

STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
601 DELAWARE AVENUE

WILMINGTON, DELAWARE 19899
TAX NEWSGRAM 71-13 December 17, 1971

TAX APPEAL BOARD DECISION

LICENSES

- Occupational License Tax Scientific Laboratories
- Operation of Parking Lot

QUESTION: Whether the operation of a Scientific Laboratory and/or Parking Lot by a non-profit organization was a business and subject to the above license tax.

It was the opinion of the Tax Appeal Board that the Petitioner was not engaged in the business of operating a motor vehicle parking facility or in the business of a scientific or medical laboratory as a private business for profit. They found that the two activities were directly related to the primary function of the Petitioner and they are exempt from the occupational license tax on those activities.

DECISION: For the Petitioner
Docket Numbers 431, 432, 433, and 434

EDITOR'S NOTE: There is merit to the findings of the Tax Appeal Board that the Petitioner was not operating either facility as a private business for profit. It would appear that more consideration should have been given to the fact that both operations were in direct competition with other facilities which are obligated to pay the tax. Both facilities were willing to allow the general public to use these facilities. It was recommended that no appeal be made on this case.

INHERITANCE TAX

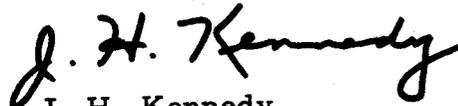
The Trust contained a general power of appointment in favor of the wife to be executed "as settlor's wife shall appoint by her Will". In her will the wife stated "I expressly refrain from exercising the power of appointment which I have under the trust created by my late husband"

The State contended the wife could have converted the trust by legal means other than the exercise of the power of appointment in her will and the trust proceeds should be taxable to her estate.

DECISION: Held that wife did not "exercise" a general power of appointment as specifically set forth in the law.

Refer to Code Section 1304 of Title 30, Delaware Code.

Docket No. 429



J. H. Kennedy
Director of Revenue

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