

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

GRANTMAKERS FOR EDUCATION,	)	
	)	
Plaintiff,	)	TC-MD 021216E
	)	
v.	)	
	)	
MULTNOMAH COUNTY ASSESSOR,	)	<b>DECISION DENYING</b>
	)	<b>PLAINTIFF'S MOTION FOR</b>
Defendant.	)	<b>SUMMARY JUDGMENT</b>

This matter is before the court on Plaintiff's Motion for Summary Judgment filed February 28, 2003. Defendant filed its Response Brief on March 24, 2003. Plaintiff filed its Rebuttal to Defendant's Response Brief on April 7, 2003. The matter is before the court for decision.

**I. STATEMENT OF FACTS**

Plaintiff is an Oregon nonprofit corporation organized to educate a network of philanthropic and charitable organizations about achieving greater efficiency in their giving to public education. Plaintiff's Mission Statement reads as follows:

"Grantmakers for Education is a membership organization for private and public grantmakers that support education from early childhood through K-12 and higher education.

"Our mission is to strengthen philanthropy's capacity to improve educational outcomes for all students."

(Ptf's Mot for Summ J, App 5 at 1.)

To obtain the full benefit of Plaintiff's services, foundations become members by contributing a minimum of \$250 a year. Foundations are encouraged to contribute higher amounts, based on the size of the particular organization's budget, using a sliding fee scale. In 2002, 174 foundations were members of Plaintiff. Of those, 16, contributed

\$250; 68 contributed between \$251 and \$999; 49 contributed between \$1,000 and \$2,999; 30 contributed between \$3,000 and \$6,999; and 11 contributed more than \$7,000.

(Ptf's Mot for Summ J at 7.) Plaintiff assists philanthropists in maximizing their giving to public education by providing the following:

"An annual conference that brings together grantmakers from diverse perspectives and from around the country to hear from education and philanthropic experts.

"Programs and seminars throughout the year that convene grantmakers to explore specific issues and areas in education and identify recommendations for grantmaking and best practices.

"Three-times-a-year newsletter that provides commentary about the field, identifies trends, and reviews new reports and research.

"Reports and research that share knowledge about effective education philanthropy.

"Web site that encourages collaboration by offering a searchable directory of foundations (foundations can be located based on geographic area served, grantmaking interests, size of grants, etc.).

"Support for foundation-initiated study groups, briefings, and regional meetings that bring grantmakers together to learn, share experiences, and explore opportunities for addressing common challenges.

"Networking activities that help foundation leaders learn what programs other foundations are supporting and find areas of collaboration.

"Offering information and expertise from a professional staff that can provide context, contacts, and ideas about education and grantmaking strategies."

(Ptf's Mot for Summ J at 5.)

All foundations, whether or not members, may attend Plaintiff's annual conferences. Nonmembers, however, pay an increased fee for the conference. Nearly 300 grantmakers attended Plaintiff's October 2002 annual conference. (Ptf's Mot for Summ J, inside cover of App 4.) All foundations, whether or not members, have free access to Plaintiff's one-day programs and its reports. (Ptf's Rebuttal Brief at 4-5.)

Plaintiff claims its property<sup>1</sup> is entitled to a charitable exemption under ORS 307.130<sup>2</sup> because its activities are directed at improving the public education system and improving student achievement. Defendant claims Plaintiff is not entitled to a charitable exemption because Plaintiff does not provide a direct service to the public and because its activities lack the element of gift and giving.

## II. ANALYSIS

ORS 307.130 provides a property tax exemption for properties owned and used by charitable organizations. The statute states, in relevant part:

“(1) Upon compliance with ORS 307.162, the following property owned or being purchased by art museums, volunteer fire departments, or incorporated literary, benevolent, charitable and scientific institutions shall be exempt from taxation:

“(a) Except as provided in ORS 748.414, only such real or personal property, or proportion thereof, as is actually and exclusively occupied or used in the literary, benevolent, charitable or scientific work carried on by such institutions.”

ORS 307.130.

The burden of proving entitlement to an exemption is on the person claiming the exemption. In analyzing exemption cases, the court is guided by the principle that taxation is the rule and exemption from taxation is the exception. *Dove Lewis Mem. Emer. Vet. Clinic v. Dept. of Rev.*, 301 Or 423, 426-27, 723 P2d 320 (1986). Courts are to provide exemption statutes with a strict, yet reasonable construction to achieve the legislature’s intent. *SW Oregon Pub. Def. Services v. Dept. of Rev.*, 312 Or 82, 88-89, 817 P2d 1292 (1991). “Strict but reasonable construction does not require the court to give the narrowest possible meaning to an exemption statute. Rather, it requires an exemption statute be

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<sup>1</sup> The subject property is identified in Defendant’s records as Account R246446.

<sup>2</sup> All references to the Oregon Revised Statutes (ORS) are to 2001.

construed reasonably, giving due consideration to the ordinary meaning of the words of the statute and the legislative intent.” *North Harbour Corp. v. Dept. of Rev.*, 16 OTR 91, 95 (2002).

To qualify for a charitable exemption, an entity must be organized as a nonprofit corporation. OAR 150-307.130-(A)(1)(b). Plaintiff satisfies this initial test. However, a corporation’s nonprofit status does not “conclusively endow it with the attributes of a charity \* \* \* whether a corporation is a charity is to be determined not only from its charter, but also from the manner in which it conducts its activities.” *Id.* In *SW Oregon Pub. Def. Services*, the Oregon Supreme Court set forth three requirements for an exempt charitable institution:

“[T]here are three elements to qualifying as a ‘charitable institution’ under ORS 307.130: (1) the organization must have charity as its primary, if not sole, object; (2) the organization must be performing in a manner that furthers its charitable object; and (3) the organization’s performance must involve a gift or giving.”

312 Or at 89.

Plaintiff claims that charity is its primary object and that its charity is the improvement of the public education system. Plaintiff views the public education system as being the recipient and beneficiary of its services. However, it is important to evaluate Plaintiff’s actual activities and to whom those activities are directed. Plaintiff works with philanthropic foundations and provides seminars, services, and information to those foundations to help them achieve greater efficiency with their giving. Plaintiff does not work directly with the public education system nor does it give directly to the public education system. Plaintiff’s activities are all directed at foundations; they are the recipient of its activities. Plaintiff’s goal is to educate the foundations and provide an information service to them. Indirectly, the public education system may benefit from Plaintiff’s

services. However, it is the *foundations* that provide the “charity” to the educational system, not Plaintiff. Plaintiff may assist the foundations in their decision making, but it is ultimately up to the foundations where and how to distribute their money. OAR 150-307.130-(A)(3)(b) provides that the “**activity conducted by the charitable institution must be for the direct good or benefit of the public or community at large.**”

(Emphasis added). Plaintiff makes the mistake of focusing on the activities of the philanthropic organizations it services, rather than its own services, to support its claim for exemption. Plaintiff’s activities may impact the community, but only indirectly.

In reviewing Plaintiff’s activities, and who receives the direct benefit of those activities, it is the court’s conclusion that charity is not Plaintiff’s primary object. Plaintiff’s focus is on educating foundations which, although a worthwhile endeavor, does not qualify for a charitable exemption.

### III. CONCLUSION

It is the court’s conclusion that Plaintiff’s property does not qualify for a charitable exemption. Although Plaintiff’s goal is to improve the public education system, its activities are directed at foundations. The services Plaintiff provides do not qualify as charitable in nature. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff’s Motion for Summary

Judgment is denied; and

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IT IS FURTHER DECIDED that Plaintiff's property is not entitled to a charitable exemption for the 2002-03 tax year.

Dated this \_\_\_\_\_ day of August, 2003.

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COYREEN R. WEIDNER  
MAGISTRATE

**IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, BY MAILING TO: 1163 STATE STREET, SALEM, OR 97301-2563; OR BY HAND DELIVERY TO: FOURTH FLOOR, 1241 STATE STREET, SALEM, OR. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.**

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE COYREEN R. WEIDNER ON AUGUST 21, 2003. THE COURT FILED THIS DOCUMENT ON AUGUST 21, 2003.**