

**PT 04-28**  
**Tax Type: Property Tax**  
**Issue: Religious Ownership/Use**

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

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**JEFFERSON STREET CHRISTIAN CHURCH**  
**Applicant**

**v.**  
**THE DEPARTMENT OF REVENUE**  
**OF THE STATE OF ILLINOIS**

**A.H. Docket # 03-PT-0051**  
**Docket # 03-54-05**  
**Parcel Index # 54-12-480-010-40**

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. Kent R. Steinkamp, Special Assistant Attorney General, for the Illinois Department of Revenue.

**Synopsis:**

The hearing in this matter was held to determine whether Logan County Parcel Index No. 54-12-480-010-40 qualified for exemption during the 2003 assessment year.

Jan Barczuk, Minister of Jefferson Street Christian Church (hereinafter referred to as the "Church" or "Applicant") and current resident of the house on the subject parcel, Craig J. Smith, Church Administrator, and Kenneth D. Lovett, Church Elder were present and testified on behalf of the Church.

After a thorough review of the facts and law presented, it is my recommendation that the requested exemption be granted for the period of July 9, 2003 through December 31, 2003. In support thereof, I make the following findings of fact and conclusions of law in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

**FINDINGS OF FACT:**

1. The jurisdiction and position of the Department that Logan County Parcel Index No. 54-12-480-010-40 did not qualify for a property tax exemption for the 2003 assessment year were established by the admission into evidence of Dept. Ex. Nos. 1 and 2. (Tr. p. 8)

2. The Department received the application for exemption of the subject parcel from the Logan County Board of Review. The board recommended granting a partial exemption from April 30, 2003 through December 31, 2003. The Department denied the requested exemption finding that the property was not in exempt use. (Dept. Ex. No. 1)

3. The applicant acquired the subject parcel by a Warranty Deed on April 30, 2003. Located on the subject property is a one story 1467 square-foot residence with a 1257 square-foot basement and a 350 square-foot garage. (Dept. Ex. No. 1)

4. The application states that the property will be used for “religious education and instruction, administrative support services and some storage of church property.” At the time of submission of the application, the Church had a need for additional classroom space. (Dept. Ex. No. 1; Applicant Ex. No. 1; Tr. p. 11)

5. The residence on the property needed renovation, especially the roof. (Tr. pp. 12-13)

6. Upon the purchase of the residence, the Church had numerous discussions regarding the best use of the property. “The primary use of the home changed between the date when the application was filled out and when the Barczuk family took occupancy.” (Tr. pp. 11-12)

7. On July 9, 2003, Jan Barczuk entered into an employment covenant with the Church. As compensation for his service as the Minister of Technical Support for the Church, he is allowed to live in the house on the subject property with all utilities paid. Occupation of the house is a condition of his employment with the Church. He and his family moved into the house on June 14, 2003. (Dept. Ex. No. 1; Applicant Ex. No. 1; Tr. pp. 13, 20)

8. The garage attached to the house on the subject property is used for storage. By

the time of the hearing it had been converted to a Sunday school classroom. (Dept. Ex. No. 2; Tr. pp. 12, 14, 18-19)

9. The subject property is used to store belongings of the Church's missionaries in Popua, New Guinea, to house the Barczuk family as a condition of employment with the Church, and for various church meetings and classes. (Dept. Ex. Nos. 1, 2; Applicant Ex. No. 2; Tr. pp. 18-20)

10. I take administrative notice of the fact that the Church has been granted a tax exemption for other property. (Administrative Notice; Dept. Ex. No. 2)

### **CONCLUSIONS OF LAW:**

Article IX, §6 of the Illinois Constitution of 1970, 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.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. A portion of the statute states:

§ 15-40. Religious purposes, orphanages or school and religious purposes.

(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.

(b) Property that is owned by

- (1) churches or

- (2) religious institutions or
- (3) religious denominations

and that is used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations including the convents and monasteries where persons engaged in religious activities reside also qualifies for exemption.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

The confusion in this matter arose because the Church had no clear plan for the use of the property at the time of purchase. (Applicant's Ex. No. 1; Tr. pp. 12-14) There was discussion about renting out the house (Tr. p. 21), using the property for classroom space, or using it for missionary or ministry staff. (Tr. p. 22). Once minister Barczuk's availability came to the attention of the Church, the focus of the Church's use of the property changed. (Tr. p. 22). As of the time of the hearing, the property was being used as a parsonage for the Minister of Technical Support, for storage of belongings of the Church's missionary team, and as Sunday classrooms and meeting rooms.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the

exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

The appellate court of Illinois has determined, in Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App.3d 1055 (5<sup>th</sup> Dist. 1990), *appeal denied* 136 Ill.2d 546 (1991), that property owned by a church and used for storage of church records and furniture qualified for a property tax exemption.

Property owned by a church and used as a parsonage or monastery was taxable prior to 1957. See People ex rel. Carson v. Muldoon, 306 Ill. 234 (1922), People ex rel. Pearsall v. Methodist Episcopal Church, 315 Ill. 233 (1925). However, the Illinois Supreme Court in McKenzie v. Johnson, 98 Ill. 87 (1983) held that the provision granting an exemption for a parsonage used primarily for religious purposes was constitutional. The court also required that the parsonage must reasonably and substantially facilitate the aims of religious worship because the pastor's religious duties required that he live in close proximity to the church or because the parsonage had unique facilities for religious worship and instruction or was primarily used for such purposes.

The Church has established that the primary use of the property during its ownership in 2003 was as a parsonage for its minister. (Tr. p. 15). The law requires that in order for a parsonage to qualify for exemption it must be a condition of the minister's employment that he/she live in the parsonage. That condition was not ratified between the Church and Barczuk until July 9, 2003. It is therefore recommended that the requested exemption be granted from July 9, 2003 through the end of the year.

For the aforementioned reasons, it is recommended that Logan County Parcel Index No. 54-12-480-010-40 be exempt from property tax from July 9, 2003 through December 31, 2003 or for 48% of the 2003 assessment year.

Respectfully Submitted,  
Barbara S. Rowe  
Administrative Law Judge  
Date: September 14, 2004