019). In *McClain Museum*, the taxpayer's primary building contained an exhibition area and library, a restoration area, a storage area, and a reception/meeting hall. *Id.* at 1099. The taxpayer used its property to exhibit military equipment, uniforms, photographs, manuals, and books previously used by the United States' armed forces in various conflicts from World War I to Desert Storm. *Id.* at 1098-1099. The court concluded that the museum qualified for a charitable exemption because it provides "a place where members of the general public can learn about our country's military history and heritage as well as pay homage to its veterans and their families for the sacrifices they made in defending our freedoms," and because its activities "enhance the public's knowledge and understanding of a part of the American experience." *Id.* at 1104.

24. Here, however, Berning is not seeking an exemption for its museum—just two of the travel trailers displayed therein. Berning offered no evidence showing that it owned and used the two travel trailers to relieve human want, or that a benefit will inure to the general public sufficient to justify the loss of tax revenue. And their inclusion in a museum focused on the history of travel trailers offers no support because we think the purpose of Berning's museum is fundamentally different than a museum devoted to preserving our country's military history. Indeed, we think the subject matter of Berning's museum is more akin to the recreational and hobby activities addressed in *National Ass'n of Miniature Enthusiasts*, 671 N.E.2d at 218. In that case, the taxpayer's

property contained a museum and library relating to miniatures. *Id at 220*. Among other things, the taxpayer used its property to house a permanent collection of miniatures, plan and present house parties, publish a quarterly periodical, promote local miniature clubs, and to conduct workshops on miniatures. *Id*. The court concluded that the taxpayer was not entitled to a charitable exemption because “[o]perating a museum for the public and enhancing the public’s knowledge about miniatures, while a noble endeavor, does not relieve human want and suffering.” *Id at 221*. We therefore conclude that Berning’s two travel trailers do not qualify for a charitable exemption.

25. We now turn to Berning’s educational exemption claim. Berning was organized, in part, for educational purposes, and it offered at least three private tours of its museum in 2022 during which visitors could view the two travel trailers at issue and learn about the Berning family’s history in the industry and the history of Airstream and the travel trailer industry more generally. It also provided museum visitors with pamphlets and brochures. But Berning admitted that the museum tours did not follow any formal educational curriculum. Furthermore, it failed to present any evidence showing that it owned and used the two travel trailers to offer educational instruction substantially equivalent to the instruction offered by Indiana’s public schools or demonstrating that tours of a museum dedicated to the history of the travel trailer industry (in which the two travel trailers are merely on display) are related to any courses offered by Indiana’s public schools. Because Berning did not convince us that it owned and used the two travel trailers to relieve some part of the state’s burden of providing public education, we conclude that they do not qualify for an educational exemption.

B. BUSINESS PERSONAL PROPERTY EXEMPTION

26. Alternatively, Berning asserted that its two travel trailers qualified for a 100% exemption under Indiana Code § 6-1.1-3-7.2. The Assessor countered that Berning waived its ability to argue for the exemption because Berning never gave the Assessor notice that it was pursuing the exemption prior to our hearing. We disagree with the Assessor and will address Berning’s claim.

27. Indiana's personal property system is a self-assessment system. Every person owning, holding, possessing, or controlling personal property with a tax situs in Indiana on January 1 of any year is required to file a personal property tax return. I.C. § 6-1.1-3-7; 50 IAC 4.2-2-2. Indiana Code § 6-1.1-3-7.2 provides an exemption from taxation if the acquisition cost of the taxpayer's total business personal property in a county is less than \$80,000. However, as relevant here, a taxpayer that is eligible for the exemption is required to include a declaration that the taxpayer's business personal property in the county is exempt from property taxation on the taxpayer's personal property return. I.C. § 6-1.1-3-7.2(e)(1).
28. Berning argued that its two travel trailers should be exempt from taxation because they were donated to Berning at no cost, making their acquisition cost \$0 for tax purposes and entitling it to a complete exemption under Indiana Code § 6-1.1-3-7.2. On the other hand, the Assessor established that Berning reported the two travel trailers total cost as [REDACTED] and their true tax value as \$80,920 on the personal property tax return it filed for the January 1, 2023 assessment date and pointed out that both values exceed the \$80,000 cap established by the statute. We need not decide which value represents the actual acquisition cost because we conclude that Berning failed to properly claim the exemption.
29. As discussed above, Indiana Code § 6-1.1-3-7.2(e)(1) requires eligible taxpayers to include a declaration that the taxpayer's business personal property is exempt from property taxation on the taxpayer's personal property tax return in order to receive the exemption. Here, however, Berning did not check the box at the top of either its Form 103-Long or Form 104 declaring that it was claiming the business personal property exemption provided for by Indiana Code § 6-1.1-3-7.2. Indiana Code § 6-1.1-3-7.5 allows taxpayers to file an amended personal property tax return to claim an exemption.

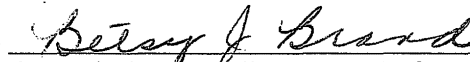
that they could have claimed on their original personal property tax return if they do so within 12 months of the date they filed the original return. However, Berning submitted no evidence showing that it timely filed an amended return for the January 1, 2023 assessment date seeking to claim the exemption. Because Berning failed to comply with the statutory procedures to obtain the exemption provided for by Indiana Code § 6-1.1-3-7.2, we conclude that it has waived the exemption.

FINAL DETERMINATION

30. For the reasons discussed above, we find Berning's two travel trailers are 100% taxable for the January 1, 2023 assessment date.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.


Chairman, Indiana Board of Tax Review


Commissioner, Indiana Board of Tax Review


Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days of the date of this notice.

The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. The Indiana Tax Court's rules are available at <http://www.in.gov/judiciary/rules/tax/index.html>.