

ST 08-7

Tax Type: Sales Tax

Issue: Exemption From Tax (Charitable or Other Exempt Types)

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

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

v.

**ABC OUTREACH
MINISTRIES**

Taxpayer

Docket # 07-ST-0000

Claim for Exemption Number

RECOMMENDATION FOR DISPOSITION

Appearances: Robin Gill, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Reverend John Doe, Jr., *pro se*, for ABC Outreach Ministries.

Synopsis:

ABC Outreach Ministries (“taxpayer”) applied to the Department of Revenue (“Department”) for an exemption identification number in order to purchase tangible personal property at retail free from the imposition of use and retailers’ occupation taxes. The Department denied the application, and the taxpayer timely protested the denial. An evidentiary hearing was held during which the sole issue presented was whether the taxpayer is organized and operated exclusively for charitable purposes under section 3-5(4) of the Use Tax Act (35 ILCS 105/3-5(4)) and section 2-5(11) of the Retailers’

Occupation Tax Act (35 ILCS 120/2-5(11)). The Department contends that the taxpayer is not organized and operated exclusively for charitable purposes. After reviewing the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT:

1. The taxpayer is an Illinois non-profit corporation that was organized in 2005; it has no capital, capital stock, or shareholders. It is exempt from federal income taxes pursuant to section 501(c)(3) of the Internal Revenue Code. (Dept. Ex. A, pp. 2-3, Ex. E, pp. 62-73)
2. The taxpayer is a Bible based counseling agency that provides counseling to anyone who needs it. Its bylaws state its purposes as follows:

ABC Outreach Ministries is a faith based treatment center providing couples and families counseling, assessments, education. Individuals will receive bible-based counseling for couples, marriages, family values, providing adolescence, mental health and substance abuse education through group and individual settings.

The organization is organized exclusively for charitable, religious, educational, and scientific purposes under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future tax code. (Dept. Ex. B, p. 6, Ex. E, p. 63)

3. The taxpayer began providing services in November 2005. It rents an office at the Anywhere County Health Department and serves people in the Anywhere County area. (Dept. Ex. C, p. 1; Tr. pp. 29-30)
4. The bylaws were amended in July 2007 to include the following:

ABC Outreach Ministries Agency is not-for-profit biblical counseling agency that provides counseling to all who are in need. We will offer Reduced or Waved [sic] fees for those who qualify. We will not turn any individual away. (Dept. Ex. E, p. 61)

5. The taxpayer's brochure indicates that it provides the following services: DUI Evaluations; Drug and Alcohol Assessments; Level I and Level II treatment; Individual/Couple/Family Counseling; Pre and Post Marital Counseling; Early Intervention Education Classes; NEW SKINS Support Group; Victim Impact Panel; and The Next Step Program.¹ (Dept. Ex. B, p. 6)
6. The brochure also includes the following concerning fees:

ABC Outreach Ministries Fee Schedule

(If court ordered no information will be released until paid in full)

ALL INITIAL EVALUATIONS: \$75.00

* * *

ALL EDUCATION CLASSES \$75.00

* * *

COUNSELING SESSIONS:

Individuals	\$45.00 per hour
Couples	\$55.00 per hour
Family	\$75.00 per hour

Level 0.5 Risk Education 10 hours/4 groups @2.5 hours (Tues.)
\$75.00 (4 weeks)

All level I treatment includes 10 hours of Risk Education

Level I.1 22 hours treatment 11 groups @ 2 hours (M-T) \$660.00
(6 weeks)

Level I.2 30 hours treatment 15 groups @ 2 hours (M-T) \$900.00
(8 weeks)

¹ The Victim Impact Panel is a court ordered program that individuals who have received DUI's are required to attend. This is a requirement of the Secretary of State. (Dept. Ex. B, p. 6) The Next Step program is designed for "at risk" youth and/or their parents who need counseling or a support group following drug/alcohol treatment and rehabilitation. (Dept. Ex. C, p. 13)

Level I.3 76 hours treatment 38 groups @ 2 hours (M-T-1/S)
\$2280.00 (13 weeks)

Level II.1 144 hours treatment 48 groups @ 3 hours (M-W-1/S)
\$2880.00 (12 weeks)

Level II.2 180 hours treatment 60 groups @ 3 hours (M-W-1/S)
\$3600.00 (15 weeks)

If required to do the Victim Impact Panel will cost an additional
\$30.00 (emphasis in original; Dept. Ex. B, p. 6)

7. The form concerning fees that is signed by each client and titled “ABC Outreach Ministries Fee Schedule 2006” indicates the following near the top of the form in bold print: “ALL INITIAL EVALUATIONS: \$75.00 (No Exceptions).” It also states under the heading of the form in parentheses: “If court ordered no information will be released until paid in full!” (emphasis in original) (Dept. Ex. B, p. 11)
8. Under the fees listed, the form also includes the following: “SMART TEENS Support Group-Monday 4:00 p.m.-donations welcome.” (Dept. Ex. B, p. 11)
9. The form concerning fees also includes the following:

Proof of income must be provided at the time the initial paperwork is completed for a fee to be established. Indigent services are available for DUI evaluations and DUI Risk Education classes if the client meets State of Illinois Indigent Guidelines. PAYMENTS MUST BE PAID AT TIME OF SERVICE AND FULL PAYMENT RECEIVED BEFORE DISCHARGE PAPERWORK WILL BE RELEASED FOR ALL TYPES OF SERVICES. Failure to attend treatment classes as agreed upon will result in full payment for any services provided, as well as, a reimbursement fee of \$50.00 for Physician’s signature. Thank you! (emphasis in original) (Dept. Ex. B, p. 11)

10. The taxpayer sent a fundraising letter to solicit funds for its “No Limits for Our Community Scholarship Fund” (“Scholarship Fund”) that included the following:

Our motto is we turn no one away. We ask that they find a way to pay for the original intake. Which [sic] is \$75.00 (this is a comparable price for this area) But we do have expenses to take care of. However after the cost of the intake we work with the individual to help them with the cost of the counseling or treatment. We offer them community service work to defray the expense. We believe that they have to commit to some payment, because we want them to realize they have to make an effort to help themselves, and we know if you have to invest your money as well as your time, you are more apt to get more out of the service you are receiving. (Dept. Ex. C, p. 5)

11. The taxpayer has an annual dinner/auction to raise money for its Scholarship

Fund. The advertisement for the event included the following:

The Scholarship Fund allows the agency to offer its SMART TEENS support group free of charge. This group allows the teenage population of Anywhere County the opportunity to give and receive support from other individuals within their peer group....

Each individual receiving a scholarship is required to complete 40 hours of community service work with volunteer agencies in the community. Recipients also must make payments based on their financial ability, which teaches responsibility, commitment and the desire to make a life change.² (Dept. Ex. C, p. 3)

12. An article that was published in the local newspaper announcing the taxpayer was

open states that there is an initial fee for the service, and treatment charges are assessed on an individual basis, taking into account income level. It adds that community service work can be arranged to help with payment The article also includes the following quote:

We will not deny treatment to anyone based on inability to pay. We do believe individuals receiving treatment need to put forth effort for our services. By providing community service work, they are not receiving free treatment. By offering community

² A fundraising letter sent in April 2006 and newspaper articles contain similar language indicating the scholarship program helps fund treatment fees for low-income individuals who are willing to also complete 40 hours of community service work with volunteer agencies. (Dept. Ex. C, pp. 7-8, 12, 16)

service work, we are able to teach individuals work ethic, responsibility, and how to be dependable. (Dept. Ex. C, p. 1)

13. The newspaper article also asks any business interested in offering work for community service to contact the taxpayer. (Dept. Ex. C, p. 1)
14. The taxpayer publishes a flyer that includes its name, address, phone number, business hours, group treatment times, and services that it provides. The flyer also includes the following, which is in bold print and underlined: “Reduced or Waived Evaluation/treatment fees for those who qualify.” (Dept. Ex. B, p. 8)
15. The taxpayer has an advertisement in the Magazine that indicates that the taxpayer offers “A FREE non-traditional support group dealing with the stressors of everyday life as well as addiction. Reduced or Waived Evaluation/treatment fees for those who qualify...” (emphasis in original) (Dept. Ex. B, p. 9)
16. The taxpayer’s Policy and Procedure Manual includes the following under the section titled “Service Fees”:
 - A) The [taxpayer] shall establish a fee schedule that specifies the charges for all treatment and intervention services, as well as any other related services. It must also specify or estimate the amount for which the individual might be responsible based upon the anticipated length of stay in treatment or based on the type of intervention services.
 - B) Each person shall be given a fee schedule prior to the beginning of any treatment or intervention service for which the [taxpayer] intends to seek reimbursement from. It will indicate the amount the individual client will be responsible to pay along with any relevant schedule for each service. (Dept. Ex. E, p. 57)
17. The taxpayer’s Policy and Procedure Manual includes the following under the section titled “DUI Evaluations”:

(B) DUI evaluation services shall be provided to any offender under the terms and conditions regardless of ability to pay.

(1) If an offender provides proof of indigence, in accordance with poverty guidelines established by the U.S. Department of Health and Human Services and continued in the Department's annual drunk [sic] and drug [sic] driving prevention fund (D.D.D.P.F.) billing manual, the [taxpayer] may bill for reimbursement for the DUI evaluation from the D.D.D.P.F., all such reimbursement shall be via a rate established by the Department and in accordance with the Department's most current fiscal year D.D.D.P.F. billing manual. **Please refer to attachment A-1 for policy and income guidelines.**

(2) Additionally, all reimbursement for the D.D.D.P.F. is subject to availability of funds. The [taxpayer] shall have an alternative fee assessment and collection procedure for use should D.D.D.P.F. funding not be available. However, if the reimbursement from the D.D.D.P.F. or any additional fee assessed to the offender, as specified in subsection (B)(3) of this section, has not been received by the completion of services, the evaluation shall still be released to the appropriate Circuit Court of venue or the Office of the Secretary of State in accordance with this section.

(3) The [taxpayer] may also assess the fee for the evaluation to an indigent DUI offender when the [taxpayer] standard fee charged for evaluation to a non indigent DUI offender exceeds the rate of reimbursement provided by the Department. In such cases, the amount assessed to the offender shall not exceed the difference between [taxpayer] standard fee and the Department's rate.

(4) If the [taxpayer] is choosing not to submit reimbursement claims they shall still provide services to indigent offenders in accordance with 2060.³ (emphasis in original) (Dept. Ex. E, p. 45)

18. The Policy and Procedure Manual includes the same language that is included under subsection (B) of DUI Evaluations under the section titled "DUI Risk Education."⁴ (Dept. Ex. E, p. 52)

³ 2060 is a reference to Part 2060, which are the rules and regulations promulgated under the Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS 301/1-1). See 77 Ill. Admin. Code §2060. (Dept. Ex. B, p. 5)

19. The attachment A-1 includes the guidelines as follows:

2007 Guidelines

Dependents	Annual Income
1	\$ 9,800
2	13,200
3	16,600
4	20,000
5	23,400
6	26,800
7	30,200
8	33,600 (Dept. Ex. B, p. 5)

20. Attachment A-1 also indicates as follows:

The Drunk and Drugged Driving Prevention Fund (DDDPF) was authorized by the Illinois General Assembly in Public Act 85-1304 in order to make Evaluation and Risk Education services available to DUI offenders who have inadequate financial resources. All programs with a valid Evaluation or Risk Education license must serve indigent DUI offenders and should submit bills for reimbursement using the DSRS software.

The only reimbursable services for DDDPF are DUI Evaluation and DUI Risk Education.... (Dept. Ex. B, p. 5)

21. The Policy and Procedure Manual includes the following under the section titled

“Drug/Alcohol Assessments”:

(B) Drug and alcohol services shall be provided to any individual under the terms and conditions regardless of ability to pay.

(1) If an individual provides proof of indigence, in accordance with poverty guidelines established by the [taxpayer]. They [sic] will automatically receive a 40% reduced fee..... **Please refer to attachment B-1 for individual Eligibility guidelines.** (emphasis in original) (Dept. Ex. E, p. 54)

⁴ DUI risk education is intended “to provide orientation to offenders regarding the impact of alcohol and other drug use on individual behavior and driving skills and allow offenders to further explore the personal ramifications of their own substance use and abuse.” (Dept. Ex. E, p. 52)

22. The attachment B-1 is a chart with Income Eligibility Guidelines, which includes the following:

Level for Reduced Payment	
Household size	Monthly ⁵
1	\$1,476 or less
2	1,978 or less
3	2,481 or less
4	2,984 or less
5	3,486 or less
6	3,989 or less
7	4,491 or less
8	4,994 or less

***Client will be expected to pay 40% of service fees and the rest of the payment will be paid through scholarships.** (emphasis in original) (Dept. Ex. B, p. 4)

23. The Policy and Procedure Manual includes the same language that is included under subsection (B) of Drug/Alcohol Assessments under the sections titled “Individual/Couple/Family/Pre-Post Marriage Counseling” and “Next Step Program.” (Dept. Ex. E, pp. 55-56)

24. The Policy and Procedure Manual includes the following under the section titled “Client Service Guidelines/Payments/Billing”:

A) The [taxpayer] is a non for profit biblical based agency that will provide services to **all** individuals who meet criteria for services regardless of ability to make payment. The [taxpayer] will provide professional services to all individuals regardless of age, race, sex, religion, color, national origin, marital status, physical, or mental disabilities.

B) The [taxpayer] is financially supported by client’s fees, the **DDDPF billing fund, State/Federal Grants, The ABC Outreach “No Limits for our community Scholarship Fund”, and financial gifts/donations.** Individuals may qualify for additional

⁵ The chart also lists income amounts received twice per month, every two weeks, and weekly. (Dept. Ex. B, p. 4)

financial help based on their financial needs, availability of funding sources and if they meet specified criteria, example: DUI criteria, specified grant criteria etc.

C) All clients of the [taxpayer] will be given a fee schedule that specifies the charges for all treatment and intervention services, as well as any other related services. The client's responsibility for payment will be assessed on an individual basis, based upon their ability to pay. The following categories will explain payment criteria:

1. FULL FEE: Clients will be charged a full fee when their income level is above the guidelines set forth by the U.S. Department of Health and Human Services. No client is forced to pay the fee upfront. A payment schedule is set agreed upon [sic] by both the client and agency, with the understanding that final discharge payments will not be released until paid in full. Full payment is encouraged by the end of treatment/counseling period. If a client feels that they are unable to fulfill payment terms then other payment options will be reassessed to meet those needs if at all possible based on availability of funds through the "No Limits Scholarship Fund", Grant monies, and financial gifts/donations. Individual exceptions will be presented to the director and he/she will move to object or approve. **Please refer to attachment B-1 (Full Fee-Evaluation and Treatment)**

2. REDUCED FEE clients will automatically be given a 40% adjustment. Clients will be automatically qualified for a reduced fee when they can provide documented proof of indigence set forth by the U.S. Department of Health and Human Service....No client is forced to pay the fee upfront. A payment schedule is set agreed upon by both the client and agency, with the understanding that final discharge payments will not be released until paid in full. Full payment is encouraged by the end of treatment/counseling period. If a client feels that they are unable to fulfill payment terms then other payment options will be reassessed to meet those needs if at all possible based on availability of funds through the "No Limits Scholarship Fund", Grant monies, and financial gifts/donations. Individual exceptions will be presented to the director and he/she will move to object or approve. **Please refer to attachment B-2 (DDDPF for Evaluation and Treatment-Reduced Fee and 40 Hours Volunteer work/No Limits Scholarship Fund)**

3. FREE: clients will have no financial responsibility. **FOUNDATION FOR LIFE/AFTERCARE AND DUI clients**

will be automatically qualify [sic] for free services when they can provide documented proof of indigence set forth by the U.S. Department of Health and Human Service....No payment will be received for **DUI Evaluations or DUI Risk Education Classes**. All clients who attend the ABC Outreach **“Foundations for Life”** support group will do so free of charge including those who are also completing after care classes. A payment schedule will still be completed, but the remaining balance will be **\$0.00**. Any individual who has met criteria for treatment and is a DUI will pay reduced fee for treatment services. If a client feels that they are unable to fulfill payment terms then other payment options will be reassessed to meet those needs if at all possible based on availability of funds through the “No Limits Scholarship Fund”, Grant monies, and financial gifts/donations. Individual exceptions will be presented to the director and he/she will move to object or approve. **Please refer to attachment B-3 (DUI Evaluation and DUI Risk Education) and B-4 (Non DUI-Level 1.2 treatment/Free Services).**

D) Only clients that are a DUI’s [sic] will be billed if eligible to the DDDPF billing fund. All clients are eligible for free, reduced or free [sic] services. Individual/Couple/Family and pre/post marriage counseling will be billed on a per session basis. In these cases a client encounter form will be completed, any adjustment to fees will be done directly on this from. [sic] **Please refer to attachment B-5 (Individual counseling-reduced fee) and B-6 (Family Counseling free service).**⁶ (emphasis in original) (Dept. Ex. E, pp. 58-60)

25. The Form 990, Return of Organization Exempt From Income Tax, that was filed by the taxpayer with the IRS for the tax year ending June 30, 2007 shows the following as the income and expenses:

Revenue:

Direct public support	\$ 16,308
Government contributions (grants)	32,543
Program service revenue including government fees and contracts	33,487
Interest on savings	15
Special events and activities	18,039
Other revenue	<u>409</u>
Total Revenue	100,801

⁶ The attachments referred to in this section were not included in the record.

Expenses:

Program services	62,285
Management and general	<u>33,111</u>
Total Expenses	95,396

Excess for the year 5,405 (Dept. Ex. D)

26. The program service revenue of \$33,487 is the total amount of fees collected for the services rendered. This includes payments received from the Division of Alcohol and Substance Abuse (“DASA”) for DUI counseling for indigent clients. (Dept. Ex. D; Tr. pp. 35-37, 45-46, 48-49)
27. The special events revenue of \$18,039 was received from the annual dinner auction. The gross receipts for the event were \$22,834, less direct expenses of \$4,795. (Dept. Ex. D, pp. 1, 19; Tr. pp. 48-49)

CONCLUSIONS OF LAW:

The Use Tax Act (“Act”) (35 ILCS 105/1 *et seq.*) imposes a tax upon the privilege of using in Illinois tangible personal property purchased at retail from a retailer. 35 ILCS 105/3. Section 3-5(4) of the Act provides a list of tangible personal property that is exempt from the tax, and includes the following:

Personal property purchased by a governmental body, by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active exemption identification number issued by the Department. 35 ILCS 105/3-5(4).

Section 2-5(11) of the Retailers’ Occupation Tax Act (35 ILCS 120/1 *et seq.*) contains a similar provision. See 35 ILCS 120/2-5(11). The term “exclusively” is not interpreted literally to mean the entity’s sole purpose; it is construed to mean the primary purpose but

not merely an incidental or secondary purpose. Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430, 436 (1st Dist. 1987). Whether an institution has been organized and is operating exclusively for an exempt purpose is determined from its charter, bylaws and the actual facts relating to its method of operation. Du Page County Board of Review v. Joint Commission on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461, 468-469 (2nd Dist. 1995).

The Department's denial of the taxpayer's claim for an exemption identification number is presumed to be correct, and the taxpayer has the burden of clearly and conclusively proving its entitlement to the exemption. See Wyndemere Retirement Community v. Department of Revenue, 274 Ill. App. 3d 455, 459 (2nd Dist. 1995); Gas Research Institute, supra. It is well-settled that tax exemption provisions are strictly construed in favor of taxation. *Id.*; Heller v. Fergus Ford, Inc., 59 Ill. 2d 576, 579 (1975). All facts are construed and all doubts are resolved in favor of taxation. *Id.* To prove its case, a taxpayer must present more than its testimony denying the Department's determination. Sprague v. Johnson, 195 Ill. App. 3d 798, 804 (4th Dist. 1990). The taxpayer must present sufficient documentary evidence to support its claim. *Id.*

In order to determine whether the taxpayer is organized and operated exclusively for charitable purposes, the following factors are considered: (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, 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 of the organization, not any secondary or incidental purpose, is charitable. Methodist Old Peoples Home v. Korzen, 39 Ill. 2d 139, 156-57 (1968); Wyndemere, *supra*. These factors are balanced with an overall focus on whether and how the organization serves the public interest and lessens the State's burden. See Du Page County Board of Review, *supra*.

In the present case, the taxpayer has no capital, capital stock, or shareholders, and it earns no profits or dividends. It also derives its funds primarily from public and private charity. The amount of money that it receives as payment for its services (\$33,487), which includes payments or reimbursements from the government for the DUI evaluations and risk education, is approximately 33% of its income. The remainder of the revenue is mainly from donations, fundraising, and grants.⁷

The taxpayer provides a valuable service for the community, but the remaining evidence presented leaves doubt concerning the extent of the taxpayer's charitable acts. The taxpayer's director indicated that the organization waives fees for those who cannot pay, but it is not clear from the evidence which fees are waived. The fee schedule form that is signed by the clients and sets forth the total amount due indicates at the top that there are no exceptions for the initial evaluation fee of \$75. (Dept. Ex. B, p. 11) The

⁷ The grant income that is considered public charity does not include payments received from the government for services rendered pursuant to a contract. This distinction is indicated on Form 990, where line 1(d) shows money received from the government as a contribution, and line 2 shows "program service revenue including government fees and contracts." (Dept. Ex. D)

letter sent to solicit money for the scholarship fund also indicates that the taxpayer expects the client to pay the initial fee of \$75. (Dept. Ex. C, p. 5) It is not clear from the record whether this \$75 fee is ever waived.

It is also not clear whether the remaining fees are waived or written off as bad debt. Writing off a bad debt is not the same as providing charity. Alivio Medical Center v. Department of Revenue, 299 Ill. App. 3d 647, 652 (1st Dist. 1998). The brochure concerning fees states, “If court ordered no information will be released until paid in full,” and this same statement is under the heading of the fee schedule form that is signed by the clients. That form also indicates that indigent services are available for DUI clients if they meet the Indigent Guidelines, but it does not refer to other fees that may be waived and reiterates the mandate concerning payment. From these forms, it appears as though the taxpayer expects to be paid in full for its services.

Additional evidence in the record raises doubts concerning whether the taxpayer waives fees because it is providing charity or because it is unable to collect the money. The Policy and Procedure Manual and the bylaws include charitable provisions indicating that all individuals will receive service regardless of their ability to pay. Nevertheless, the section titled “Client Service Guidelines/Payments/Billing” of the Policy and Procedure Manual refers to three categories of services: full fee, reduced fee, and free. Under each of these categories, there is a provision that addresses when a client feels he or she cannot make the payments. Because this provision concerning failure to pay is included in the category regarding “full fee,” it covers the circumstance when a person with sufficient financial resources fails to make a payment. Forgiving the debt of a person whose income is above the guidelines would be equivalent to writing off bad debt

rather than providing charity. Furthermore, each of the three categories includes the following sentence: “Individual exceptions will be presented to the director and he/she will move to object or approve.” How the director makes this determination was not explained, and whether the debt will be forgiven appears to be within the discretion of the director.

The documentary evidence that the taxpayer provided concerning its “free services” does not clearly support a finding that the “free services” are charity rather than bad debt. The taxpayer provided copies of documents that are used to determine the amounts owed by its clients. (Dept. Ex. B, pp. 10-19) These documents do not contain actual names of clients; the documents refer to John Doe B1 through John Doe B6. The Department’s counsel said he assumed they were examples of anonymous clients and that the taxpayer was illustrating what the fees were for those particular clients on those particular dates. (Tr. p. 24) The taxpayer agreed with this assessment. (Tr. p. 24) The documents, however, each have the same date of January 1, 2007 and do not appear to represent actual clients. They appear, rather, to be examples of how the taxpayer bills its clients.⁸ If the documents on pages 10-19 of exhibit B were intended to illustrate the charity care that was given to actual clients, the amounts on those pages do not equal the total amount of “free services” that the taxpayer claims to have provided of \$10,381.25. (Dept. Ex. B, p. 2) The fee schedules for the clients whose fees constituted those “free services” were not provided. The number of clients and amount of fees that were covered by the taxpayer’s scholarship program were also not provided.

⁸ The taxpayer’s exhibit #1 has names of actual clients on it, so the documents in Department’s exhibit B were apparently not anonymous due to confidentiality concerns.

There is uncertainty in the record concerning the extent of the taxpayer's charitable acts, and all doubts must be resolved in favor of taxation. See Wyndemere, *supra*. The distinction between charity and bad debt is not always easy to discern. Charity is a gift (Methodist Old Peoples Home, at 156), and whether the taxpayer's "free services" are gifts rather than debt that could not be collected is not clearly established. Expecting to be paid in full for services and writing off fees only when they cannot be collected is more akin to operating a business rather than a charity.⁹ The taxpayer provides critical services to low-income individuals who may not have the ability or feel a moral obligation to pay for the services. The taxpayer's intent to instill a sense of responsibility in its clients by expecting payment from them is a noble pursuit; unfortunately, this goal may raise doubts concerning the charitable nature of the organization. Laudable acts do not necessarily constitute charity. See Rogers Park Post No. 108, American Legion v. Brenza, 8 Ill. 2d 286, 291 (1956). The evidence presented in this case falls short of showing clearly and convincingly that the taxpayer meets most of the guidelines in Methodist Old Peoples Home, *supra*, and is organized and operated exclusively for charitable purposes.

Recommendation:

For the foregoing reasons, it is recommended that the taxpayer's request for an exemption identification number be denied.

Linda Olivero
Administrative Law Judge

May 8, 2008

⁹ Some of the taxpayer's fundraising letters refer to the taxpayer as a "business." (Dept. Ex. C, pp. 5, 7) Calling itself a business does not automatically render it a business for exemption purposes; the actual activities of the entity and its method of operation must be considered. See Du Page County Board of Review, *supra*.