

BEFORE THE IDAHO BOARD OF TAX APPEALS

JOHN HOREJS,	)	
	)	
Appellant,	)	APPEAL NO. 15-A-1214
	)	
v.	)	FINAL DECISION
	)	AND ORDER
CASSIA COUNTY,	)	
	)	
Respondent.	)	
_____	)	

**PROPERTY TAX EXEMPTION APPEAL**

This appeal is taken from a decision of the Cassia County Board of Equalization denying an exemption claim for property tax purposes on property described by Parcel No. RP10S22E294797A. The appeal concerns the 2015 tax year.

This matter came on for hearing November 2, 2015 in Burley, Idaho before Hearing Officer Travis VanLith. Appellant John Horejs was self-represented. Douglas Abenroth represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

**The issue on appeal concerns whether the subject property is exempt from taxation.**

**The decision of the Cassia County Board of Equalization is affirmed.**

FINDINGS OF FACT

The assessed land value is \$11,319, and the improvements' value is \$41,839, totaling \$53,158. Appellant contends subject qualifies for a full exemption from taxation and thus the value of subject is zero for purposes of property assessment.

The subject property is a .71 acre rural residential parcel. The property is improved with a 1,964 square foot residence constructed in 1988.

Appellant claimed entitlement to a constitutional exemption from property taxation and that Respondent's assessment of subject amounted to a trespass of Appellant's inalienable rights provided by the Idaho Constitution in article I, section 1. Appellant acknowledged article VII, section 8 of the Idaho Constitution allows for the taxation of corporations, but maintained no similar provision exists for natural persons.

Respondent argued no constitutional exemption from property taxation exists. Respondent noted Idaho Code provides for nearly 40 exemptions from property taxation, however, contended Appellant did not qualify for any.

For value evidence, Respondent provided information concerning eight (8) improved residential properties. It was not clear if the listed properties had sold, or if the reported information reflected assessed values. The compared properties were mostly larger than subject in terms of acreage, however, the associated residences were generally similar to subject in size and age. Subject's residence was assessed at a lower value per square foot than the other properties on the list. Subject's land value was also near the bottom of the indicated range.

#### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The central issue in this appeal is whether subject is exempt from property taxation pursuant to the Idaho Constitution. We find no such exemption exists.

Appellant argued the Idaho Constitution authorizes the taxation of corporations, however, does not provide similar authorization to tax natural persons. Appellant pointed to article VII, section 8 of the Idaho Constitution which provides,

CORPORATE PROPERTY MUST BE TAXED. The power to tax corporations or corporate property, both real and personal, shall never be relinquished or suspended, and all corporations in this state doing business therein, shall be subject to taxation for state, county, school, municipal, and other purposes, on real and personal property owned or used by them, and not by this constitution exempted from taxation within the territorial limits of the authority levying the tax.

Indeed, the above section does impose a property tax obligation on corporations, however, natural persons are identified in a different section of the Constitution.

REVENUE TO BE PROVIDED BY TAXATION. The legislature shall provide such revenue as may be needful, by levying a tax by valuation, so that *every person or corporation* shall pay a tax in proportion to the value of *his, her, or its* property, except as in this article hereinafter otherwise provided. The legislature may also impose a license tax, both upon natural persons and upon corporations, other than municipal, doing business in this state; also a per capita tax: provided, the legislature may exempt a limited amount of improvements upon land from taxation. ID. CONST. art. VII, § 2 (1890) (emphasis added).

The above section clearly identifies *persons* as subject to taxation. Appellant questioned the meaning of "person" and suggested it referred to non-natural persons, such as corporations. The Board disagrees with Appellant's strained interpretation of the intended meaning of "person". It is a well-established principle of statutory construction that ordinary words be given their ordinary meaning.

This Court has consistently adhered to the primary canon of statutory construction that where the language of the statute is unambiguous, the clear expressed intent of the legislature must be given effect and there is no occasion for construction. Moreover, *unless a contrary purpose is clearly indicated, ordinary words will be given their ordinary meaning when construing a statute.* In construing a statute, this Court will not deal in any subtle refinements of the legislation, but will ascertain and give effect to the purpose and intent of the legislature, based on the whole act and every word therein, lending substance and meaning to the provisions. *Corp. of the Presiding Bishop of Church of Jesus Christ of Latter-Day Saints v. Ada County*, 123 Idaho 410, 415, 849 P.2d 83, 86 (1993) (emphasis added).

Black's Law (7th ed. 1999) defines *person* as "1. A human being. 2. An entity (such as a corporation) that is recognized by law as having the rights and duties of a human being. 3. The living body of a human being."

The term *person* can refer to both natural and non-natural persons. However in the context of the above-cited constitutional section, it is apparent the term *person* refers to natural persons because the term *or corporation* immediately follows. If *person* were intended to include non-natural persons, there would be no need to follow it with *corporation*. Further, the section continues to read "in proportion to the value of *his, her, or its* property", with "his, her" referring to natural persons, and "its" referring to non-natural persons. In short, the Constitution does not exempt natural persons from property taxation.

It is clear no constitutional exemption exists in this case. Likewise, the Board does not find where the subject property qualifies for a statutory exemption pursuant to Title 63, Idaho Code. Idaho Code § 63-203 provides "All property within the jurisdiction of this state, not expressly exempted, is subject to appraisal, assessment and property taxation."

Having found no exemption, constitutional or statutory, the subject property is taxable and must be assessed for that purpose.

Idaho Code § 63-511 requires Appellant to prove error in subject's assessment by a preponderance of the evidence. Appellant did not challenge or otherwise demonstrate error in the assessed value determined by Respondent, which value carries a presumption of correctness. The burden of proof was not satisfied in this instance. As such, the Board does not find sufficient cause to disturb subject's assessment. The decision of the Cassia County Board of Equalization is affirmed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Cassia County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 25<sup>th</sup> day of January, 2016.