

**PT 09-2**

**Tax Type: Property Tax**  
**Issue: Charitable Ownership/Use**  
**Religious Ownership/Use**

**STATE OF ILLINOIS**  
**DEPARTMENT OF REVENUE**  
**OFFICE OF ADMINISTRATIVE HEARINGS**  
**SPRINGFIELD, ILLINOIS**

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**THE DEPARTMENT OF REVENUE**  
**OF THE STATE OF ILLINOIS**

v.

**SAMARITAN MINISTRIES**  
**INTERNATIONAL**

**Taxpayer**

**Docket # 07-PT-0012**  
**PIN 14-06-402-003**  
**PIN 14-06-402-004**  
**PIN 14-06-402-014**  
**Tax Year 2006**

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Robin Gill, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; J. Brian Heller, Attorney at Law, for Samaritan Ministries International.

Synopsis:

Samaritan Ministries International (“applicant” or “SMI”) filed an application for a property tax exemption for the year 2006 for three parcels of property located in Peoria County. The fundamental purpose of SMI is to help Christians meet one another’s health care needs, and SMI contends that the property qualifies for an exemption because it is used exclusively for religious and charitable purposes and without a view to profit. SMI also contends that denying the exemption would violate both the federal and state constitutions. The Peoria County Board of Review recommended that the exemption be

granted on the basis that it qualifies for the religious purposes exemption. The Department of Revenue (“Department”) disagreed with that decision. The applicant timely protested the Department’s decision to deny the exemption, and an evidentiary hearing was held. After reviewing the record, it is recommended that this matter be resolved partially in favor of the applicant.

FINDINGS OF FACT:

1. SMI was incorporated as an Illinois non-profit corporation in 1991. It does not have any capital stock or shareholders. (App. Ex. G, H; Tr. p. 15)
2. The fundamental purpose of the organization is to apply the principles of community within the context of helping Christians bear one another’s health care needs spiritually, emotionally, and financially. The basis for the ministry is in Galatians 6:2, where people are asked to bear each other’s burdens. (App. Ex. Q1, pp. 3-4; Tr. pp. 21, 41, 140-143)
3. SMI publishes a Christian Health Care Newsletter (“newsletter”) to enable “Christians to help one another with medical needs apart from health insurance.” SMI mails the monthly newsletter, which includes, *inter alia*, the medical needs of some of its members, to all of the member households. The members receiving the newsletter are asked to share those needs that are “published” in the newsletter. (App. Ex. Q1, p. 3; Tr. p. 179)
4. In January 2005, SMI acquired the property in question pursuant to a warranty deed. (App. Ex. A2; Tr. p. 28)
5. Parcel number 14-06-402-004 contains an office building that has a total of 18,051 square feet. The building includes the following areas: Communications

- Department (1,247.75 square feet); Member Services Department (3,352.25 square feet); Operations Department (3,864 square feet); and Newsletter Compilation area (2,263.9 square feet). The remaining 7,323.1 square feet of the building was not specifically identified. (App. Ex. K, L3; Tr. pp. 107-108)
6. The Communications Department is where SMI produces its monthly newsletter and Prayer Guide. This department promotes the ministry and its vision. (App. Ex. L2; Tr. pp. 109-110)
  7. The Member Services Department is where SMI's phone personnel operate to provide prayer and counseling and to answer the needs of its members. (App. Ex. L2; Tr. pp. 110-111)
  8. The Operations Department is where telephone receptionists are located. This department also handles all of the mailings, postage requests, and maintenance to the building. (App. Ex. L2; Tr. p. 111)
  9. The Newsletter Compilation area has tables for volunteers to stuff the monthly newsletter mailing. (App. Ex. L2; Tr. pp. 111-112)
  10. During 2006, on every Sunday at 10:30 a.m. the Providence Family of Faith Church held a worship service in the Newsletter Compilation area. At 1:00 p.m. following every worship service the church had a fellowship meal. The elders of the church had their meetings in the building, and on September 29 through October 1 of 2006, the church had a Family Reformation Conference there. SMI did not charge the church for the use of the building. (App. Ex. I; Tr. pp. 38, 114-115, 166-167)

11. Parcel number 14-06-402-014 contains a building that is a warehouse, which has a total of 14,510 square feet. A hallway between the warehouse and the office building is 850 square feet. (App. Ex. K, L1; Tr. p. 108)
12. A portion of the warehouse is used to store SMI's records. Another portion is leased to Peoria Rescue Ministries ("PRM") for the sum of \$1.00.<sup>1</sup> The lease agreement states that "PRM agrees to be responsible for insuring all its property stored there and relieve SMI of all responsibility of caring for any stored items." (App. Ex. D1, L1; Tr. pp. 113, 116-117, 144)
13. A missionary who is currently on a mission in Brazil also stores "a significant amount of furniture and things" in the warehouse. (Tr. pp. 113, 117-118)
14. SMI's bylaws, which were last amended on September 14, 2006, indicate that SMI's purpose is as follows:<sup>2</sup>

In Matthew 28:18-20 Jesus told his disciples, "All power has been given to Me in heaven and on earth. Go therefore, and make disciples of all the nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, teaching them to observe all things that I have commanded you; and lo, I am with you always, even to the end of the age."

**The purpose** for which the corporation is organized is to carry out this Great Commission by:

1. **Associating** within the community of the Christian faith for discipleship, medical-sharing, physical needs-sharing, financial stewardship, evangelical, and educational purposes in accordance with the bylaws of this organization and the laws of the state or states wherein this Corporation may be doing business.
2. **Promoting** the biblical concept of mutual aid sharing, historically practiced among Christians as it relates to the socio-

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<sup>1</sup> PRM is a non-profit organization that is exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code. (App. Ex. D2)

<sup>2</sup> SMI did not provide at the hearing a copy of the bylaws that were in effect from January 1, 2006 through September 14, 2006.

economic and spiritual needs of its Subscribers. (“Subscribers” shall be deemed to be synonymous with the term “members” for purposes of the Illinois Not for Profit Corporation Act.)

3. **To disperse** funds among the aged, disabled, sick, and widows and orphans, of its members, the whole body of Christ, and the world.

4. **Developing and operating ministries** that provide resources to facilitate and promote the ability of Christians throughout the Body of Christ to be obedient disciples.

5. **Remaining faithful** to this doctrinal statement:

We believe the Bible alone is the inspired Word of God; therefore it is the final and only source of absolute spiritual authority.

We believe in the triune God of the Bible. He is one God who is revealed in three distinct Persons-God, the Father; God, the Son; and God, the Holy Spirit.

We believe Jesus Christ was God in the flesh-fully God and fully man. He was born of a virgin, lived a sinless life, died on the cross to pay the penalty for our sins, was bodily resurrected on the third day, and now is seated in the heavens at the right hand of God, the Father.

We believe that all people are born with a sinful nature and can be saved from eternal death only by grace alone, through faith alone, trusting only in Christ’s atoning death and resurrection to save us from our sins and give us eternal life.

We believe in the bodily resurrection of all who have put their faith in Jesus Christ, and the bodily resurrection to judgment of all who have not.

All we believe and do should be for the glory of God alone. (App. Ex. F, p. 2)

15. According to the bylaws, a person who would like to be a member of SMI must do the following:

(a) be a Christian living by Biblical principles,

(b) attend church 3 out of 4 weeks per month,

(c) totally abstain from tobacco, illegal substances, and sexual activity outside of the Biblical model for marriage (1 man/1 woman), and

(d) either abstain from alcohol or uses [sic] it in extreme moderation as permitted by the Christian Health Care Newsletter Guidelines. (App. Ex. F, p. 3)

16. To become a member of SMI and participate in sharing medical needs, a person must first complete an application wherein the potential member must initial several statements indicating that he or she agrees with them. The statements include, *inter alia*, that the person affirms the Statement of Faith, which is similar to the doctrinal statement included in the purpose section of the bylaws. The person must also agree to follow the requirements for members and follow SMI's guidelines. (App. Ex. R; Tr. pp. 66-67)
17. The membership application includes a section wherein the potential member's pastor must verify, to the best of his or her knowledge, that the person follows the member requirements that are in the bylaws. (App. Ex. R; Tr. p. 34)
18. A member must meet all of the member requirements and be a member in good standing to have a need published in the newsletter. (App. Ex. Q1, p. 5)
19. Memberships are not refused on the basis of health although conditions that exist before membership may be limited or excluded from publication. Christians of all denominations may be members. (App. Ex. Q1, p. 3; Tr. p. 45)
20. Each year the member must sign a membership continuation form to reaffirm the information in the application. The local pastor must again sign this form. (App. Ex. Q1, p. 6; Tr. p. 159-160, 164-165)

21. In addition to meeting the Christian criteria and completing the application, in order to become a member the person must pay an annual administrative fee to the SMI office. In January 2006 the fee was \$150, and in April 2006 it was increased to \$155.<sup>3</sup> (App. Ex. Q1, p. 3, Ex. W, p. 2)
22. SMI publishes ministry guidelines that contain details on how the ministry works and how a person can become a member of the ministry. The guidelines include the following on the cover: “Sick of health insurance? Come join us!” (App. Ex. Q1)
23. The guidelines are included in SMI’s informational packets and are available on its website, [www.samaritanministries.org](http://www.samaritanministries.org). (Tr. p. 61)
24. According to the guidelines, each monthly newsletter includes an individualized “monthly share notice” assigning that member to another member’s medical need. Members are asked to mail their “monthly share” directly to another member, to include a note of encouragement, and to pray for the member in need. (App. Ex. Q1, p. 3)
25. When the need is published, a checklist of the members who have been assigned to share in the need is sent to the receiving household in order to keep track of the sharing. (App. Ex. Q1, p. 3)
26. During the middle of 2006, the monthly share was \$105 for one person, \$210 for two persons, \$154 for a single-parent family, and \$248 for a two-parent family of any size.<sup>4</sup> (App. Ex. W, pp. 5, 6)

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<sup>3</sup> The annual fee is currently \$165. (App. Ex. Q1, p. 3)

<sup>4</sup> The monthly share is currently \$120 for one person, \$240 for two persons, \$172 for a single-parent family, and \$285 for a two-parent family of any size. (App. Ex. Q1, p. 3)

27. New member households are asked to send their first three monthly shares to the SMI office in their initial year of membership. These payments, as well as the annual fee, are the only payments that are required to be sent to SMI. (App. Ex. Q1, p. 3)
28. Under a subsection titled “Other Available Assistance,” the guidelines include the following:
- Bills must be submitted to insurance, Medicare, Worker’s Compensation, and any other responsible payer before submitting them to [SMI]...
- Seeking assistance from government aid programs is never required by SMI and is contrary to our understanding of God’s desire for His people. However, if a non-governmental, secular, religious or fraternal organization is willing to pay any portion of a qualifying medical bill and the member refuses to accept this payment, the member has then chosen not to have that portion of the bill published, unless the member demonstrates that accepting the assistance would violate his Biblical conviction. (App. Ex. Q1, p. 8)
29. A medical need that is less than \$300 is not publishable in the newsletter, and members are expected to pay this expense themselves. When the need goes over \$300, the amount from \$300 to \$100,000 is publishable. (App. Ex. Q1, p. 4)
30. The amount of a need that exceeds \$100,000 can be eligible for sharing if the member also joins SMI’s optional sharing ministry called “Save to Share.” (App. Ex. Q1, p. 4; Tr. p. 68)
31. SMI also does not publish certain other medical needs, which are listed in its guidelines. These include, *inter alia*, certain prior needs, audiological services, abortions, sexually transmitted diseases (unless the disease was contracted innocently, *e.g.* blood transfusions or medical procedures), fertility treatment,

- injuries that result from abusing drugs or alcohol, and mental illnesses. (App. Ex. Q1, pp. 10-12)
32. Needs for injuries from accidents where the member was an operator or passenger in a licensed motor vehicle are only publishable for members who also join Samaritan MV, which is a separate, optional sharing ministry. (App. Ex. Q1, pp. 4-5)
33. SMI does not guarantee that all the needs will be met. The members always remain liable for any unpaid bills.<sup>5</sup> (App. Ex. Q1, p. 3; Tr. p. 80)
34. If the publishable needs are greater than the shares available for a particular month, then the needs are prorated for that month and the members are asked to pray that God will provide for the unpublished portion of those needs the following month. Members are also encouraged to give more than their normal monthly share to help make up the shortfall. The lowest percentage of needs that SMI has published is 80%. (App. Ex. Q1, p. 8; Tr. pp. 79-80)
35. If the shares available for a particular month are greater than the needs to be published, and all of the unpublished prorated needs from the previous month are also met, needs for the following month may be published or the share amounts assigned to the members may be reduced for the month. (App. Ex. Q1, p. 8)

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<sup>5</sup> The following are included in the statements that must be initialed on the membership application: “(4) I/We understand that financial help in a time of need will come from the gifts of fellow members, not from [SMI], and regardless of any information I may have regarding the past giving provided from [SMI] members, there is no guarantee that a gift will be forthcoming from any other member(s); (5) The responsibility for paying medical expenses remains mine/ours whether or not other members help share those needs.” (App. Ex. R, p. 2)

36. The monthly Christian Health Care Newsletter consists of 5 separate sections: (1) main newsletter; (2) daily Prayer Guide; (3) “This Month at Samaritan”; (4) sharing slip; and (5) designation of gift slip. (App. Ex. DD, EE, W, S, X)
37. The main newsletter averages between 12 and 16 pages. The second page of each newsletter shows the amount of the needs from the previous month and the number of households. According to the December 2006 newsletter, the needs for November 2006 were \$2,194,107. The total number of member households as of October 31, 2006 was 11,798. (App. Ex. DD, pp. 1-179; Tr. pp. 49-51, 58)
38. The second page of each newsletter also shows the member services team, which is the group of people who the members will speak with if they call for counseling or prayer. The bottom of the page shows SMI’s motto: “Send a Note—Pay Your Share—Always Stay Alert in Prayer.” (App. Ex. DD, pp. 2, 14; Tr. pp. 49-51)
39. Each newsletter generally includes a cover story that concerns religious instruction, a Member Spotlight, New Rewards (babies that were born to members), Final Rewards (members who have passed on), letters from members concerning how they have been blessed by the ministry, an article on the Christian Worldview, and Doorpost (specific biblical instruction). Sometimes the newsletter has a book review, movie review, or articles on personal health. (App. Ex. DD, pp. 1-179; Tr. pp. 47, 49, 51-56)
40. The Christian Worldview is the belief that Christianity forms the view of everything else in the world. (Tr. p. 173)
41. The 12-page daily Prayer Guide provides the names, physical conditions, and other information about members with a physical malady. It has a section for

- each day of the month and requests prayers for these members. (App. Ex. EE, Q1, p. 3)
42. The single-page titled “This Month at Samaritan” gives an overview of what is in the newsletter and includes any breaking news that is too recent to include in the newsletter. (App. Ex. W, pp. 1-12; Tr. pp. 58-59)
43. The single-page (printed on both sides) sharing slip is individualized for each member. The top portion of the first side includes the name and address of the person to whom the members are expected to send their monthly share and a note of encouragement. (App. Ex. X)
44. In months where a proration occurs, the sharing slip shows the extra amount that the members would have to send so that the needs would be fully met. (App. Ex. Q1, p. 7)
45. The bottom half of the sharing slip’s first side includes the name and address of a member whose medical need does not meet the sharing guidelines, which is referred to as a “Special Prayer Need.” Members are asked to send a note of encouragement and a financial gift directly to the member with the Special Prayer Need. (App. Ex. X; Tr. p. 64)
46. Some people join specifically because they have a large medical bill that they want shared as a Special Prayer Need. (Tr. p. 81)
47. The second side of the sharing slip lists additional Special Prayer Needs. Members are asked to consider sending a note of encouragement and a financial gift directly to these members. (App. Ex. X)

48. The single-page designation of gift slip encourages members to make tax deductible donations to SMI, rather than directly to a member, for needs other than the monthly share or annual fee. The slip includes a space to put a member's name and designate whether it is for a Special Prayer Need, a Prorated Need, or Sponsorship.<sup>6</sup> (App. Ex. S; Tr. p. 67)

49. In the March 2006 publication of "This Month at Samaritan," the following was included under the heading "The Extra You Give Can be Tax Deductible":

If you would like a tax deduction for the extra amount you are giving for pro-rated needs, you can send the extra amount to [SMI] designated for our Pro-rata Fund, and we will use it to help those whose needs are pro-rated. Do not send your assigned share to [SMI], only the extra you are giving. Your assigned share must be sent directly to the member with the need.

Your gifts to Special Prayer Needs can also be tax deductible if you desire. Simply designate your gift for Special Prayer Needs, mentioning the need you want to give to. (App. Ex. W, p. 3)

50. If the needs submitted are greater than the shares available and the prorating of needs occurs for three consecutive months, then a vote of the members must be taken to determine if the monthly share should be raised. (App. Ex. Q1, p. 7; W, p. 5)

51. In the June 2006 publication of "This Month at Samaritan," the following was included under the heading "Share Increase Approved":

The share increase proposal the members voted on this past month was approved....Many of the ballots included notes expressing opinions....One of the notes in favor said, 'We think this is still an extremely reasonable amount. It would be a blessing to have to pay so little and have so much paid.' From what we have heard, particularly from those who have just joined, the new monthly

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<sup>6</sup> As explained later, Sponsorship is a program that assists members who are unable to pay their monthly share. (App. Ex. Q1, p. 7)

share amount is still very low compared to other health care options. (App. Ex. W, p. 6)

52. Subscriptions to the newsletter are available to non-members for \$12 per year. Subscribers receive both the main newsletter and the Prayer Guide. During 2006, there were 1,717 households that received the newsletter as subscribers but did not contribute monthly shares. A subscriber does not have his or her medical needs published. (App. Ex. U, DD, p. 2; Tr. p. 158)
53. SMI works with a Christian negotiator who tries to negotiate discounts for the members on their regular bills. SMI pays a fee for the negotiation except on needs over \$100,000 or special prayer needs; the company does those negotiations free of charge. (Tr. p. 82)
54. According to the guidelines, members who are not actively sharing in the needs of other members are not eligible to have their own needs published. (App. Ex. Q1, p. 5)
55. The bylaws include the following under the title “Members in Need”:
- All membership fees and other financial requirements of members or applicants may be waived in full or part, based upon the individuals’ inability to pay, the corporation’s financial circumstances, and the ability to find other members willing to give to make up the waived amounts.
- As long as arrangements can be made to eliminate the financial shortage, no one shall be denied membership or participation in any need sharing ministry, whether it be spiritual, emotional, or financial, who lacks the financial means, through personal resources or Biblically mandated assistance, to pay their shares or any administrative fees. (App. Ex. F, p. 3)
56. Under a section of the guidelines titled “How much does it really cost to belong to Samaritan Ministries?” the following is included, in part:

A sponsorship program exists to provide for those whose financial situation might otherwise hinder their ability to participate. See Section V.C. in this Guidelines booklet for more details. (App. Ex. Q1, p. 4)

57. Section V.C. of the guidelines is titled “Sponsorship” and is a subsection under the section titled “Additional Giving Opportunities for Members.” Section V.C. states as follows:

Even though we try to keep the annual fee and monthly share amounts as low as possible, there are still circumstances when an applicant, or an existing member, may not be able to pay the entire amount. Because we are committed to the central role of the family and the local church in all of life, including health care, application for help through Sponsorship will require that these other avenues of assistance be explored first, so they have the first opportunity to receive the blessing of giving. After qualifying for Sponsorship, the household with a need for assistance will be matched with a household willing to share from their surplus. For more information about how to apply for Sponsorship, or how to give to the Sponsorship program, please call us toll free at 877-764-2426. (App. Ex. Q1, p. 7)

58. In the January 2006 publication of “This Month at Samaritan,” the following was included under the heading “SMI Sponsorship Program”:

We have a few member households who have become unable to afford their entire monthly share. The SMI Sponsorship program allows other members who have additional resources to help those who are coming up short. If you would be able to give a small additional gift each month to help another household pay their monthly share, please call Joel toll-free at 1-877-764-2426. All of the members who need help are able to share something. In fact, in most cases, a gift of \$25 per month or less would be all the help they would need to remain as active members. Please prayerfully consider becoming a Sponsor if you are able. (App. Ex. W)

59. In the March 2006 publication of “This Month at Samaritan,” the following was included under the heading “Calling All Sponsors”:

Occasionally circumstances can change in members' lives that make it difficult or impossible for them to give their entire monthly share....

If you would be able to help another member as a sponsor, please prayerfully consider calling your member services team for more information. We have a few households who will need to become inactive if they cannot find additional funds.

Gifts for the Sponsorship program can be tax deductible if they are sent to [SMI] and designated for the Sponsorship Fund. (App. Ex. W, p. 3)

60. In the October 2006 publication of "This Month at Samaritan," the following was included under the heading "Sponsors Still Needed":

There continues to be a need for a few more members who can give a little more than their share each month to sponsor another member who is faced with dropping from active membership because they can't afford their entire monthly share. Your small additional monthly gift can make it possible for them to continue active membership, giving most of their share themselves and also remaining eligible to have needs published.... (App. Ex. W, p. 10)

61. SMI does not have any penalty or interest charge for people who are late paying their share or who send a bad check. If a member is late sending the annual fee, SMI will send a reminder letter, but there are no late fees. (Tr. pp. 93, 97, 154)

62. During 2006, members could receive a referral credit when someone who they told about the ministry became a member. The first referral credit during the year was \$150. The second and all additional referral credits during the year were \$100. (App. Ex. DD, p. 8)

63. SMI sent a brochure titled, "Does Your Health Insurance Support the Darkness?" It also states, "Join this Biblical health care ministry!" and includes the following:

**Our health care plans can actually work against the very things we claim to care about the most. Our response to this fact can be an indicator of the reality of our trust in God.**

When you participate in any health insurance plan, you are agreeing that the money from your premiums can be used for anything covered under the plan.....You become partners in the health care choices of everyone your company covers, even those choices that are unbiblical.....

Christians should be willing to help those suffering from disease and other problems, even if it is the result of unbiblical living. But should we encourage careless living by agreeing ahead of time to help pay for the health consequences that may result from wrong choices?.....

Members of Samaritan Ministries share one another's medical needs through a unique and exciting ministry that doesn't involve health insurance. They have agreed not to share in medical needs for unbiblical practices....

**You don't need to be a partner in abortions and other unbiblical practices with the money God has entrusted to you. Instead you can partner with fellow caring believers, praying and sharing in one another's medical needs. Come enjoy the blessings of being a partner in this ministry.** (emphasis in original; App. Ex. Q2, pp. 1-2)

64. In the July 2006 publication of "This Month at Samaritan," the following was included, in part, the under the heading "Rapid Response Prayer Team":

Frequently we receive prayer requests by telephone or email for things that will be happening before the next newsletter and prayer guide will be mailed. We also occasionally receive requests from members, and even non-members, for needs that are not health care related but are still of concern. We are looking for Samaritan members who would like to minister to others by praying for these urgent needs as part of a rapid response prayer team.

When we receive prayer requests here at the office, we will forward them via email to any of you who would like to join in praying for them.... (App. Ex. W, p. 7)

65. The guidelines state as follows: "SMI's prayer ministry among our staff and members is available for the non-published needs of members and non-members as we seek to serve all as commanded by Galatians 6:10." (App. Ex. Q1, p. 3)

66. SMI is governed by a five-member Board of Directors. Three of the Board members are elected by the non-staff membership. The Board members do not receive financial compensation except for reimbursement of expenses incurred attending the meetings. (App. Ex. Q1, p. 3)
67. Board members must provide written verification from their local church that their Christian beliefs and practices are consistent with the qualifications for elder. (App. Ex. F, p. 5)
68. The bylaws include the following concerning compensation of the officers and any employees who serve as directors:
- If an employee is a member of the Board of Directors, when his compensation is being considered, he may only be present to answer questions and otherwise must recuse himself from the meeting and not be present during debate and voting on the compensation or on any transfer of property from the corporation. The compensation shall be approved in both amount and manner to be in compliance with Internal Revenue Code Regulation Section 53.4958-6(C) so as to be presumed reasonable. (App. Ex. F, p. 9)
69. During 2006, SMI's president, Ted Pittenger, received the highest compensation of \$99,000. This amount was determined based on a report prepared by the compensation committee. (App. Ex. N1, p. 5; Ex. II)
70. The bylaws state that one of the officers of the corporation shall be Chaplain, and his duties are "to provide spiritual leadership and instruction to the staff and members of the Corporation. This may, but is not limited to, include conducting Bible studies and prayer sessions with the staff, so they in turn can minister spiritually to the members, and writing articles of spiritual instruction for the Newsletter." (App. Ex. F, p. 9)

71. For every newsletter, the Chaplain writes the Doorpost article, which includes specific biblical instruction. The Chaplain presents Bible passages at Board meetings and coordinates prayer with the staff. The current Chaplain is an ordained elder in one of the local churches. (Tr. pp. 39-40)
72. In addition to the Chaplain, one other officer is an ordained elder. (Tr. p. 43)
73. All of the employees, as well as the Board members, must annually sign the Christian Statement of Faith that is in the bylaws. Employees in the Prayer Services Department counsel members and pray with them; these employees must be spiritually mature. (Tr. pp. 43-44)
74. SMI occasionally sends staff to seminars for biblical counseling and worldview instruction. Officers and employees conduct free presentations at conferences for other non-profit organizations. (Tr. pp. 44, 118)
75. The bylaws provide that upon dissolution the assets shall be given first to its creditors, then to pay any outstanding needs of current members, and then to any not-for-profit organization selected by the Board that meets the requirements of Article 4 of the Articles of Incorporation.<sup>7</sup> (App. Ex. F, p. 11)
76. During 2006, 71% of the member households had an AGI less than the national median household income. (App. Ex. V1, V2; Tr. pp. 75-77)
77. SMI's Form 990 that was filed with the IRS for the year 2006 shows that it received donations of \$72,262. The income from membership dues and assessments was \$3,673,369, the income from interest on savings was \$5,548, and

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<sup>7</sup> Article 4 of the Articles of Incorporation provides that the assets shall be distributed to an organization that is organized and operated exclusively for religious purposes under section 501(c)(3). (App. Ex. H, p. 3)

other revenue was \$7,100 for total income in the amount of \$3,758,279. (App. Ex. N1)

78. SMI's expenses on its Form 990 for 2006 were \$3,726,046, which resulted in an excess of \$32,233. (App. Ex. N1)

79. SMI's expenses on its Form 990 for 2006 included "Specific Assistance to Individuals" as follows:

Sponsorship Shares	\$ 25,632
Special Prayer Needs	6,000
Samaritan Ministries Donations	6,000
Katrina Fund	225
Pro-Rata Fund	10,186
Special Prayer Needs	17,679
Member Sponsorship Shares	<u>6,572</u>

Total \$ 72,294 (App. Ex. N1, p. 20)

80. SMI is exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code. The Attorney General found that SMI is a religious organization exempt from filing annual financial reports under the Charitable Trust and Solicitations Acts. (App. Ex. M1, M2)

#### CONCLUSIONS OF LAW:

Article IX, section 6 of the Illinois Constitution of 1970 authorizes the General Assembly to grant property tax exemptions in limited circumstances and provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes. Ill. Const. 1970, Art. IX, §6.

Pursuant to this constitutional authority, the General Assembly enacted section 15-40 of the Property Tax Code, which provides in part as follows:

- (a) Property used exclusively for:
  - (1) religious purposes, or
  - (2) school and religious purposes, or
  - (3) orphanages

qualifies for exemption as long as it is not used with a view to profit. 35 ILCS 200/15-40.

In order to receive an exemption under this section, the applicant must establish that (1) the property is used exclusively for religious purposes, and (2) the property is not used with a view to profit. See First Presbyterian Church of Dixon v. Zehnder, 306 Ill. App. 3d 1114, 1116 (2<sup>nd</sup> Dist. 1999). The term “exclusively” refers to the primary purpose for which the property is used. McKenzie v. Johnson, 98 Ill. 2d 87, 98 (1983).

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. Chicago Patrolmen’s Association v. Department of Revenue, 171 Ill. 2d 263, 271 (1996). The party claiming the exemption has the burden of proving by clear and convincing evidence that it is entitled to the exemption, and all doubts are resolved in favor of taxation. *Id.*; City of Chicago v. Department of Revenue, 147 Ill. 2d 484, 491 (1992).

SMI argues that its property is used exclusively for religious purposes with a significant charitable component. It notes that one test that the Illinois Supreme Court has provided is that property will be considered used for religious purposes “if it reasonably and substantially facilitates the aims of religious worship or religious instruction.” McKenzie, at 99. SMI admits that its activities are not identical to any

organization described in case law, but it asserts that its primary activity of publishing a religious newsletter is similar to organizations that were found to be exempt in Inter-Varsity Christian Fellowship v. Hoffman, 62 Ill. App. 3d 798 (2<sup>nd</sup> Dist. 1978) and Evangelical Teacher Training Association v. Novak, 118 Ill. App. 3d 21 (2<sup>nd</sup> Dist. 1983). SMI believes it is similar to these cases because its primary activity is the publication of a newsletter that contains religious instruction and facilitates worship among its members. SMI states that through a small portion of its newsletter it operates a healthcare sharing ministry, but this financial sharing occupies only a portion of its efforts and is an integral part of SMI's religious activities.<sup>8</sup> The patently religious aspects of SMI are primary and the needs sharing ministry is secondary.

SMI maintains a staff to meet the prayer and counseling needs of its members and non-members. The majority of staff time is spent producing the newsletter, praying, counseling, and promoting its religious viewpoint.<sup>9</sup> The Rapid Response Prayer Team uses email to send out immediate prayer requests to members and staff. In addition, local churches are intimately involved in SMI's operations; they provide local accountability and encouragement.

SMI believes that the medical needs sharing ministry is primarily a religious activity. SMI administers to spiritual needs with prayer, emotional needs with counseling, and physical and related financial needs by facilitating the giving of gifts to those in need. The financial sharing is inextricably intertwined with worship and

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<sup>8</sup> SMI provided summaries for 2006 that showed that less than 50% of the newsletters were directly related to the medical needs sharing. (App. Brief attachments 1-3)

<sup>9</sup> SMI gave the percentage of time that its employees devoted to various activities as follows: Production of Monthly Newsletter 30%; Dealing with Financial Burdens 20%; Spiritual and Emotional Counseling 20%; Building our Community/Encourage Other Christians to Become Members 15%; General Management and Administration 15%. (App. Ex. T).

religious instruction, and it cannot function without a “shared, fundamental religious premise.” (App. Brief, p. 23) It substantially facilitates the religious instruction of bearing one another’s burdens, praying for one another’s needs, and developing a caring community. The sharing is reasonably necessary for the accomplishment and fulfillment of SMI’s religious objective that Christian’s bear one another’s burdens. See McKenzie, *supra*.

SMI uses the term “church” to refer to both (1) the local church, which is an individual congregation, and (2) the broader church, which refers to all of the local congregations of various denominations throughout the world. SMI refers to itself as a “parachurch,” which is a ministry that fills the gaps between local churches and the broader church because either the local churches do not have enough members to accomplish something or the churches are not doing something that they should be doing. (Tr. p. 30). SMI fills the gap for the financial sharing of medical needs.

SMI notes that in tax exemption cases involving religious use there are two inquiries the Department may make: (1) does the religious organization assert the challenged purposes and activities are religious; and (2) is that assertion bona fide? See Calvary Baptist Church v. Department of Revenue, 349 Ill. App. 3d 325 (4<sup>th</sup> Dist. 2004). SMI’s contends that its needs sharing ministry is a bona fide part of its religious belief; its purpose is to encourage Christians to share one another’s burdens and to facilitate the sharing. The religious commitment of its members is essential to its ministry because the goal is to minister to the needs of the whole person; the casual religious person is not likely to engage in prayer, letter writing, and emotional support on a continuing basis. Furthermore, SMI is building a community that gives beyond the minimum to people in

need. An important principle is to not ask others to assist with a medical expense if you can pay it yourself.<sup>10</sup>

SMI argues that it does not engage in the business of insurance and is not similar to insurance. See Barberton Rescue Mission, Inc. v. Insurance Division of the Iowa Department of Commerce, 586 N.W. 2d 352 (1998) (Christian newsletter through which medical costs were spread among its subscribers was not an insurance contract). The ministry works because the members have faith in God and their Christian community; the lack of guarantees has kept some people from joining. (Tr. pp. 92-93) Every time there is a medical need, a member must believe by faith that it will be met. The assurance that comes from religious faith should not be confused with insurance that comes from a legal contract because they are not similar. SMI does not operate as a business, and the fact that no commercial entity engages in similar activity makes it unlikely that the activity is secular in nature.

SMI asserts that there is a significant charitable component to its needs sharing, which confirms that it is primarily a religious, rather than secular, activity. SMI notes that in some cases the courts have observed that the religious and charitable exemptions are inter-related. See Evangelical Teacher Training Association, supra; Congregational Sunday School & Publishing Society v. Board of Review, 290 Ill. 108 (1919). Religious activity has an inherently charitable component because charity is defined as “a gift....for the benefit of an indefinite number of persons, either by bringing their minds and hearts under the influence of education or religion,....by assisting them to establish themselves

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<sup>10</sup> The section of the guidelines called “Frequently Asked Questions,” includes the following: “Is Samaritan Ministries some kind of Christian health insurance?” The answer, in part, states, “No....Unlike insurance, the focus of Samaritan Ministries’ need sharing is not on what you can receive financially if you have a need, but on how you can help others with the needs they have right now (Acts 20:35).” (App. Ex. Q1, p. 4)

in life,...or otherwise lessening the burdens of government.” Congregational Sunday School at 112-113.

SMI contends that its most significant charitable effects are the following: (1) a person’s health condition does not matter in determining whether they may join; (2) the majority of people have no health insurance when they join; and (3) a person’s health risk and family size do not matter in determining the fee and sharing amounts. SMI claims that it lessens the burdens of government because it welcomes people with poor health and those who cannot afford insurance. SMI contacts members who do not pay their monthly share, and if the failure to pay is due to financial reasons, then SMI encourages them to apply for Sponsorship.

In determining whether property is exempt based on religious use, courts have recognized the constitutional parameters set forth in the first amendment of the United States Constitution (U.S. Const., Amend. I) and section 3, article I of the Illinois Constitution (Ill. Const. 1970, Art. I, §3). Three Angels Broadcasting Network, Inc. v. Department of Revenue, 381 Ill. App. 3d 679, 696 (5<sup>th</sup> Dist. 2008); Fairview Haven v. Department of Revenue, 153 Ill. App. 3d 763, 772-773 (4<sup>th</sup> Dist. 1987). These provisions provide that “governmental bodies are precluded from resolving disputes on the basis of religious doctrine and must respect the internal autonomy of religious organizations.” Three Angels, at 696. Courts must accept the organization’s characterization of the purpose of its activities as religious before determining whether the property is in fact used exclusively for religious purposes and not with a view to profit. *Id.*

The purpose of SMI’s activities must be accepted as religious, but it is difficult to find that the property is primarily used for religious purposes because the reason why the

organization exists is to allow its members to pay each other's medical expenses. Paying one's share (i.e., sending the monthly share amount to another member so that he will have money to pay for his medical expense) is an essential aspect of the ministry. SMI's motto is "Send a Note—Pay Your Share—Always Stay Alert in Prayer." Members join with the expectation that, when needed, they will receive money to pay their medical bills. Once they join, members are expected to pay their share each month, and members who do not pay their share are not eligible to have their medical needs published. If their needs are not published, then they will not receive money to pay their medical bills. In order to keep track of the sharing to make sure that the payments are made, a checklist of the members who have been assigned to share the need is sent to the member who will be receiving the money.

SMI's goal is commendable because medical expenses can be financially devastating to people without health insurance, but the primary reason for the ministry is to assist Christians with their medical expenses. SMI was organized because the financial sharing of medical needs was a gap that needed to be filled between the local churches and the broader church. Local churches are too small to cover large medical burdens; one major need would be impossible for the whole denomination to bear for one another. SMI therefore describes itself as a parachurch.

As a parachurch, however, SMI has not shown clearly and convincingly that it is the type of organization that falls within the religious purposes exemption for property taxes. As the court noted in Community Renewal Society v. Department of Labor, 108 Ill. App. 3d 773 (1<sup>st</sup> Dist. 1982), an organization may be "church related" but not actually "operated primarily for religious purposes." Community Renewal Society, at 781-782.

See also Leadertreks, Inc. v. Department of Revenue, 895 N. E. 2d 683 (2<sup>nd</sup> Dist. 2008) (leadership development is not *per se* a religiously imbued undertaking); Fairview Haven, *supra* (caring for aged not a religious purpose). SMI's Christian requirements allow its organization to succeed, but they do not necessarily make the organization primarily religious. As SMI's guidelines indicate, the Biblical lifestyle that its members agree to follow not only honors Jesus Christ but it also eliminates many habits that can harm health. (App. Ex. Q1, p. 3) SMI helps its members sustain their religious beliefs and life-styles through its publications, but this is not the primary purpose of the organization. Its primary purpose is to facilitate financial assistance among its members.

SMI encourages Christians to share one another's burdens and apply that to all aspects of life, but SMI has only formalized the sharing with respect to health care needs. SMI contends that it will have failed its purpose if it only helps people financially and does not change their worldview to embrace Christian community; it claims that sending monthly contributions directly to other members facilitates a sense of community and serves as a Christian witness to others. The monthly contribution, however, is the only amount that SMI requires to be sent to other members. SMI's newsletter encourages contributions for Special Prayer Needs, Sponsorship, and Prorated Needs to be made directly to SMI in order for the donor to receive a tax deduction.

Even if it is assumed that SMI uses the property primarily for religious purposes, it would only be entitled to the exemption if it also shows that its activities are conducted without a view to profit. If property is used with a view to profit, this defeats the exemption "regardless of whether that profit inures to a private individual or is applied to maintaining the religious organization." Three Angels, at 697. "It is whether the

activities are conducted with a view to profit, and not how the profits are used, that determines whether there should be an exemption.” *Id.*; see also Congregational Sunday School, at 118.

SMI has failed to meet its burden of showing clearly and convincingly that the property is used without a view to profit. At its core, SMI is organized to assure its members that they will receive money to pay their medical expenses when they need it. Members must pay an annual fee and their first three monthly shares directly to SMI. Members are then expected to send their monthly payments to other members. In return, members expect to receive money for medical expenses when needed. Some people join specifically to have a prior medical expense, which is not a publishable need, included in the Special Prayer Needs. Although payment for this and other expenses is not guaranteed, the member submits it with the hope that he will receive money to pay it.

Members recognize that the benefit to membership is the expectation of receiving money for medical expenses when needed. The portion of the June 2006 publication of “This Month at Samaritan” concerning the share increase indicated that one of the notes in favor said, “We think this is still an extremely reasonable amount. It would be a blessing to have to pay so little and have so much paid.” In addition, during 2006 SMI gave a referral credit to members who referred new members. The amount of the credit was the same as the annual fee.

Although SMI contends that it is not a form of health insurance, it markets itself as an alternative to health insurance. The cover of the guidelines includes the following: “Sick of health insurance? Come join us!” The guidelines also state that the newsletter enables “Christians to help one another with medical needs apart from health insurance.”

In the June 2006 publication of “This Month at Samaritan,” SMI stated “the new monthly share amount is still very low compared to other health care options.” Its brochure asks, “Does Your Health Insurance Support the Darkness?” It also states, “Join this Biblical health care ministry!” The brochure suggests that people should join SMI to share each other’s medical expenses because health insurance plans support unbiblical choices. Its marketing solicits members on the basis that their medical needs will be shared by other members, and this is the primary reason for joining. There are emotional and spiritual burdens that go along with the financial ones, but the main reason for becoming a member is the benefit of receiving money to pay medical bills. Although some members may join the ministry because they simply want to help others pay their medical bills, the primary reason for joining is to have the benefit of receiving money to pay for medical expenses when they arise.

### **Partial Exemption**

SMI argues that even if it is found that the financial needs sharing is not primarily a religious activity, those portions of the property that are primarily devoted to religious activities should be exempt. SMI believes this includes 18,057 square feet of the office building and one-half of the warehouse that is used by Peoria Rescue Ministries (“PRM”).

With respect to the office building, a portion of it is used primarily for religious purposes and without a view to profit. The 2,263.9 square feet of the Newsletter Compilation area was used during 2006 by the Providence Family of Faith Church. This is the only portion of the building that was specifically identified and used by the church for its Sunday worship service and fellowship meal. This portion of the building is not

used with a view to profit because SMI does not charge the church rent for the use of this property. This portion, therefore, qualifies for an exemption.

As for the warehouse, however, the evidence does not indicate that the portion used by PRM qualifies for an exemption. SMI provided a document showing PRM is exempt from federal income taxes under section 501(c)(3), but it did not provide additional information concerning PRM's activities.<sup>11</sup> Because it has not been shown clearly and convincingly that PRM is an organization that would qualify for a religious exemption, it cannot be found that its use of the property reasonably and substantially facilitates the aims of religious worship or religious instruction. Because PRM uses the warehouse for storage, the property is not being used primarily for religious purposes. This portion of the property, therefore, does not qualify for an exemption.

### **Charitable Exemption**

In its arguments, SMI contends that the property is primarily used for religious purposes "with a significant charitable effect." (App. Brief p. 1) Some courts have combined the analysis of the religious and charitable exemptions or noted that many of the same factors may be common to both exemptions. See Congregational Sunday School, *supra*; Inter-Varsity Christian Fellowship, *supra*; Evangelical Teacher Training Association, *supra*. As with the religious exemption, SMI has not met its burden of showing clearly and convincingly that its property qualifies for the charitable purposes exemption.

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<sup>11</sup> The report that was completed by the Board's compensation committee concerning the president's compensation made a comparison to the compensation of PRM's executive director; it stated that PRM is "funded totally by gifts, and is almost entirely an outreach ministry to the lost." (App. Ex. II, p. 7) No additional information concerning PRM was given.

The charitable purposes exemption is found in section 15-65 of the Code, which provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) Institutions of public charity..... (35 ILCS 200/15-65(a)).

Property may therefore be exempt under this section if it is (1) owned by an entity that is an institution of public charity, (2) actually and exclusively used for charitable purposes, and (3) not used with a view to profit. *Id.*; Chicago Patrolmen's Association, *supra*; Methodist Old People's Home v. Korzen, 39 Ill. 2d 149, 156-157 (1968). Whether property is actually and exclusively used for charitable purposes depends on the primary use of the property. Methodist Old Peoples Home, at 156-57. If the primary use of the property is charitable, then the property is "exclusively used" for charitable purposes. Cook County Masonic Temple Association v. Department of Revenue, 104 Ill. App. 3d 658, 661 (1<sup>st</sup> Dist. 1982).

In Methodist Old Peoples Home, *supra*, the Supreme Court provided the following guidelines for determining charitable ownership and use: (1) whether the benefits derived are for an indefinite number of people, persuading them to an educational or religious conviction, for their general welfare or in some way reducing the burdens of government; (2) whether the organization has no capital, capital stock or shareholders, and earns no profits or dividends, but rather derives its funds mainly from public and private charity and holds them in trust for the objects and purposes expressed in its charter; (3) whether the organization dispenses charity to all who need and apply for it, does not provide gain or profit in a private sense to any person connected with it, and

does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses; and (4) whether the primary purpose for which the property is used, not any secondary or incidental purpose, is charitable. Methodist Old Peoples Home, at 156-57. These factors are used to determine whether property meets the constitutional standards for a charitable purposes exemption. Eden Retirement Center, Inc. v. Department of Revenue, 213 Ill. 2d 273, 290-291 (2004). They are to be balanced with an overall focus on whether and how the organization and use of the property serve the public interest and lessen the State's burden. See DuPage County Board of Review v. Joint Commission on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461, 468-469 (2<sup>nd</sup> Dist. 1995).

The evidence does not clearly and convincingly show that SMI is a charitable organization that uses the property for charitable purposes under the guidelines of Methodist Old Peoples Home, *supra*. Although SMI is a non-profit organization that has no capital, capital stock, or shareholders, it derives its funds primarily from fees and not from charitable contributions. The charging of fees does not automatically disqualify an organization as charitable if it furnishes its services to those who are unable to pay. See Small v. Pangle, 60 Ill. 2d 510, 515-516 (1975). SMI has not clearly established that it does this.

SMI has a Sponsorship program for members who are unable to pay their entire monthly share, but these members may be dropped from active membership if other members do not become their sponsors. In the March 2006 publication of "This Month at Samaritan," SMI stated "We have a few households who will need to become inactive if they cannot find additional funds." In the October 2006 publication, it stated as follows:

There continues to be a need for a few more members who can give a little more than their share each month to sponsor another member who is faced with dropping from active membership because they can't afford their entire monthly share. Your small additional monthly gift can make it possible for them to continue active membership, giving most of their share themselves and also remaining eligible to have needs published.... (App. Ex. W, p. 10)

Allowing members to be dropped from the ministry because of their inability to pay is not providing charity to all who need and apply for it. If SMI's property was actually being used for charitable purposes, then members should not have to leave due to an inability to pay.

Charity is considered to be a gift (see Methodist Old Peoples Home, *supra*), but the charitable policy in the bylaws does not indicate that the waiver of fees is a gift from SMI because the waiver is based upon three criteria: (1) the individuals' inability to pay; (2) SMI's financial circumstances; and (3) the ability to find other members willing to give to make up the waived amounts. (App. Ex. F, p. 3) The bylaws further state that no one who lacks the financial means shall be denied membership, but only "as long as arrangements can be made to eliminate the financial shortage." *Id.* SMI's charitable policy indicates its primary purpose is to facilitate financial assistance between its members. SMI primarily finds people to pay for other's medical needs, and it does this by directing monthly payments from other members to those who need it. For members who are unable to afford their monthly payment, SMI again primarily finds other members to pay the shortfall. Any charity provided to members is primarily given not by SMI, but rather by other members who have, in fact, paid SMI a fee for the privilege of being, themselves, on the assistance list. Although the testimony indicated that SMI waives the annual fee for those who are in the Sponsorship program, the total amount of

this fee waiver during 2006 was not provided. Nevertheless, members are required to make their monthly payment before they receive money from other members for their medical bills, and in the case of Sponsorship, other members, rather than SMI, assist with the monthly payment. In sum, SMI does not primarily provide charity; it finds members who are willing to provide it.

It must be reiterated that SMI has the burden of proving its right to the exemption, and the evidence must be clear and convincing. Eden Retirement, *supra*. All facts are to be construed and all debatable questions resolved in favor of taxation. *Id.* Because SMI has failed to prove by clear and convincing evidence that it has met its legal burden of showing that it has met the requirements for either the charitable or religious exemptions (with the exemption of the Newsletter Compilation area), its request for the exemptions must be denied.

### **Constitutional Issues**

SMI contends that this tribunal does not have jurisdiction to consider constitutional issues, but it raises them to preserve its right to raise them on administrative review. See Carpetland U.S.A. v. Department of Employment Security, 201 Ill. 2d 351, 396 (2002). SMI refers to four cases decided in the Department's administrative proceedings where the property at issue was found to be exempt because it was used primarily for religious purposes: Mennonite Service Adventure Unit v. IDOR, PT 02-27 (residence for volunteers where "considerable" religious activity took place is exempt); Muhammad's Holy Temple of Islam v. IDOR, PT 02-17 (building used, *inter alia*, for teaching martial arts and sewing as part of the Islamic religion is exempt); Muhammad's Holy Temple of Islam v. IDOR, PT 02-35 (building used, *inter alia*, for

training in waiting tables, cooking and restaurant management is exempt because secular uses are incidental); and Set Free Christian Fellowship v. IDOR, PT 02-24 (pasture area used for baptism and recreational activities is exempt). SMI argues that it is not constitutionally justified to find that the property in those cases was used primarily for religious purposes and the property in the instant is not used primarily for religious purposes.

SMI believes that distinguishing those cases with the present case violates the establishment clause of the first amendment of the United States Constitution by favoring one religion over another. It also violates the free exercise clause of the first amendment by burdening one religion and applying the exemption in a discriminatory manner. In addition, the Illinois Constitution's religious freedom provision in article I, section 3, would be similarly violated.

Although the constitutional issues are raised for purposes of administrative review, the cases referred to by SMI are distinguishable from the instant case. The activities in the cases cited by SMI do not have a significant financial component like the instant case.<sup>12</sup> The organizations in those cases were actually using the property primarily for religious purposes and were not facilitating financial assistance between their members. Although a basic tenet of the Christian faith is to bear one another's burdens, SMI is not actually bearing the burdens but is facilitating its members to bear the burdens. Except in the case of Sponsorship, members do not actually receive financial assistance for their medical bills until they pay their monthly share. Even with

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<sup>12</sup> This was acknowledged in the report concerning the president's compensation that was completed by the Board's compensation committee when comparisons were made to other ministries. At one point, the committee recognized that SMI ministers to its members "much more in a financial way than a church does." (App. Ex. II, p. 7)

members who receive help with their monthly payment through the Sponsorship program, the financial assistance for Sponsorship is from other members rather than SMI.

The cases referred to by SMI are, therefore, distinguishable.

Recommendation:

For the foregoing reasons, it is recommended that the 2,263.9 square feet of the Newsletter Compilation area used by the Providence Family of Faith Church be exempt.

It is recommended that the remainder of the property at issue be denied the exemption.

Linda Olivero  
Administrative Law Judge

Enter: January 2, 2009