

**PT 09-6**

**Tax Type: Property Tax**

**Issue: Charitable 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.

**NATIONAL WOMAN’S RELIEF CORPS,  
AUXILIARY TO THE GRAND ARMY  
OF THE REPUBLIC, INC.**

**Applicant**

**Docket # 06-PT-0028  
Tax Year 2006**

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**RECOMMENDATION FOR DISPOSITION  
PURSUANT TO REHEARING**

Appearances: Terry Shafer, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; John A. Kauerauf of Sorling, Northrup, Hanna, Cullen & Cochran, Ltd. for the National Woman’s Relief Corps, Auxiliary to the Grand Army of the Republic, Inc.

Synopsis:

The National Woman’s Relief Corps, Auxiliary to the Grand Army of the Republic, Inc. (“applicant” or “NWRC”) filed an application for a property tax exemption for the year 2006. The Department of Revenue (“Department”) denied the NWRC’s request for an exemption, and the NWRC timely protested the denial. An evidentiary hearing was held during which the NWRC argued that the property should be exempt

under either section 15-65(a) or 15-65(f) of the Property Tax Code.<sup>1</sup> After the evidentiary hearing, a recommendation was submitted to the Director finding that the property does not qualify for an exemption. The Director accepted the recommendation, and the applicant filed a Request for a Rehearing (“Request”). The applicant’s Request was granted and a subsequent hearing was held during which the applicant presented additional evidence concerning its charitable practices. At the second hearing, however, the NWRC withdrew its argument that it qualifies for an exemption under section 15-65(f) and only argued that the property should be exempt under section 15-65(a). The property at issue has a museum that contains Civil War era artifacts. After reviewing the evidence submitted at the rehearing, it is recommended that this matter be resolved in favor of the Department.

ADDITIONAL FINDINGS OF FACT:

77. As of June 30, 2006, the NWRC had a total of 649 members and 41 Corps.

Approximately 60 of its members are members-at-large who report to the National Secretary. (App. Ex. #14; Tr. pp. 14-18)<sup>2</sup>

78. During 2006, the NWRC had 12 Corps that were not affiliated with a Department.<sup>3</sup> Each of these is a National Corps. (App. Ex. #13, 14; Tr. p. 15)

79. The remaining 29 Corps are within five states that each have a Department level organization for the NWRC: Illinois, Massachusetts, Michigan, Ohio, and Wisconsin. (App. Ex. #13, 14; Tr. pp. 15-16)

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<sup>1</sup> Section 15-65(a) exempts property owned by an institution of public charity, and section 15-65(f) exempts property owned by a historical society. 35 ILCS 200/15-65(a), (f).

<sup>2</sup> Unless otherwise noted, all references to the transcript are to the rehearing transcript.

<sup>3</sup> The 12 states that each had a Corps that was not affiliated with a Department were New York, New Hampshire, Maryland, Kentucky, Pennsylvania, Iowa, South Carolina, Oregon, California, Kansas, Vermont, and Louisiana. (App. Ex. #26; Tr. p. 16)

80. The NWRC's website includes the following:

The [NWRC] is a patriotic organization whose express purpose is to perpetuate the memory of the Grand Army of the Republic, as we are their auxiliary organized at their request on July 25 and 26, 1883 in Denver, Colorado, and incorporated by Public Act of the 87<sup>th</sup> Congress on September 7, 1962. (Dept. Ex. #2)

81. The yearly report of the National Secretary includes a summary of its members' activities that took place during the year. The report for the year beginning July 1, 2006 and ending June 30, 2007 includes the following:

Yearly activities of our members include patriotic observances on Memorial Day (parades, services and reading Logan's General Order No. 11), Lincoln's Birthday, Remembrance Day at Gettysburg (177 flags were placed at Michigan veterans' graves), the 4<sup>th</sup> of July (participating in parades) and flying their Flags to honor our Country. They write to members to keep in touch between meetings. They provide Community volunteer service by holding benefit dinners, picnics for the disabled, donate food and clothing, prepare dinners for the handicapped, give scholarships, promote essays, donate Flags, sent more than 900 greeting cards, made more than 200 trips to assist the elderly shopping and the ill to doctors, visit nursing homes, check on the ill and shut-ins (75 visits and 400 calls reported), assist in Sunday Schools, babysit, send flowers to the ill and for the deceased, assist with funeral dinners, assist at blood drives, support the American Red Cross, Multiple Sclerosis (one member rode her bicycle 50 miles and collected \$720 in donations) and other community charities, knit mittens for an Indian school, promote Women's History Month, do genealogy research, and do other patriotic work.

For the veterans, our members collect stamps for the disabled, give Christmas parties with gifts, hold bingo games, carnivals and raffles, have bake sales, volunteer at VA hospitals writing letters and helping wherever needed, sew wheelchair caddies and lap robes, donate magazines and have numerous other projects. They honor all our veterans, participate in POW programs and "Adopt a Vet" programs, send packages to soldiers serving our Country overseas.

Many Corps have a close and friendly relationship with the Allied Orders of the Grand Army of the Republic and participate in their dedications and re-dedications of monuments and markers. They

attend the Lincoln Birthday dinner, services at the GAR Church in Maryland and perform Flag retirement ceremonies.<sup>4</sup> (App. Ex. #14)

82. The Department of Veterans Affairs Voluntary Service (“VAVS”) recognizes the NWRC as an “Associate Service Member,” which is an organization that “maintains the provision of volunteers and VA recognized participation on local VAVS committees” at a minimum of 15 VA facilities. (App. Ex. #24, 25; Tr. pp. 67-69)

83. During 2006, the NWRC’s members volunteered at a total of 20 different VA facilities. (App. Ex. #21, p. 2; Tr. p. 61)

#### CONCLUSIONS OF LAW:

The initial recommendation found that the operation of the Civil War museum, which is free and open to the general public, constitutes a charitable activity. See Vermilion County Museum Society v. Department of Revenue, 273 Ill. App. 3d 675 (4<sup>th</sup> Dist. 1995). Although the property at issue is primarily used for charitable purposes, the NWRC’s request for an exemption was denied because the NWRC did not establish with clear and convincing evidence that the property was owned by a charitable organization. The recommendation found that the NWRC did not establish that its purposes and activities as an organization are primarily charitable rather than patriotic.

During the rehearing, the NWRC argued that although it disagrees with the finding that patriotic activities are not charitable, the actual charitable activities of the organization are sufficient to find that the organization is primarily charitable. The NWRC presented additional evidence concerning the activities of its members. The

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<sup>4</sup> The report of the National Secretary for activities that took place between July 1, 2005 and June 30, 2006 includes a similar summary of events. (App. Ex. #13)

NWRC notes that in North Shore Post No. 21 v. Korzen, 38 Ill. 2d 231 (1967), the Supreme Court stated that the charitable activities that were shown in the record included preparing and collecting clothing or other personal items for hospitalized veterans and volunteer work at hospitals by some members of the women's auxiliary. *Id.* at 236. The NWRC claims its activities are similar to those in North Shore Post No. 21.

Although the NWRC presented additional evidence concerning its charitable activities, it must first be noted that the evidence presented during the initial hearing, as the Department argues, cannot be disregarded. The court in Rotary International v. Paschen, 14 Ill. 2d 480 (1958), stated that an "organization is charitable only when it exists to carry out a purpose recognized in law as charitable." *Id.* at 488. "In determining whether an organization is charitable in purpose, it is proper to consider the provisions of its charter." *Id.* As stated in the initial recommendation, most of the NWRC's purposes in its Congressional Charter (e.g., perpetuating the memory of the GAR, cooperating in doing honor to veterans, teaching patriotism and the duties of citizenship, opposing every movement that would weaken loyalty to or destroy our Union, and inculcating the principles of representative government, equal rights, and justice) are similar to the ones the court found to be patriotic in Rogers Park Post No. 108 v. Brenza, 8 Ill. 2d 286 (1956).<sup>5</sup> The court stated that the organization was "organized to carry out the purposes and objectives of the American Legion, to foster love of country, respect for our civil

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<sup>5</sup> The purposes of the organization in Rogers Park were as follows: to uphold and defend the Constitution of the U.S.A.; to maintain law and order; to foster and perpetuate a 100% Americanism; to preserve the memories and incidents of our association in the great wars; to inculcate a sense of individual obligation to the Community, State and Nation; to combat autocracy of both the classes and the masses; to make right the master of might; to promote peace and good-will on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness. Rogers Park at 288-289.

institutions and to benefit and afford comradeship to its members.” *Id.* at 291. The court added that these purposes are laudable and public spirited but not charitable. *Id.*

It was also noted in the initial recommendation that the word “charitable,” or any variation of the word, is not included in the NWRC’s purposes. The oral testimony at the rehearing indicated that the NWRC’s motto is the following: “In fraternity, charity and loyalty.” (Tr. p. 111) The NWRC did not, however, provide any documents showing this as its motto. Moreover, the NWRC’s website refers to itself as a “patriotic organization,” which accurately summarizes the purposes in its charter. The NWRC’s purposes, therefore, do not constitute charitable purposes.

The NWRC claims that although its purpose statement may need to be revised, the activities of the organization should be the basis for determining the exemption. The NWRC contends that the national organization operates the free museum, which is clearly a charitable activity, and when the activities of its members are considered in addition to the museum, the organization is primarily charitable. The NWRC argues that its activities are charitable because they are similar to the ones in North Shore Post No. 21, *supra*, that were found to be charitable: giving items to veterans, performing work at veterans hospitals, visiting with veterans, and making their lives bearable. The NWRC also contends that the “child welfare” work that it performs is charitable; this is work that benefits children in the community and includes donating cash, clothing, food, and furniture, as well as baby sitting and providing child care. The NWRC believes that its patriotic activities occur only a couple days a year, which is an incidental amount compared to its charitable activities.

Although the NWRC's members perform numerous activities that are certainly admirable and commendable, the evidence presented at the initial hearing and the rehearing unfortunately does not meet the clear and convincing standard necessary to find that the NWRC is a charitable organization. At the rehearing, the NWRC presented reports kept by each Corps concerning the activities of some of its members during 2006.<sup>6</sup> The activities included sending cards to veterans or others, visiting those who are unable to get out, visiting nursing homes and hospitals, and transporting those who need rides to the grocery store or the doctor. (App. Ex. #19, 26; Tr. pp. 34-38) The activities also included volunteer hours donated for the following events or organizations: the Red Cross, local community organizations (e.g., Salvation Army, March of Dimes, etc.), serving dinners, veterans facilities, hospitals, schools or educational programs, child welfare, the National Museum, and local libraries. In addition, the reports included donations that were made of either cash or other items to various organizations.

In Rotary International, *supra*, the property at issue was owned by an international organization that was the administrative body of local Rotary clubs. Each local club financed and sponsored civic projects within its own community. The court rejected the argument of the international organization that it was a charitable organization, finding, *inter alia*, that although the international organization claimed credit for the charitable activities of the local clubs, the international organization did not contribute funds or income to those endeavors. The court stated that the activities were sponsored and financed by the local clubs and were independent of any tangible assistance from the international organization. The court also stated that even though some of the activities

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<sup>6</sup> Members from the following states reported no activity: Oregon, New York, New Hampshire, Vermont, and Louisiana. Some of these members did, however, report donations of either cash or other items to veterans or other entities. (App. Ex. #19, 26)

of the local clubs were charitable in nature, the international organization contributed “only incidentally to the activities of the local clubs, and not in such a manner as to render it, in legal contemplation, a charitable organization.” *Id.* at 489.

A similar finding can be made in the instant case. The NWRC, which is a national organization, did not provide any financial or other type of assistance to the local Corps for their projects. The activities were from the individual members, and the NWRC’s expenses did not contribute to those activities. The donations of either cash or other items were from individual members and not the national organization. Moreover, the NWRC does not mandate that its members perform these services, and they are not done at the direction of the national organization. (Tr. pp. 93, 124) The members conduct the volunteer activities because they believe that the definition of patriotism includes doing what you can to help your fellow citizens. (Tr. p. 77)

The order granting the rehearing stated that it is well-settled law in Illinois that an exemption applicant, such as the NWRC, has the burden of proving through clear and convincing evidence that the purposes and activities of the applicant (i.e., the national organization) are primarily charitable, and all doubts must be resolved in favor of taxation. See People ex rel. County Collector v. Hopedale Medical Foundation, 46 Ill. 2d 450, 462 (1970). It is, therefore, the national organization whose charitable activities must be considered. Although some of the NWRC’s members are members-at-large who report directly to the National Secretary and some of its Corps are National Corps, it is not clear whether the activity of the members-at-large was included in the reports provided, and four of the National Corps did not report any activity. More importantly, however, the evidence does not indicate that the allegedly charitable activities of these

members are mandated, financed, or directed by the national organization. The activities are independent of any tangible assistance from the NWRC.

Even if the activities of the local Corps are attributable to the national organization, many of those activities are not charitable. As the court stated in Rotary International, *supra*, “[a]n act of service may or may not be charitable.” *Id.* at 489. The court stated that “the law recognizes as charitable only those purposes which, if carried out, will benefit the public in such a way that there is a consequent relief, to some extent, of the burden upon the State to care for and advance the interests of its citizens.” *Id.* at 488-489. Many of the NWRC’s activities do not do fall within this definition, and the small number of activities that do fall within this definition are not required, financed, or directed by the national organization.

At the initial hearing, the NWRC referred to the activity of its members and argued that its members donate countless hours of public service annually to veterans’ hospitals and those veterans being treated therein. (App. brief, p. 10) Because of the statement in North Shore Post No. 21, *supra*, concerning charitable activities for veterans, the recommendation noted that the NWRC did not provide “any substantiating evidence or evidence indicating that this is the majority of what it does or that its members are required to do it.” (Rec. p. 31) The NWRC has again failed to meet this burden. The evidence shows that some of its members volunteer at 20 different VA facilities.<sup>7</sup> As previously mentioned, however, the testimony at the rehearing indicated that the members are not mandated or required to do this service. (Tr. pp. 93, 124) Also, from

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<sup>7</sup> The Department of Veterans Affairs keeps records of volunteer work that is done at VA facilities. The NWRC provided examples of reports kept by the Department of Veterans Affairs concerning the activities of its members at VA facilities. (App. Ex. #23; Tr. pp. 62-67) The examples provided are reports for 5 of the 20 VA facilities at which the NWRC has members volunteer. Reports were not provided for the remaining 15 facilities.

the evidence presented, a total of 16 of the NWRC's members are "regular service" volunteers at the VA facilities.<sup>8</sup> (App. Ex. #23) Although the NWRC argues that no organization exists where 100% of the activities are done by 100% of the members, the number of regular service volunteers at the VA facilities is a small percentage of the total membership of the organization.

The members of the NWRC unquestionably perform valuable services for their communities. Nevertheless, tax exemption provisions must be strictly construed in favor of taxation. Hopedale Medical Foundation, *supra*. Because the organization's purposes, as established by its charter, are not charitable, and because the activities that are financed and required by the national organization are not primarily charitable, the exemption must be denied.

Recommendation:

For the foregoing reasons, it is recommended that the exemption be denied.

Linda Olivero  
Administrative Law Judge

Enter: March 27, 2009

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<sup>8</sup> Regular service volunteers are members who have regularly scheduled hours to volunteer at the facility. (Tr. p. 79)