

**STATE OF INDIANA
Board of Tax Review**

HARVEST TIME MINISTRIES,)	On Appeal from the Vanderburgh County
)	Property Tax Assessment Board
Petitioner,)	of Appeals
)	
v.)	Petition for Review of Exemption, Form 132
)	Petition No. 82-028-97-2-8-00053
VANDEBURGHCOUNTY PROPERTY)	Parcel No. 11470269314
TAX ASSESSMENT BOARD OF)	
APPEALS)	
)	
Respondent.)	

Findings of Fact and Conclusions of Law

On January 1, 2002, pursuant to Public Law 198-2001, the Indiana Board of Tax Review (IBTR) assumed jurisdiction of all appeals then pending with the State Board of Tax Commissioners (SBTC), or the Appeals Division of the State Board of Tax Commissioners (Appeals Division). For convenience of reference, each entity (the IBTR, SBTC, and Appeals Division) is hereafter, without distinction, referred to as "State". The State having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

Issue

Whether the property is entitled to an exemption pursuant to Ind. Code § 6-1.1-10-16.

Findings of Fact

1. If appropriate, any finding of fact made herein shall also be considered a conclusion of law. Also, if appropriate, any conclusion of law made herein shall also be considered a finding of fact.

2. On April 21, 1997, Harvest Time Ministries (Petitioner) filed an application for property tax exemption, Form 136, with Vanderburgh County.

3. On September 10, 1997 the Vanderburgh County Board of Review (County Board) (PTABOA) denied the exemption.

4. On September 11, 1997, the Petitioner filed a Form 132 petition to the State for a review of the exemption. A hearing was held on March 31, 1998 before Hearing Officer Kim Chattin. Robert Bergner, Pastor of Harvest Time Ministries represented the Petitioner. Khris Seger represented Vanderburgh County.

5. At the hearing, the subject Form 132 petition was made part of the record and labeled Board Exhibit A. Notice of Hearing on Petition was labeled Board Exhibit B. In addition, the following documents were submitted as evidence:
Petitioner Exhibits 1 through 11 – Photographs of the subject.
Petitioner Exhibit 12 – World Evangelism Fellowship, Tenets of Faith.
Petitioner Exhibit 13 – Document titled “We Believe.”
Petitioner Exhibit 14 – Offering receipts for 1996.
Petitioner Exhibit 15 – Expenses for 1996.
Petitioner Exhibit 16 – Expenses for 1997 (January – June).
Petitioner Exhibit 17 – Expenses for 1997 (July – December).
Petitioner Exhibit 18 – Offering receipts for 1997.
Petitioner Exhibit 19 – Financial Report for 1996.
Petitioner Exhibit 20 – Financial Report for 1997.
Petitioner Exhibit 21 – Document filed with the Department of State.
Petitioner Exhibit 22 – Contract for Sale of Real Estate.

Petitioner Exhibit 23 – Letter from the Evansville District United Methodist Church.

Respondent Exhibit 1 – 6 pages containing 15 photographs of the subject.

Respondent Exhibit 2 – Brief submitted at the hearing.

6. The subject property is a church located at 117 EJ Maryland Street, Evansville, Indiana (Vanderburgh County, Pigeon Township). The Tax Year at issue is 1997.
7. The Hearing Officer did not view the subject property.
8. The subject building is owned by Evansville District United Methodist Church. On March 21, 1996 the subject was sold, on contract to Harvest Time Ministries. This contract was recorded in the Vanderburgh County Recorder's Office on March 22, 1996.
9. The subject is used and occupied by Harvest Time Ministries for religious purposes.
10. The County Board denied the exemption because Harvest Time Ministries does not technically own the property due to purchasing it on contract. The County Board acknowledged that the subject is used and occupied for religious purposes.

Conclusions of Law

1. The State is the proper body to hear an appeal of the action of the PTABOA pursuant to Ind. Code § 6-1.1-15-3.

Burden in General

2. In reviewing the actions of the PTABOA, the State is entitled to presume that its actions are correct. "Indeed, if administrative agencies were not entitled to presume that the actions of other administrative agencies were in accordance with Indiana law, there would be a wasteful duplication of effort in the work assigned to agencies." *Bell v. State Board of Tax Commissioners*, 651 N.E. 2d 816, 820 (Ind. Tax 1995). The taxpayer must overcome that presumption of correctness to prevail in the appeal.

3. The taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State in the untenable position of making the taxpayer's case for him. Second, requiring the taxpayer to meet his burden in the administrative adjudication conserves resources.

4. To meet his burden, the taxpayer must present probative evidence in order to make a prima facie case. In order to establish a prima facie case, the taxpayer must introduce evidence "sufficient to establish a given fact and which if not contradicted will remain sufficient." *Clark*, 694 N.E. 2d at 1233; *GTE North, Inc. v. State Board of Tax Commissioners*, 634 N.E. 2d 882, 887 (Ind. Tax 1994).

Constitutional and Statutory Basis for Exemption

5. In Indiana, the general rule is that all property in the State is subject to property taxation. Ind. Code § 6-1.1-2-1.

6. The General Assembly may exempt from property taxation any property being used for municipal, educational, literacy, scientific, religious, or charitable purposes. Article 10, Section 1, of the Constitution of Indiana.

7. Article 10, Section 1, of the State Constitution is not self-enacting. The General

Assembly must enact legislation granting exemption.

8. Ind. Code § 6-1.1-10-16(a) states “All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes.”
9. There need not be unity of ownership, occupation, and use for a property to be exempt, under *Sangralea Boys Fund, Inc. v. State Board of Tax Commissioners*, 686 N.E. 2d 954 (Ind. Tax 1997). Rather, the test is whether a property is owned for an exempt purpose, used for an exempt purpose, and occupied for an exempt purpose, not necessarily by the same entity
10. The subject is owned by a church (Evansville District United Methodist Church), the subject is occupied by a church (Harvest Time Ministries), and the subject is being used for religious purposes. Accordingly, the subject should be granted the exemption.

The above stated findings and conclusions are issued in conjunction with, and serve as the basis for, the Final Determination in the above captioned matter, both issued by the Indiana Board of Tax Review this ____ day of _____, 2002.

Chairman, Indiana Board of Tax Review