

PT 15-06
Tax Type: Property Tax
Tax Issue: Charitable Ownership/Use

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

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

v.

**WEB INNOVATIONS & TECHNOLOGY
SERVICES, INC.**

Applicant

Docket # 11-PT-0025

Tax Year 2011

RECOMMENDATION FOR DISPOSITION

Appearances: Robin Gill, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Kurt J. Schafers of Cosgrove Law, LLC for Web Innovations & Technology Services, Inc.

Synopsis:

Web Innovations & Technology Services, Inc. (“applicant” or “WITS”) filed an application for a property tax exemption for the year 2011 for a parcel of property located in Vermilion County. WITS recycles and refurbishes electronic equipment and contends that its property is owned by a charitable organization and is used exclusively for charitable purposes pursuant to section 15-65 of the Property Tax Code (35 ILCS 200/1-1 *et seq.*). The Vermilion County Board of Review (“County”) recommended that the exemption be denied. The Department of Revenue (“Department”) agreed with the County’s decision and found that the property is neither owned by a charitable organization nor used for charitable purposes. The applicant timely protested the Department’s decision, and an evidentiary hearing was held. After reviewing the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT:

1. On November 19, 2001, WITS was organized as a Missouri non-profit corporation and began operating in St. Louis. (App. Ex. #2)
2. The initial articles of incorporation indicate that WITS was formed for the following purpose: to provide low cost/free technology and services to college students who cannot afford it. (App. Ex. #2)
3. On July 15, 2009, the articles of incorporation were amended and included the following purpose: to provide low cost/free technology and services in Missouri communities with a focus on at risk and low income populations. (App. Ex. #4)
4. The applicant has no capital, capital stock, or shareholders and is exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code. (App. Ex. #3)
5. On June 1, 2007, the applicant received as a donation two parcels of property located in Danville, Illinois on Bowman Avenue and Griggs Street.¹ During 2011, the applicant operated its recycling and refurbishing services on the St. Louis property as well as on Bowman property. The Griggs property at issue in this case is where the applicant's administrative offices are located. (Dept. Ex. #1, pp. 5-10; App. Ex. #5; Tr. pp. 23-24, 191-204)
6. The applicant's mission statement is as follows:

To keep reusable materials out of the landfill and improve technology awareness and availability to the underserved through recycling/refurbishing and educational opportunities using recycled and refurbished technologies. (Dept. Ex. #1, p. 11)

¹ The Griggs Street property is the only property at issue in this case. (Dept. Ex. #1, pp. 5-7; Tr. pp. 191-204)

7. Another mission statement is included on its website and provides as follows:

WITS is dedicated to underserved populations and nonprofits. Through education and training, we can empower all populations to become more productive in their environments while saving the landfills. Our goal is to be run and staffed by students/mentors with a “pass it on” value.

Re-use

Everyone will have the opportunity to get complete computer systems and peripherals free or for an incredibly affordable rate. We also offer free computers for those who are desperately in need of a computer to continue their education or for career advancement.

WITS is dedicated to giving everyone the basic physical and intellectual resources they need to compete in today’s world. Through learned values in teaching and being taught, the youth will have an understanding of the value of giving and receiving in a peer environment.

We do not discriminate by age, race, sex or ethnicity. We only ask that each person who gets involved in our training donate their time to teach others what they have learned.

Recycling

Any materials that cannot be reused are recycled onsite at our recycling facility. We do this by offering at-risk men and women who cannot get jobs otherwise a chance to contract with us. These men and women learn the skills needed to demanufacture and appropriately recycle all nonreusable materials.

WITS offers many services to businesses that not only enhance the community efforts, but also assist businesses with appropriate recycling of their electronic, business, office, medical and industrial equipment. (App. Ex. #5 p. 2)

8. Re-use generally means that an item can be refurbished. All non-reusable materials or materials that cannot be refurbished are demanufactured or recycled. Demanufacturing includes taking it apart and either reusing the parts or sending them to other recyclers.

WITS has a 0% landfill policy, which means its policy is to keep everything out of

landfills. Everything collected is either reused or recycled. (App. Ex. #5; Tr. pp. 16, 20-22, 32-33, 232)

9. The following are some of the items that WITS accepted for recycling/refurbishing at both its St. Louis and Danville locations during 2011: computers, monitors, printers, cables, peripherals, office equipment, networking equipment, servers, phones, clocks, VCRs, stereo and audio equipment, TVs, home electronics, small appliances, white goods (washers, dryers, etc.), medical and diagnostic equipment, electrical cabling, industrial machinery and equipment, lawn equipment, tools, old mowers, tillers, air conditioners, refrigerators, humidifiers, old motors, transformers and other electrical equipment, car and lead-containing batteries and items, DVD/CD, and tapes of all kinds. (App. Ex. #5, p. 10, Tr. p. 122)
10. During 2011, WITS accepted clothes, shoes, toys, and other household items (*e.g.* cans, bottles, newspapers, plastics etc.) only at the Danville location. WITS does not take household furniture, tires, or chemicals. (App. Ex. #20; Tr. pp. 122-124, 130-132)
11. During 2011, WITS reused or recycled approximately 6 million pounds of electronics at its St. Louis location and approximately 750,000 pounds at the Danville location. (Tr. pp. 124-125, 233)
12. WITS offers its refurbished items for sale to the general public. During 2011, items were sold at both locations. The price for desktop computers started at \$75, and the price for laptops started at \$175. A potential purchaser must call for prices on the monitors, cables, wires, memory and hard drives. The prices of the following items started at \$5: stereos, VCRs, radios, TVs, DVD players, fans, heaters, humidifiers, lawn mowers, weed trimmers, blowers, etc. (App. Ex. #5, p. 14; Tr. pp. 137-138)

13. At the St. Louis location, WITS had a Back to School sale in August when it dropped the price of the computers to \$45 or \$50. (Tr. pp. 55-56)

14. WITS offers the following programs as described in its brochure.²

- a. Free Computer Program: In exchange for service hours, anyone who participates can receive a complete computer with OS, internet and office suite.
- b. “Laptops for Kids with Kancer”: Sponsored by Boeing Corporation, Caregivers of low income youth and teens who have severe/terminal illnesses can apply for a free laptop for their child.
- c. Youth Training and Mentorship: Youth 12 years or older can participate in our mentor training program to receive hands on real world skills in IT and Tech areas and work towards IT certification.
- d. Seniors and Veteran Technology: Project offering seniors and veterans free computers in exchange for making phone calls and contacts from home.
- e. Disaster Victims Recovery Program: Sponsored by the American Red Cross, low income and uninsured disaster victims will receive a certificate to come into [WITS’s] facility and receive two or three free electronic items/components to help rebuild lives. (App. Ex. #9)

15. During 2011, the applicant did not offer the Free Computer program in St. Louis because there was no one to manage the program. All of the other programs were offered there. (Tr. pp. 236-237)

16. For the Free Computer program in Danville for 2011, WITS asked the participants to provide 65 hours of service to receive a desktop computer. Examples of services include cleaning the facilities, making phone calls to businesses and network contacts, and basic remodeling/construction activities (*e.g.*, painting, sanding, plumbing, landscaping, etc.).³ (App. Ex. #5, pp. 3-4; Tr. pp. 42-44)

² These programs are also described on its website at www.witsinc.org. (App. Ex. #5)

³ The applicant explained that one of the reasons it requires service hours in exchange for a computer is because in previous years when the applicant was simply giving away free computers it noticed that one of the recipients

17. The following paragraph is on the applicant's website regarding the Free Computer program:

We realize that not everyone who wants to participate in the program can provide hours. There are opportunities we can offer under those circumstances that allow for a donation to your family. Please call WITS to find out more. (App. Ex. #5, p. 3)

18. During 2011, the Danville facility had a total of 22 participants in the Free Computer program: 12 participants gave service hours and 10 participants did not provide service hours because they qualified under either the seniors/veterans program or had special circumstances that warranted a free computer.⁴ (Tr. pp. 119, 237)

19. For the "Laptops for Kids with Kancer" program, Boeing gives the applicant one laptop a month to give to a child with a life threatening illness. During 2011, the applicant received 12 laptops from Boeing and gave one away each month. (App. Ex. #5, p. 5; Tr. pp. 26-28)

20. The "Laptops for Kids with Kancer" program is offered only at the St. Louis location because Boeing specifically requires the laptops to be kept in its community. (Tr. pp. 86-89, 237-238)

21. The Youth Training and Mentorship Program is purely a training program.⁵ (Tr. pp. 29-32, 238-239)

22. The Senior/Veteran program allows seniors and veterans to apply for a free desktop computer. WITS picks one senior/veteran per month to receive a complete computer

immediately exchanged the computer for drugs. Also, the applicant believes that the service hours help the recipients be more responsible with respect to taking care of their computers. (Tr. pp. 34-40)

⁴ The applicant did not give further details concerning the reasons why 10 participants received free computers.

⁵ At the Danville location during 2011, the applicant had 2 high school students and one college student in this program. (Tr. pp. 238-239)

system.⁶ All other seniors/veterans can participate in the Free Computer program by providing 45 hours of service. (App. Ex. #5, p. 6; Tr. pp. 28-29, 239)

23. The Disaster Victims Recovery Program was offered only at the St. Louis location. (Tr. pp. 239-240)

24. For all of the applicant's programs, the people who are interested in participating must first go to an orientation during which they have the opportunity to decide which program to apply for. (App. Ex. #11; Tr. pp. 235-236)

25. At the orientation, WITS gives everyone documents describing the programs and a "Volunteer Agreement" that must be signed by those who want a computer.⁷ The participant must complete the service hours before receiving the computer. (App. Ex. #11; Tr. pp. 99-102)

26. The applicant provided home pickup service for seniors and disabled without charging a fee but asked for help to cover the cost of gas. In St. Louis, the applicant provided both residential and business pickup and asked for donations to help cover the cost. (Tr. pp. 126-128)

27. The Free Computer program was advertised in the Danville area in the local newspaper, at the local library, and other non-profits that disseminated information about the program. (App. Ex. #8; Tr. pp. 90-91)

28. In addition to the programs listed on its brochure and website, the applicant has a Christmas give-away program for low-income families. During 2011, WITS gave away 54 desktop computers from its Danville location and 500 from its St. Louis location.

⁶ This description was advertised on its website, but it is not clear whether the applicant gave away 12 computers under this program at the Danville location.

⁷ The "Volunteer Agreement" is a 2-page document that includes requirements and conditions that must be followed while performing the service hours otherwise the agreement will be terminated. (App. Ex. #11, pp. 3-4)

WITS does not require service hours for this program. (App. Ex. #13, #17; Tr. pp. 103-107, 119-122)

29. For the St. Louis Christmas giveaway program, WITS had local businesses sponsor the giveaway and cover some of the cost.⁸ (Tr. pp. 103-104, 136-137)
30. On October 23, 2011, the Commercial-News for Danville published an article regarding WITS' Christmas give-away program and how to apply for it. On December 24, 2011, the same organization published another article indicating that WITS received a total of 79 applications, but only 54 met all of the qualifications for a free computer. The Champaign News Gazette published a similar article on December 22, 2011. (App. Ex. #12, #13, #14; Tr. pp. 105-108, 113-115)
31. WITS previously charged fees for some of the items that people would bring to its facilities, but during 2011 WITS had stopped charging the fees because it became a national "take-back" contract partner. Under a "take-back" contract, WITS entered into an "Electronic Waste Collection Agreement" with a company to collect the electronic waste for them to recycle. Under the agreement, WITS was required to collect electronics at no charge to the consumer, and the company paid WITS per pound collected. (App. Ex. #22, #23; Tr. pp. 49-52, 57-58; 142-161)
32. On July 22 and 23 of 2011 at its Danville location, WITS had a "Free Sale" with reusable items that WITS was unable to sell and were not part of the "take-back" program. WITS put the items on a table for the public to take for free. (App. Ex. #21; Tr. pp. 139-142)

⁸ The record does not provide additional information concerning these sponsorships or how much WITS received from the sponsorships.

33. The applicant also has a Computer Swap program with non-profit organizations, schools, and churches. These organizations receive newer computers in exchange for their old computers. (App. Ex. #5, p. 7; Tr. pp. 26, 44-46)
34. WITS generates its funding from the following three primary sources: (1) monetary donations and grants; (2) selling some of its refurbished electronics; and (3) selling scrap materials generated as a result of the recycling process, which generates the majority of its funding. (Tr. pp. 135-140)
35. For the year 2011, the applicant's federal Form 990, Return of Organization Exempt From Income Tax, shows income from "Contributions and grants" in the amount of \$591,717, income from "Program service revenue" in the amount of \$1,708,759, and investment income of \$45, which totals \$2,300,521 for income.⁹ (App. Ex. #26)
36. The total expenses for WITS for the year 2011 as shown on Form 990 were \$2,310,022, which resulted in a loss of \$9,501. (App. Ex. #26)
37. For the year 2011 for the Danville location, WITS had the following income: monetary donations \$872, sales and repairs \$18,301, nonretail materials \$55,903, and recycle income/scrap 48,876 for total income in the amount of \$123,952. (App. Ex. #27)
38. For the year 2011, the expenses at the Danville location totaled \$142,879 for a net loss that year in the amount of \$18,927. (App. Ex. #27)
39. In August 2011, the City of Danville closed the applicant's Danville operations for household recycling and electronic breakdown recycling. WITS continued with the reuse

⁹ The "Contributions and grants" includes the amount received from cash donations, money derived from specific events, and the thrift shop value of the items donated for recycling. (Tr. pp. 167-168) The applicant did not receive any grants during 2011. (Tr. p. 168) The "Program service revenue" is income received from selling the unusable parts of the recycled items as well as refurbished items and income from the "take-back" contracts. (Tr. pp. 168-169)

program, the sale of items, and the giveaway part of its operations until December 31, 2011 when its operations in Danville ceased. (Tr. pp. 133-134, 145-146)

40. By the time that WITS ended up moving out of Danville, there were 3 for-profit recycling companies operating in Danville, and they also provided some free services. (Tr. pp. 114, 126-127)

CONCLUSIONS OF LAW:

It is well-established under Illinois law that taxation is the rule, and tax exemption is the exception. Eden Retirement Center, Inc. v. Department of Revenue, 213 Ill. 2d 273, 285 (2004). “[A]ll property is subject to taxation, unless exempt by statute, in conformity with the constitutional provisions relating thereto.” *Id.* Statutes granting tax exemptions must be strictly construed in favor of taxation. *Id.* at 288; Chicago Patrolmen’s Association v. Department of Revenue, 171 Ill. 2d 263, 271 (1996); People ex rel. County Collector v. Hopedale Medical Foundation, 46 Ill. 2d 450, 462 (1970). All facts are to be construed and all debatable questions resolved in favor of taxation. Eden Retirement Center, Inc., at 289. Every presumption is against the intention of the State to exempt the property from taxation. Oasis, Midwest Center for Human Potential v. Rosewell, 55 Ill. App. 3d 851, 856 (1st Dist. 1977). Whenever doubt arises, it must be resolved in favor of requiring the tax to be paid. Quad Cities Open, Inc. v. City of Silvis, 208 Ill. 2d 498, 508 (2004).

The burden of proof is on the party who seeks to qualify its property for an exemption. Eden Retirement Center, Inc., *supra*; Chicago Patrolmen’s Association, *supra*. “The burden is a very heavy one.” Provena Covenant Medical Center v. Department of Revenue, 236 Ill. 2d 368, 388 (2010) (“Provena I”); see also Oasis, Midwest Center for Human Potential, *supra*. The party claiming the exemption bears the burden of proving by clear and convincing evidence that the

property in question falls within both the constitutional authorization and the terms of the statute under which the exemption is claimed. Eden Retirement Center, Inc., *supra*; Board of Certified Safety Professionals of the Americas, Inc. v. Johnson, 112 Ill. 2d 542, 547 (1986) (citing Coyne Electrical School v. Paschen, 12 Ill. 2d 387, 390 (1957)).

Authority to grant property tax exemptions emanates from article IX, section 6 of the Illinois Constitution of 1970. Section 6 authorizes the General Assembly to exempt certain property from taxes 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.

The constitution does not require the legislature to exempt property from taxation; an exemption exists only when the legislature chooses to create one by enacting a law. Eden Retirement Center, Inc., at 290. “The legislature cannot add to or broaden the exemptions that section 6 of article IX specifies.” *Id.* at 286. By enacting an exemption statute, the legislature may place restrictions, limitations, and conditions on an exemption, but the legislature cannot make the exemption broader than the provisions of the constitution. *Id.* at 291.

Pursuant to this constitutional authority, the General Assembly enacted section 15-65 of the Property Tax Code, which allows exemptions for charitable purposes and provides, in relevant 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 be exempt under subsection (a) 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*. Whether property is actually and exclusively used for charitable purposes depends on the primary use of the property. Methodist Old Peoples Home v. Korzen, 39 Ill. 2d 149, 156-57 (1968). 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 (1st Dist. 1982). Incidental acts of charity by an organization are not enough to establish that the use of the property is charitable. Morton Temple Association, Inc. v. Department of Revenue, 158 Ill. App. 3d 794, 796 (3rd Dist. 1987).

The Supreme Court set forth the constitutional standards for a charitable purposes exemption in Methodist Old Peoples Home, *supra*, and reiterated them in Eden Retirement Center, Inc., *supra*, and Provena I, *supra*. The following guidelines are characteristics of a charitable institution: (1) the organization has no capital, capital stock or shareholders; (2) the organization 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) the organization dispenses charity to all who need and apply for it; (4) the organization does not provide gain or profit in a private sense to any person connected with it; (5) the organization does not appear to place any obstacles in the way of those who need and would avail themselves of the charitable benefits it dispenses; and (6) the primary purpose for which the property is used, and not any secondary or incidental purpose, must be charitable. Methodist Old Peoples Home, at 156-57. For purposes of applying these criteria, the court defined charity as "a gift to be applied ... for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare--or in some way reducing the burdens of government." *Id.*

In the present case, the evidence does not clearly and convincingly establish that both the owner, WITS, and its use of the property meet most of the guidelines in Methodist Old Peoples Home, *supra*. WITS meets one factor because it does not have capital, capital stock, or shareholders, but it does not meet the factor concerning funding. WITS argues that the law does not require donations to come in the form of cash, and WITS *derives* its funds primarily through donations because it breaks down and sells the items that it receives. WITS uses its funds to continue its operations. Notwithstanding the applicant's arguments, its primary revenue source is from selling scrap materials, which does not constitute public or private charity. Although recycling electronics benefits our environment, the facts indicate that it is through the recycling process, not public or private charity, that WITS generates money to pay its operating expenses. WITS does not derive its funds mainly from public and private charity.

Neither the funding factor nor how the revenue is used is determinative of an organization's entitlement to a charitable tax exemption. See Provena Covenant Medical Center v. Department of Revenue, 384 Ill. App. 3d 734, 746 (4th Dist. 2008), *aff'd*, 236 Ill. 2d 368 (2010) ("Provena II") (citing American College of Surgeons v. Korzen, 36 Ill. 2d 340, 348 (1967)); Three Angels Broadcasting Network, Inc. v. Department of Revenue, 381 Ill. App. 3d 679, 697 (5th Dist. 2008); Cook Communications Ministries v. Department of Revenue, 345 Ill. App. 3d 753, 763 (2nd Dist. 2004); Salvation Army v. Department of Revenue, 170 Ill. App. 3d 336, 344 (2nd Dist. 1988). The actual activities on the property must be considered. *Id.* In addition, the Provena II court stated that the criteria of dispensing charity to all who need and apply for it and placing no obstacles in their way "go to the heart of what it means to be a charitable institution." Provena II at 750. Furthermore, the factor that the property is used

exclusively for charitable purposes is the *sine qua non* of the exemption. *Id.* at 743. The facts in the present case do not clearly and convincingly show that WITS meets these criteria.

WITS claims that its recycling activities qualify as a charitable activity because they improve the environment and lessen the burdens of government. WITS argues that keeping electronics and hazardous substances out of landfills promotes the well-being of society and lessens the burdens of government.¹⁰ WITS contends that it benefits an indefinite number of people by keeping the landfills free of materials which are not biodegradable and which potentially contain toxic substances.

In Provena II, the court reaffirmed that charity is a “gift” to be applied for the benefit of an indefinite number of persons or in some way reducing the burdens of government. *Id.* at 750. “‘Charity’ is an act of kindness or benevolence.” *Id.* The applicant’s general recycling process, which primarily involves demanufacturing or refurbishing items and selling the materials, is not, *per se*, a charitable activity because it does not involve a gift, and WITS actually receives compensation for these activities. WITS is primarily engaged in a money-generating operation, and its charitable acts are not enough to find that the property is primarily used for charitable purposes.

The facts indicate that the Danville property is primarily used for operating a recycling program, and the acts of charity are merely incidental. WITS is similar to any business that also provides some charity as part of its normal operations. WITS accepts electronic waste, and then

¹⁰ WITS refers to the Electronic Products Recycling and Reuse Act (415 ILCS 150/1 *et seq.*, effective September 17, 2008), where the General Assembly recognized that electronic products are the fastest growing portion of the solid waste stream, and the reuse and recycling of obsolete electronic products is preferred over incineration or disposing of them in a landfill. 415 ILCS 150/5(a)(5). The purpose of the Act is to set forth procedures by which the recycling and processing for reuse of electronic devices will be accomplished in Illinois. 415 ILCS 150(5)(b). Although the Act includes, *inter alia*, goals for recycling or reuse and penalties for manufacturers who fail to achieve those goals, the Act does not indicate that recycling and refurbishing are, *per se*, charitable activities. In addition, nothing in the Act limits its provisions to either for-profit or not-for-profit entities; it applies to any entity that is recycling.

WITS collects money from either selling refurbished items or selling the scrap material from recycling. The primary use of the property is not to provide charity; its primary use is to operate a recycling process in a manner similar to for-profit recycling businesses.

As WITS argues in its brief, the fact that it offers the same service as other for-profit recyclers is not fatal to its application for an exemption. The charging of fees does not automatically disqualify an organization as charitable as long as it furnishes its services to those who are unable to pay. Small v. Pangle, 60 Ill. 2d 510, 515-516 (1975). The record simply does not reveal that the applicant primarily provides charitable services to those who need it.

One of the few charitable activities that WITS performed on the Danville property during 2011 was providing free desktop computers to people who needed them. Of the 22 people who received “free” computers during 2011, however, 12 of them gave service hours before receiving their computer. Those 12 computers are not charitable gifts because a gift is “a voluntary transfer of property by one to another without any consideration or compensation therefor.” In re Estate of Berbecker, 277 Ill. App. 201 (1st Dist. 1934); Provena II at 751 (a gift is, by definition, free goods or services). Requiring a person to provide services in return for a computer is contrary to the definition of a gift and, therefore, not charity.

The applicant’s requirement of service hours before giving a computer to a needy recipient is not only an obstacle in the way of those seeking charity, but it financially benefits WITS more than it benefits the person receiving the computer. WITS requires 65 hours of service before giving the recipient a desktop computer that has a value of \$75. If WITS were required to compensate the recipient at the minimum wage rate for his or her services, the value of the 65 hours of service would be much greater than \$75.

In addition, charity is not merely helpfulness, but generosity; “[t]o be charitable, an institution must give liberally.” Provena II, at 750. During 2011, under the Free Computer program in Danville, WITS gave 10 desktop computers to people who did not donate service hours. Under the Christmas give-away program for that year, WITS gave away 54 desktop computers from its Danville location. The price at which WITS was selling refurbished desktop computers during 2011 was \$75. WITS, therefore, gave away a total of 64 desktop computers valued at \$75 each, which was a total of \$4,800 worth of charity. This is less than 4% of the total revenue from the Danville facility in the amount of \$123,952. This amount is not a significant amount of charity.

Furthermore, the total amount of charity for all of the applicant’s operations is less than 2% of its total revenue. At the St. Louis facility, WITS did not give away any computers under the Free Computer program, but it gave away 500 under the Christmas give-away. 500 desktop computers at \$75 each totals \$37,500. This amount plus the \$4,800 from the Danville location totals \$42,300. The applicant’s total revenue for both St. Louis and Danville for the year 2011 was \$2,300,521, and \$42,300 is less than 2% of the applicant’s total revenue. The applicant did not provide details concerning the value of the items that it gave away at its “free sales.” The few charitable acts performed by the entire operation as well as on the Danville property in particular simply do not warrant a finding that the owner of the property and the use of the property are primarily charitable.

The applicant undoubtedly provides an important service for the community. Keeping electronics out of landfills certainly promotes the well-being of society and is a noble endeavor. Pursuing a noble cause, however, does not necessarily warrant an exemption. The applicant’s operations are certainly laudable, but laudable acts do not necessarily constitute charity. Coyne

Electrical School, at 399; Rogers Park Post No. 108, American Legion v. Brenza, 8 Ill. 2d 286, 291 (1956); Turnverein Lincoln v. Board of Appeals of Cook County, 358 Ill. 135, 144-145 (1934). The applicant must establish clearly and convincingly that the owner and use of the property are primarily charitable.

As previously mentioned, exemption provisions are strictly construed, and all doubts must be resolved in favor of taxation. Eden Retirement Center, Inc., *supra*. Because the evidence presented in this case falls short of showing clearly and convincingly that the property is owned by a charitable organization that uses its property for charitable purposes, the exemption must be denied.

Recommendation:

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

Linda Olivero
Administrative Law Judge

Enter: September 11, 2015