

**State of Indiana  
Board of Tax Review**

LIFEGATE, INC.,	)	On Appeal from the Hendricks County
	)	Property Tax Assessment Board
Petitioner,	)	of Appeals
	)	
v.	)	Petition for Review of Assessment
	)	Form 132
HENDRICKS COUNTY PROPERTY TAX	)	Petition Nos. 32-013-95-2-8-00036
ASSESSMENT BOARD OF APPEALS,	)	32-013-96-2-8-00020
	)	Parcel No. 0732541W100003
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 land and improvements owned by Lifegate, Inc., qualifies for property tax exemption pursuant to Ind. Code § 6-1.1-10-16 for religious purposes.

**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 be considered a finding of fact.

2. Pursuant to Ind. Code § 6-1.1-11-3, Lifegate, Inc., filed two applications for property tax exemption with the Hendricks County Board of Review (County Board). The first application, seeking exemption for 1995, was filed with the County Board on May 12, 1995. The second application, which sought exemption for 1996, was filed on May 14, 1996. The County Board denied the 1995 application on September 9, 1995, and the 1996 application was denied on August 19, 1996. The County Board gave Lifegate proper notice of denial on both applications.
  
3. Pursuant to Ind. Code § 6-1.1-11-7, Lifegate filed two Form 132 petitions seeking a review of the County Board's action by the State. The 1995 Form 132 petition was filed October 2, 1995, and the 1996 Form 132 petition was filed on September 18, 1996.
  
4. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on May 6, 1997, before Hearing Officer Wayne Hudson. Testimony and exhibits were received into evidence. Robert Stallwood, Attorney, Mark Porter, President of Lifegate, and Robert Porter represented Lifegate. Ron Faulkner and Lester Nees represented the County Board, and Don Allen, Liberty Township Assessor, represented the Township.
  
5. At the hearing, the subject Form 132 petitions and attachments were made part of the record and labeled Board Exhibit A. The Notice of Hearing on Petition was labeled Board Exhibit B. In addition, the following items were submitted to the State:
  - Petitioner Exhibit 1 – Samples of printed materials produced by Lifegate, Inc.
  - Petitioner Exhibit 2 – By-laws and Articles of Incorporation
  - Petitioner Exhibit 3 – 501(c)(3) certification
  - Petitioner Exhibit 4 – Indiana Annual Report of Nonprofit Corporation
  - Petitioner Exhibit 5 – State and federal Tax returns
  - Petitioner Exhibit 6 – Newsletters

Petitioner Exhibit 7 – Financial statements

Petitioner Exhibit 8 – sales report

Petitioner Exhibit 9 – Mission statement

Petitioner Exhibit 10 – Profit and loss statements

Petitioner Exhibit 11 – Letter from York, Schragger, Baxter, James & Rose

6. The subject property is located at 9093 South State Road 39, Mooresville, Indiana, Hendricks County, Liberty Township. Exemption is sought for 1995 and 1996, with taxes due and payable in 1996 and 1997, respectively.
7. The Hearing Officer did not view the property.
8. The subject property consists of an office building, a barn, two utility sheds, and a dwelling. The dwelling is occupied by the president of Lifegate and used as his personal residence; the barn and utility sheds are used for storage of printing materials and general storage.
9. Lifegate, Inc. is both an Indiana and a federal 501 (c)(3) nonprofit corporation. Its sole purpose is the publication and distribution of a non-denominational religious tract entitled “God’s Simple Plan of Salvation”. Lifegate is not associated with any specific organized church.
10. At the hearing, Lifegate stated they were removing the residence from consideration to be exempt.

### **Conclusions of Law**

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

### **Burden in General**

2. In reviewing the actions of the County Board (or 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 Board is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State Board 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. The General Assembly may exempt from property taxation any property being used for municipal, educational, literary, scientific, religious, or charitable purposes. Article 10, Section 1, of the Constitution of Indiana.
6. Article 10, Section 1, of the State Constitution is not self-enacting. The General Assembly must enact legislation granting the exemption. In this appeal,

exemption is claimed under Ind. Code § 6-1.1-10-16 which provides that all or part of a building is exempt from property taxes if it is owned, occupied, and used for educational or religious purposes.

7. In Indiana, use of property by a nonprofit entity does not establish any inherent right to exemption. The grant of federal or state income tax exemption does not entitle a taxpayer to property tax exemption because income tax exemption does not depend so much on how the property is used but on how much money is spent. *Raintree Friends Housing, Inc. v. Indiana Department of Revenue*, 667 N.E. 2d 810 (Ind. Tax 1996)(501(c)(3) status does not entitle a taxpayer to tax exemption). For property tax exemption, the property must be predominately used or occupied for the exempt purpose. Ind. Code § 6-1.1-10-36.3.

#### **Basis of Exemption and Burden**

8. In Indiana, the general rule is that all property in the State is subject to property taxation. Ind. Code § 6-1.1-2-1.
9. The courts of some states construe constitutional and statutory tax exemptions liberally, some strictly. Indiana courts have been committed to a strict construction from an early date. *Orr v. Baker* (1853) 4 Ind. 86; *Monarch Steel Co., Inc. v. State Board of Tax Commissioners*, 669 N.E. 2d 199 (Ind. Tax 1996).
10. Strict construction construes exemption from the concept of the taxpayer citizen. All property receives protection, security and services from the government, e.g., fire and police protection and public schools. This security, protection, and other services always carry with them a corresponding obligation of pecuniary support - - taxation. When property is exempted from taxation, the effect is to shift the amount of taxes it would have paid to other parcels that are not exempt. *National Association of Miniature Enthusiasts v. State Board of Tax Commissioners*, 671 N.E. 2d 218 (Ind. Tax 1996)(NAME). Non-exempt property picks up a portion of

taxes that the exempt property would otherwise have paid, and this should never be seen as an inconsequential shift.

11. This is why worthwhile activities or noble purpose is not enough for tax exemption. Exemption is justified and upheld on the basis of the accomplishment of a public purpose. *NAME*, 671 N.E. 2d at 220 (citing *Foursquare Tabernacle Church of God in Christ v. State Board of Tax Commissioners*, 550 N.E. 2d 850, 854 (Ind. Tax 1990)).
12. The taxpayer seeking exemption bears the burden of proving that the property is entitled to the exemption by showing that the property falls specifically within the statute under which the exemption is being claimed. *Monarch Steel*, 611 N.E. 2d at 714; *Indiana Association of Seventh Day Adventists v. State Board of Tax Commissioners*, 512 N.E. 2d 936, 938 (Ind. Tax 1987).

### **Conclusions Regarding the Exemption Claim**

13. Lifegate requests exemption based on religious purpose under 6-1.1-10-16. Lifegate is not associated in any manner with a church. Lifegate's purpose is the publication and distribution of "God's Simple Plan of Salvation."
14. This case is similar to two cases decided by the Indiana Court of Appeals in 1969. Both of those cases involved religious printing entities seeking an exemption.
15. In *State Board of Tax Commissioners v. Warner Press, Inc.*, 248 N.E. 2d 405 (Ind. App. 1969), the court held that the property of a religious printing house was exempt regardless of the profit/non-profit nature of the business, since the property was used for religious, and therefore, exempt purposes.
16. In *Himes v. Free Methodist Publishing House*, 251 N.E. 2d 486 (Ind. App. 1969), the court held that the property of a religious printing house that was wholly

owned and subservient to a church printed and distributed religious periodicals, including Sunday School materials, for the parent church, the dominant and primary purpose of the operation was of a religious nature and printing concern was entitled to exemption.

17. Lifegate's religious nature is well established, despite its lack of affiliation with any particular church. Lifegate publishes a religious tract in 108 different languages, and distributes the publication globally. Lifegate is a state and federally recognized nonprofit organization with a distinct religious purpose in the publishing and distribution of the religious tract, "God's Simple Plan of Salvation".
18. The Respondent denied the exemption because they believed that Lifegate's activities did not constitute a religious purpose. Therefore, they believed that the property was not owned, occupied, and used for religious purpose.
19. The subject property is owned and occupied by Lifegate. Lifegate is operated as a religious based non-profit company printing and distributing a religious tract. The printing and distribution of the tract "God's Simple Plan of Salvation" is a religious purpose.
20. The subject property is granted a 91% exemption. The residence, which represents approximately 9% of the subject property and was withdrawn from the exemption request at the hearing, is taxable.

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.

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Chairman, Indiana Board of Tax Review