TAX - OREGON

Evergreen Aviation and Space Museum v. Department of Revenue, State

Oregon Tax Court, Regular Division, Property Tax - December 19, 2014 - 2014 WL 7213197

Plaintiffs ("Taxpayer") own and lease property in Yamhill County that is operated generally as a museum relating to air and space equipment, activity and exploration and related scientific educational activity. The County and Defendant Department of Revenue ("Department") acknowledged that much of the property is exempt from taxation as being related to scientific activity.

However, the Department asserted that some of the property for which Taxpayer claimed exemption did not qualify for exemption, which Taxpayer disputed.

The Oregon Tax Court held that:

- An analysis of the time used for exemption-related movies as compared with time used for nonexemption-related movies and rentals to third parties would be the better analysis than a relative revenue test for purposes of determining whether any portion of the museum's theater was exempt;
- The case would be continued for the purpose of allowing the parties to consider whether they could agree on a conclusion as to partial exemption for the museum's theater;
- The museum's kitchen and cafe were exempt, as the food service activity that existed at the museum implemented the objectives of Taxpayer in a substantial way;
- The concession stand was not exempt;
- The gift shop was not exempt, as the sale of items related to the purpose of the museum were a small fraction of the total sales of the shop and thus the gift shop did not meet the substantial factor test;
- The land adjacent to the museum not used for the purposes of the museum was nonexempt, notwithstanding Taxpayer's argument that it was used to create a "campus atmosphere"; and
- An allocation was required and should be done on the basis of the ratio of space occupied by the for-profit entity and otherwise found to be nonexempt (such as the space in the theatre allocated to nonexempt use by reason of display of nonexempt movies) as compared with the total space in the museum and theatre properties for the parking area.

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