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Client Alert

Tax Court Upholds Important School Property Tax Exemption

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In education, every dollar matters. Thus, it is critically important that schools qualify for exemptions from taxes on their properties and facilities, which could otherwise add tens of thousands of dollars to their bottom lines. Ind. Code §6-1.1-10-16 provides an exemption for properties and improvements owned, occupied, and used for educational purposes. For liability protection and other reasons, it can be desirable for a school to hold these assets under a business entity that is separate from the one that handles the school's day-to-day operations. Earlier this year, the Indiana Tax Court awarded a property tax exemption in a case involving such an ownership structure.

In *Johnson Cty. Property Tax Assessment Board of Appeals v. KC Propco LLC*, the Johnson County Property Tax Assessment Board of Appeals (the "PTABOA") denied an exemption application for a Greenwood Kindercare facility. Kindercare Learning Centers ("Kindercare") is a national, for-profit operator of childcare and early education facilities. In 2003, Kindercare formed KC Propco as its real estate acquisition and development arm. KC Propco owned the Greenwood property at issue while Kindercare operated the facility.

KC Propco appealed the denial of its exemption application to the Indiana Board of Tax Review (the "IBTR"), which sided with KC Propco and awarded the exemption. The tax assessor appealed to the Indiana Tax Court. The assessor claimed that, due to the property ownership structure, both KC Propco and Kindercare had to establish their own exempt purposes and could not do so because their corporate documents did not mention any educational purpose. The assessor further claimed that Kindercare described itself in certain documents as a "child care center," indicating that its primary purpose was not educational. However, the Tax Court upheld the IBTR's determination that "each entity had its own exempt purpose," acted as "integral parts of one operation" by acquiring and renovating the property specifically for use by Kindercare, and provided educational programs designed "to prepare pre-school children for school."



The Tax Court refused to reweigh the evidence regarding the childcare and educational activities performed at Kindercare. In its decision, the IBTR had acknowledged that certain non-educational activities took place at the Kindercare facility such as feeding meals, quiet time, and diaper changing. The IBTR determined, however, that these incidental childcare activities were in service of Kindercare's educational purpose and would not bar the exemption. The Tax Court affirmed this determination. The Tax Court also rejected the assessor's argument that only the portion of the property containing the building and parking lot should be exempt rather than the whole parcel. The Tax Court confirmed that once a building is exempt from property taxation because it is owned, occupied, and used for an educational purpose, the land on which it sits is also exempt even if a portion of that land remains vacant.

For schools seeking property tax exemptions, this case stands for the importance of substance over form. The assessor challenged the ownership structure, entity formation documents, and provision of incidental childcare services, but the IBTR and Tax Court remained focused on the educational services provided by Kindercare and the manner in which KC Propco and Kindercare worked together to provide those services. Thus, any school that has a property tax exemption application challenged by the assessor, especially if the school has a non-traditional format, should offer substantial evidence of the important educational services it provides. The more central these educational services are to the school, the more likely the exemption will be granted and the dollars that would have been paid in taxes can instead be put to work in the classroom.

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