

REPRESENTATIVE FOR PETITIONER:

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REPRESENTATIVE FOR RESPONDENT:

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**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

ST. GEORGE SERBIAN)	Petition Nos.: 45-036-01-2-8-00001
ORTHODOX CHURCH,)	45-036-02-2-8-00001
)	
Petitioner,)	Parcel No: 20-13-544-0001
)	
v.)	
)	County: Lake
LAKE COUNTY PROPERTY TAX)	Township: St. John
ASSESSMENT BOARD OF APPEALS,)	Property: Real
)	Assessment Year: 2006
Respondent.)	

On Remand from the Indiana Tax Court
Cause No. 45T10-0712-TA-79

July 29, 2009

FINAL DETERMINATION ON REMAND FROM TAX COURT

The Indiana Board of Tax Review (Board) has reviewed the Indiana Tax Court’s May 7, 2009, Order on Appeal from a Final Determination of the Board, a copy of which is attached to this determination. Pursuant Ind. Code § 6-1.1-15-8, the Board now makes its Final Determination on the issue specified by the Tax Court in its instructions.

1. St. George Serbian Orthodox Church (St. George) is a not-for-profit corporation located in Lake County, Indiana. In 2001, St. George constructed a cultural center on property that had been granted a religious purposes exemption.
2. On March 3, 2003, St. George filed applications for property tax exemption with the Lake County Property Tax Assessment Board of Appeals (PTABOA) seeking a religious purposes exemption on its cultural center for 2001 and 2002.¹ The PTABOA denied both applications because they were not timely filed and St. George sought review from the Board.
3. On October 22, 2007, after conducting a hearing on the matter, the Board issued a final determination in which it upheld the PTABOA's denials stating that an appeal must be filed by May 15th of the years at issue. Thus, to be timely, the Board found that St. George's applications for exemption must have been filed by May 15, 2001, and May 15, 2002, for the cultural center to be exempt in those years.
4. Subsequent to the Board's determination, the Indiana Legislature enacted a non-code statutory provision which provided that a taxpayer could file for exemption by January 1, 2008, for property that was otherwise entitled to exemption except for taxpayer's failure to timely file, for any assessment date in a calendar year after 2000. 2008 Indiana Acts 131, § 66 (eff. 1-1-2001),
5. On December 5, 2007, St. George initiated an appeal with the Indiana Tax Court. The Tax Court heard oral arguments on the matter on February 6, 2009, and the Court issued an order reversing the Board's determinations and remanding the matter to the Board to grant an exemption of the cultural center on the basis of Indiana Code § 6-1.1-11-3 and the newly enacted non-code provision. The Court held that 2008 Indiana Acts 131, § 66

¹ St George also applied for a property tax exemption for the 2003 tax year. Although the PTABOA agreed the application was timely, the PTABOA denied the application on the grounds that the cultural center was not used for an exempt purpose. St. George appealed to the Board which reversed the PTABOA and held that St. George's cultural center was entitled to the exemption for 2003. On appeal to the Tax Court, the Board's decision was affirmed.

(eff. 1-1-2001), clearly evidenced the Legislature's intent to allow taxpayers until January 1, 2008, to file their exemption applications for the years at issue. Thus, the Court determined that St. George's exemption applications, filed on March 3, 2003, were timely filed for the 2001 and 2002 assessment years and that St. George was entitled to property tax exemptions for the years at issue because the property was owned, occupied and used for religious purposes.

Wherefore, the Lake County Assessor is hereby ordered to grant an exemption on the St. George cultural center for assessment years 2001 and 2002.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS ON REMANDED AND REFERRED CASES-

Appeal rights concerning remanded and referred cases are governed by the provisions of Indiana Code § 6-1.1-15-8 and § 6-1.1-15-9. A case remanded under § 6-1.1-15-8(a) is appealed under Indiana Code § 4-21.5-5-16. An appeal of a corrected assessment made by the county property tax assessment board of appeals must be initiated in accordance with Indiana Code § 6-1.1-15-3 or § 6-1.5-5. You may also be entitled petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceedings that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and The Indiana Code § 4-21.5-5-7(b)(4), § 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.