

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

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

v.

**GREAT LAKES CATHOLIC
FELLOWSHIP, INC.,
Taxpayer**

**No. 15-ST-019
Account ID 9926-7721
DENIAL OF SALES TAX
EXEMPTION**

**Ted Sherrod
Administrative Law Judge**

NOTICE OF DECISION

TO: Paul Z. Winters, Esq.
Wagenmaker & Oberly, LLC
53 W. Jackson, Suite 550
Chicago, IL 60604

Ashley Forte
Illinois Department of Revenue
100 W. Randolph 7th floor
Chicago, IL 60601

YOU ARE HEREBY NOTIFIED that the attached Order or Recommendation in the above entitled cause has been accepted by the Director as dispositive of the issues therein. This is now a final administrative decision and establishes your rights or responsibilities regarding the subject matter of the hearing. Should this decision be adverse to you, you may pursue your rights to administrative review by filing a complaint in the circuit court under the requirements of **735 ILCS 5/3-101 et seq.**, within 35 days of the date of mailing of this notice.

March 9, 2016

**Constance Beard, Director
Illinois Department of Revenue**

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RECOMMENDATION FOR DISPOSITION

Appearances: Special Assistant Attorney General Ashley Forte on behalf of the Illinois Department of Revenue; Paul Winters, Esq. and Sally Wagenmaker, Esq. of Wagenmaker & Oberly on behalf of Great Lakes Catholic Fellowship, Inc.

Synopsis:

This matter comes on for hearing pursuant to a protest and request for hearing filed by Great Lakes Catholic Fellowship, Inc. (“GL Catholic Fellowship”) following the second denial by the Illinois Department of Revenue of GL Catholic Fellowship’s second request for a tax exemption number. GL Catholic Fellowship requested the exemption pursuant to its claim that it is organized and operated exclusively for charitable, educational or religious purposes. During administrative proceedings in this matter, GL Catholic Fellowship advised that it had decided to seek an exemption number based solely upon its claim that it is organized and operated exclusively for religious purposes. Accordingly, at the pretrial conference in this case, the parties identified the sole issue to

be determined in this matter as being whether GL Catholic Fellowship's request for exemption based solely upon its status as a religious organization operating for religious purposes should be granted.

A hearing to consider this exemption request was held on September 22, 2015 during which testimonial and documentary evidence was presented. Subsequent to this hearing, both parties have submitted briefs in this matter. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of GL Catholic Fellowship. In support of this recommendation, I make the following findings of fact and conclusions of law.

FINDINGS OF FACT:

1. Great Lakes Catholic Fellowship, Inc. ("GL Catholic Fellowship") is an Illinois corporation organized pursuant to the Illinois General Not For Profit Corporation Act of 1986. Joint Statement of Agreed Stipulations §2; Taxpayer's Exhibit ("Ex.") 7 (GL Catholic Fellowship Articles of Incorporation filed August 27, 1998). At all times relevant to the instant case, GL Catholic Fellowship has been a Not-For-Profit Corporation in good standing in the state of Illinois subject to the Illinois Not For Profit Corporation Act of 1986. Joint Statement of Agreed Stipulations §2.
2. The stated purpose of GL Catholic Fellowship indicated in its Articles of Incorporation is "[T]o promote Catholic fellowship and Catholic evangelization and all purposes corollary thereto." Taxpayer's Ex. 7. GL Catholic Fellowship's Bylaws indicate that its purpose includes "[remaining] loyal to the Roman Catholic Church" and "[being] guided by the [tenets] and beliefs of the Roman Catholic Church, as they are found in the Sacred Scripture, in Sacred Tradition, and through the official

teaching office of the Church, that is, the Magisterium of Bishops united with the Holy Father, the Pope.” Taxpayer’s Ex. 9 (Bylaws of Great Lakes Catholic Fellowship, Inc., (“Bylaws”) Article III (Corporate Purposes), p. 1).

3. GL Catholic Fellowship’s sole function is to organize and conduct an annual Catholic Men’s Conference (“Men’s Conference”) which principally serves Catholic men in the Rockford Diocese and other dioceses in the vicinity of the Rockford Diocese. Transcript of Hearing in Department of Revenue of the State of Illinois v. Great Lakes Catholic Fellowship, Inc., 15-ST-019 held September 22, 2015 (“Tr.”), pp. 15, 16, 84, 95, 96, 133, 162, 163.
4. The objective of the Men’s Conference is to help men improve their character and spiritual lives. Tr. pp. 54, 55, 70, 71, 117, 118, 164, 182; Taxpayer’s Ex. 2, p. 3 (Great Lakes Catholic 2014 Men’s Conference Agenda, Mission Statement). The spiritual aspect of the Men’s Conference is advertised as follows: “To bring men, at all levels of their faith journey, together to learn, praise, pray, and join in the celebration of the Mass[.] Through this gathering, help men encounter Christ so that they may renew and start a new life under His Lordship[.] That this new life will bear fruit through relationships with family, friends, in the workplace and other environments[.] That these men will go back to their parishes with increased vigor and passion, using Jesus Christ as their example of service.” *Id.*
5. Religious activities for men during the Men’s Conference include “Prayer and Exposition of the Blessed Sacrament”, recitation of the rosary, performance of the blessed sacrament of the Eucharist, ceremony of reconciliation (confession), singing of religious music, prayer and mass (including communion), which concludes the

day's events. Tr. pp. 55-69, 96, 97, 133, 134, 138, 139, 176, 177; Taxpayer's Ex. 2 (Agenda for 2014 Men's Conference). These religious activities are exclusively entrusted to prelates and ecclesiastics, i.e. bishops, priests and deacons.¹ Tr. pp. 54, 134, 135, 137, 138. 80% to 90% of the activities conducted at the Men's Conference are religious or spiritual in nature. Tr. p. 161. Religious worship activities conducted at the Men's Conference are identical to comparable worship activities conducted in Catholic churches. Tr. pp. 96, 97, 135-137, 139.

6. The 2014 Men's Conference agenda also included speeches by laymen on spiritual matters germane to Catholic men. Tr. p. 35.
7. Attendance at the Men's Conference, which lasts approximately one day (7-9 hours), ranges between 500 and over 1,000. Tr. pp. 96, 133, 163. The 2014 Men's Conference was attended by 935 men. Tr. p. 103; Taxpayer's Ex. 10.
8. The 935 attendees at the 2014 Men's Conference included a small number of attendees that were allowed to attend at no charge. Tr. p. 186.
9. In 2014, the Men's Conference included an opening prayer and "Exposition of the Blessed Sacrament" by Father Max Striedl, Jr., a catholic priest and a director of GL Catholic Fellowship, a sermon by Father Robert Barron, a Catholic Priest, entitled "Trust God, He Knows What He is Doing", Rosary in the Adoration Chapel, a speech by Eric Scheidler, Executive Director of the Pro-Life Action League entitled "Blessed are the Pure of Heart, For They Shall See God", religious music, personal testimony by John Pridmore, a Catholic motivational speaker entitled "From Gangland to

¹ Prelate is defined as "an ecclesiastic (as a bishop or abbot) of superior rank." www.m-w.com/cgi-bin/dictionary. An ecclesiastic is "a person ordained for service in a Christian Church ... [.]" Rogets II-The New Thesaurus, 3rd ed. 1995.

Promised Land”, and Mass conducted by Bishop David Malloy, Bishop of the Diocese of Rockford. Taxpayer’s Ex. 2 (Agenda for 2014 Men’s Conference, p. 3). The events included in the agenda for the 2014 Men’s Conference are typical of the events that have taken place at previous conferences. Tr. pp. 55, 56, 62, 160, 161, 176.

10. GL Catholic Fellowship derives its revenues from ticket sales, donations and table sponsors, gifts from parishes, sponsorships and collections. Taxpayer’s Ex. 10. Tickets to attend the 2014 Men’s Conference were priced at \$35 for lay persons and between \$0 and \$5 for ecclesiastics (priests and ordained deacons). Tr. p. 186; Taxpayer’s Ex. 10.

11. GL Catholic Fellowship’s “2014 Financial Results” indicated gross receipts totaling \$49,154 and expenses of \$35,555. Taxpayer’s Ex. 10. This financial statement reported a net gain from the 2014 Men’s Conference of \$13,599. *Id.*

12. In 2015, GL Catholic Fellowship donated \$7,500 in proceeds from its 2014 Men’s Conference to other Catholic 501(c)(3) organizations. Tr. pp. 105-107. Not all net revenues (i.e., revenues exceeding expenses) were donated; some of the money left over from annual conferences after paying expenses is saved to cover anticipated expenses that must be paid prior to the subsequent year’s conference. Tr. pp. 107, 108. All net revenues that are not donated are used to cover the costs of conducting the Men’s Conference. Tr. pp. 105, 122, 123.

13. Decisions regarding which organizations to donate to are made by a planning committee and the Board of Directors. Tr. p. 108. All donations go to Catholic organizations. Tr. pp. 106, 107.

14. GL Catholic Fellowship has no employees and is staffed entirely by unpaid volunteers. Tr. p. 108.
15. GL Catholic Fellowship is governed by a Board of Directors, which, during 2014, consisted of a priest, an ordained Catholic deacon (“ecclesiastical” Board members) and three laymen. Tr. pp. 87-88; Taxpayer’s Ex. 9 (Bylaws, Article V, pp. 2-4), Taxpayer’s Ex. 6 (2015 General Not For Profit Act Annual Report, list of Board of Directors). The priest serving on the Board was appointed to be the Spiritual Director of GL Catholic Fellowship by the Bishop of the Diocese of Rockford on April 21, 1999. Taxpayer’s Ex. 1.
16. The ecclesiastical members of GL Catholic Fellowship’s Board of Directors actually participate in, and lead, the religious activities conducted during the annual Men’s Conference. Tr. pp. 36, 69, 156-158.²
17. The officers of the GL Catholic Fellowship, as prescribed by its bylaws, include a President, a Vice President, a Secretary, and a Treasurer. Taxpayer’s Ex. 9 (Bylaws Article VIII, pp. 7, 8). These officers discharge such duties as may be assigned to them from time to time by the Board of Directors. *Id.*
18. No directors or officers are compensated by GL Catholic Fellowship. Tr. p. 108.
19. Responsibility for planning the Men’s Conference is entrusted by the Board of Directors to a Planning Committee appointed by the Board. Tr. pp. 35-37; Taxpayer’s Ex. 9 (Bylaws Article VII, pp. 6, 7).

² Actual participation in the religious activities conducted by GL Catholic Fellowship during its Men’s Conference by members of the Board of this organization is a factual distinction between the instant case and the facts at issue in Cook Communications Ministries v. Department of Revenue, 345 Ill. App. 3d 753 (2d Dist. 2004) and Leadertreks, Inc. v. Department of Revenue, 385 Ill. App. 3d 442 (2d Dist. 2008), cases cited by the Department wherein the court upheld the denial of a religious exemption based upon the lack of participation by the organizations seek exemption in those cases in any religious activities.

20. The Roman Catholic Diocese of Rockford is an ecclesiastical territory of the Roman Catholic Church under the authority of a bishop who is appointed by the Pope of the Roman Catholic Church. Tr. pp. 27, 28. The current bishop is Rev. David A. Malloy. Tr. p. 27; Taxpayer's Ex. 2. The boundaries of the Rockford Diocese extend west to the Mississippi River, north to the Wisconsin state line, east to the Fox River and as far south as Aurora, Illinois. Tr. p. 30. Kane and DeKalb counties are within the boundaries of the diocese, along with the cities of Rockford, DeKalb, Batavia, Maple Park and Aurora. Tr. pp. 30, 31, 150.
21. The mailing address of GL Catholic Fellowship is within the geographical boundaries of the Diocese of Rockford. Tr. p. 48; Department Ex. 1.
22. GL Catholic Fellowship is under the ecclesiastical authority of the Rockford Diocese which exercises complete supervision and control over this organization and the Men's Conference it organizes and conducts. Tr. pp. 32, 38, 98-100. Since April 21, 1999, this authority has been exercised by Father Max Striedl who was appointed that year by Bishop Thomas Doran, the Bishop of the Rockford Diocese at that time, to serve as the Spiritual Director of the conference. Tr. pp. 36, 38, 40, 41, 77-80, 156, 157, 166, 167; Taxpayer's Ex. 1. All aspects of each Men's Conference must be approved by the Rockford Diocese acting through the Men's Conference's Spiritual Director. Tr. pp. 49, 50.
23. GL Catholic Fellowship is recognized by the Internal Revenue Service as exempt from federal taxation pursuant to section 501(c)(3) of the Internal Revenue Code. Joint Statement of Agreed Stipulations §2.

24. On November 10, 2011, GL Catholic Fellowship applied to the Department for a tax exemption number on the grounds that it was organized and operated exclusively for charitable, religious or educational purposes which was denied by the Department on January 20, 2012. Post-Hearing Legal Memorandum of Great Lakes Catholic Fellowship, Inc. (“GL Catholic Fellowship’s Brief”), p. 4. The Department denied GL Catholic Fellowship’s second such request for sales tax exemption on February 23, 2013 in response to GL Catholic Fellowship’s second request for a second review of its application submitted February 10, 2012. *Id.*
25. The only issue to be determined herein is whether GL Catholic Fellowship is organized and operates exclusively for religious purposes. *Id.* (“At the September 22, 2015 hearing parties stipulated that GL Catholic Fellowship is ‘seeking an exemption as a religious organization, although it originally applied also for charitable and educational exemptions as well.’ ”).

CONCLUSIONS OF LAW:

RELEVANT STATUTORY PROVISIONS AND THE BURDEN OF PROOF

In Illinois, the Use Tax Act (35 ILCS 105/1 *et seq.*) (hereinafter the “UTA”) imposes a tax “upon the privilege of using in this State tangible personal property purchased at retail from a retailer ... [.]” 35 ILCS 105/3. The tax must be collected from the purchaser by the retailer and is commonly known as the “sales tax.” *Id.* at 105/3-45.

There are exemptions to the imposition of the use tax. Specifically, the UTA provides in relevant part, that an exemption applies to “[P]ersonal property purchased by

a governmental body, by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes ... [.]” *Id.* at 105/3-5(4) (emphasis added).

The Retailers’ Occupation Tax Act (35 ILCS 120/1 *et seq.*) likewise, provides exemptions from the imposition of sales tax. In relevant part, there is an exemption for “[P]ersonal property sold to a governmental body, to a corporation, or institution organized and operated exclusively for charitable, religious, or educational purposes ...[.]” 35 ILCS 120/2-5(11). An entity that qualifies under this statutory provision “shall make application to the Department for an exemption identification number.” *Id.* at 120/1g. It is under these provisions that GL Catholic Fellowship seeks an exemption number from the Department as a corporation organized and operated exclusively for religious purposes.³

It is well settled in Illinois that tax exemption provisions are strictly construed against the taxpayer and in favor of the taxing body. Telco Leasing Inc. v. Allphin, 63 Ill. 2d 305 (1976). The exemption claimant bears the burden of clearly and convincingly proving its entitlement to the exemption. United Air Lines, Inc. v. Johnson, 84 Ill. 2d 446 (1981). All doubts are to be resolved in favor of taxation. Follet’s Illinois Book & Supply Store, Inc. v. Isaacs, 27 Ill. 2d 600 (1963).

In determining whether a taxpayer has met its burden to show its entitlement to a sales tax exemption, a taxpayer is allowed to rely upon judicial interpretations of comparable exemption provisions in property tax law. In Yale Club of Chicago v.

³ Prior to the commencement of hearing proceedings in this matter, the parties agreed that GL Catholic Fellowship is only “seeking an exemption as a religious organization, although it originally applied for charitable and educational exemptions as well.” Tr. p. 12; GL Catholic Fellowship’s Brief p. 4.

Department of Revenue, 214 Ill. App. 3d 468 (1st Dist. 1991) the court expressly approved the application of property tax exemption principles in the analysis of sales tax exemptions. Accord: Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430 (1st Dist. 1987); Wyndemere Retirement Community v. Department of Revenue, 274 Ill. App. 3d 455 (2d Dist. 1995).

ANALYSIS OF PARTIES' LEGAL ARGUMENTS CONCERNING GL CATHOLIC FELLOWSHIP'S QUALIFICATION FOR RELIGIOUS EXEMPTION

As indicated above, to qualify for exemption as a religious organization, an entity must prove that it is “a corporation, society, association, foundation, or institution organized and operated exclusively for ... religious ... purposes ...[.]” 35 ILCS 105/3-5(4); 35 ILCS 120/2-5(11). GL Catholic Fellowship is a not for profit 501(c)(3) corporation under the governance of the Rockford Diocese of the Catholic Church having as its sole function the organization and conduct of an annual religious conference for Catholic men from the Rockford Diocese and surrounding areas. Tr. pp. 15, 16, 32, 33, 38, 84, 95, 96, 98-100, 133, 162, 163; Joint Statement of Agreed Stipulations §2. Its stated purpose is: “[T]o promote Catholic fellowship and Catholic evangelization and all purposes corollary thereto.” Taxpayer’s Ex. 7 (Articles of Incorporation). GL Catholic Fellowship claims that, by virtue of the religious nature of the conference it conducts, it is entitled to exemption from use tax as a “religious organization” pursuant to the aforementioned statutes.

With respect to GL Catholic Fellowship’s claim to the religious exemption, the Department argues as follows:

In 1953 the Illinois Supreme Court examined whether an entity was organized and operated exclusively for charitable purposes so as to make it exempt from unemployment compensation contributions in [Scripture Press Foundation v. Annunzio, 414 Ill. 339 (1953)]. Although Scripture Press deals with exemption from unemployment compensation contributions, numerous Illinois Appellate and Supreme Court cases dealing with tax exemptions have looked to Scripture Press as authoritative and used its analysis.

Scripture Press evaluated whether a business selling religious literature and supplies to other religious organizations was truly organized and operated for a religious purpose. The Court listed several criteria analyzed in determining whether the activities of the organization qualified as operating for religious purposes. Those included: (1) whether the applicant is engaged directly in religious activities, such as maintaining missionaries in the field; (2) whether the applicant conducts Bible or Sunday schools; and (3) whether the applicant's profits were reinvested in production and sales for a profit and, upon dissolution, if the applicant's assets could go to other [secular] organizations or private individuals, including its officers. Scripture Press Foundation, 414 Ill. at 356-58. Using these criteria, the Courts have since been equipped with a framework to analyze the operational purposes of an organization in the context of tax exemption. Department's Response to Applicant's Post-Hearing Brief ("Department's Brief) pp. 2, 3.

The test for determining whether the religious exemption applies advocated by the Department is essentially the same as the test for making this determination enunciated in People ex rel McCullough v. Deutsche Evangelisch Lutherische Jehovah Gemeinde, 249 Ill. 132, 136, 137 (1911). In Deutsche Evangelisch, *supra*, the Court held that in order to be considered an organization having a religious purpose, the organization must be "a religious society or body of persons [engaged in] public worship, Sunday School, or other public religious instruction." *Id.*

In support of its claim that the test enumerated in Deutsche Evangelisch must be applied, the Department relies primarily upon the Supreme Court's ruling in Scripture Press Foundation, *supra*, where the court strictly adhered to the narrow definition of

“religious purpose” set forth in Deutsche Evangelisch. See Leadertreks Inc. v. Department of Revenue, 385 Ill. App. 3d 442, 448 (2d Dist. 2008) (“The Court [in Scripture Press] further noted the following: (1) the evidence did not indicate that the plaintiff itself engaged directly in religious activities, such as maintaining missions in the field [and] (2) the plaintiff did not conduct Bible or Sunday Schools.”).⁴ Applying the test from Deutsche Evangelisch, the Department contends that GL Catholic Fellowship does not provide regular public religious services, Sunday school, or other regular public religious instruction and therefore does not qualify for exemption. Tr. p. 13 (“[GL Catholic Fellowship] is not an exempt organization because it does not hold normally-scheduled worship services or regular Sunday School.”).

GL Catholic Fellowship contends that the narrow definition of “religious purpose” provided by the Department is not the current law in Illinois. Specifically, GL Catholic Fellowship argues as follows:

The Department argues that GL Catholic Fellowship does not qualify for the exemption because “it does not hold normally-scheduled worship services or regular Sunday School.” Transcript at 13. That is a misstatement of applicable law. The Department’s argument is thus flawed for at least two reasons.

First, the standard for religious exemption as first stated in *Deutsche Evangelisch Lutherische*, and later articulated and broadened in *Fairview Haven*, does not contain the qualifiers “normally-scheduled” or “regular” that the Department seeks to include, as an unwarranted restriction of the applicable legal standard.

Second, like the Administrative Law Judge in *Calvary Baptist Church*, the Department has applied the incorrect legal standard here. See *Calvary Baptist Church*, 349 Ill. App. 3d at 332. As discussed

⁴ A third test for determining whether an entity is organized and operated for religious purposes enunciated in Scripture Press is “whether [applicant’s] profits were reinvested in production and sales for profit and, upon dissolution, the plaintiff’s assets could go to secular organizations or private individuals, including its officers.” Leadertreks, *supra* at 448. The Department, in its brief, has conceded that, in the instant case, GL Catholic Fellowship “satisfies this criterion.” Department’s Brief, p. 7.

above, whereas in *Deutsche Evangelisch Lutherische* the Supreme Court of Illinois originally included both public worship and religious instruction as religious purposes for exemption, that definition has been substantially expanded. *People ex rel. Carson v. Muldoon*, 306 Ill. 234, 238 (1922). Since *Muldoon*, Illinois courts have upheld exemptions for organizations that provide training materials for Bible study teachers, or that conduct outdoor fellowship and evangelism activities. See *ETTA*, 118 Ill. App. 3d 21, and *Calvary Baptist Church*, 349 Ill. App. 3d 325. Under the current legal standard GL Catholic Fellowship's Roman Catholic sacraments and other public worship activities thus clearly qualify as religious. GL Catholic Fellowship's Brief, pp. 21, 22.

Illinois case law conclusively affirms the validity of GL Catholic Fellowship's claims. In *People Ex Rel Carson v. Muldoon*, 306 Ill. 234 (1922), the court began an evolution away from the very narrow definition of "religious purpose" set forth in *Deutsche Evangelisch*, stating that the definition of religious purpose in *Deutsche Evangelisch* was not intended to include everything that might be regarded as a religious purpose, but was simply illustrative of the nature of such activities. *Muldoon*. *supra* at 238. More recently, in *McKenzie v. Johnson*, 98 Ill. 2d 87 (1983), the court quoted with approval the dissent in *First Congregational Church v. Board of Review*, 254 Ill. 220 (1912), a case denying exemption based upon the *Deutsche Evangelisch* test, stating that nothing in the constitution or the property tax statute limits exemption to property used for public worship. *McKenzie*, *supra* at 98, 99. This ruling is in full accord with the courts' earlier ruling in *Community Renewal Society v. Department of Labor*, 108 Ill. App. 3d 773 (1st Dist. 1982). In that case, the court expressly states that the *Deutsche Evangelisch* test is not an all inclusive definition of "religious purpose." See also *Calvary Baptist Church v. Department of Revenue*, 349 Ill. App. 3d 325 (4th Dist. 2004).

Indeed the Illinois Appellate Court has implicitly disavowed the notion that the Deutsch Evangelisch test is the exclusive test to establish “religious purpose” by granting the “religious” exemption to an organization that produced religious publications irrespective of whether its activities fell within the Deutsche Evangelisch definition. See Evangelical Teacher Training Association v. Novak, 118 Ill. App. 3d 21 (2d Dist. 1983) (hereinafter “ETTA”). For the aforementioned reasons, I conclude that the allegation that GL Catholic Fellowship does not engage in regular public worship, Sunday school or regular public instruction is an insufficient legal basis to deny it an exemption number. Consequently, I must reject the Department’s stated legal basis for denying GL Catholic Fellowship’s request for exemption as operating exclusively for religious purposes.⁵ Moreover, as outlined below, the record in this case is replete with evidence that GL Catholic Fellowship does indeed engage in regular (in this case annual) public worship and religious instruction and thus is exempt even under the narrow Deutsche Evangelisch definition of “religious purpose.”

The record in the instant case contains voluminous evidence of public worship and religious instruction conducted by GL Catholic Fellowship as the core components of its activities and operations. GL Catholic Fellowship director Deacon Gregory Urban, testifying on behalf of GL Catholic Fellowship, stated that only 10% to 20% of each annual Men’s Conference is devoted to activities that are not traditional religious worship and spiritual activities. Tr. p. 161. I find this testimony to be corroborated by

⁵ The Department, in its brief, contends that, irrespective of cases disavowing Deutsche Evangelische, the narrow test enumerated in Deutsche Evangelische must be applied to GL Catholic Fellowship because GL Catholic Fellowship is not a church. Department’s Brief, p. 5. The Department cites no authority for this contention and, in light of case law granting exemption that did not involve a church or proof of regular worship (ETTA, *supra*), I do not find this argument to be persuasive.

documentary evidence contained in the record. Documentary evidence of the foregoing consists of the agenda for GL Catholic Fellowship's 2014 Men's Conference wherein all of the organization's activities during the annual one day conference it conducts are set forth. Taxpayer's Ex. 2. In 2014, the Men's Conference included an opening prayer and "Exposition of the Blessed Sacrament" by Father Max Striedl, Jr., a Catholic priest and the Spiritual Director of GL Catholic Fellowship, a sermon by Father Robert Barron, a Catholic Priest, entitled "Trust God, He Knows What He is Doing" , Rosary in the Adoration Chapel, a speech by Eric Scheidler, Executive Director of the Pro-Life Action League entitled "Blessed are the Pure of Heart, For They Shall See God", religious music, personal testimony by John Pridmore, a Catholic motivational speaker entitled "From Gangland to Promised Land", and Mass conducted by Bishop David Malloy, Bishop of the Diocese of Rockford. Taxpayer's Ex. 2. The record further indicates that the events included in the agenda for the 2014 Men's Conference are typical of the events that have taken place at previous conferences. Tr. pp. 55, 56, 176.

As is evident from the foregoing, almost all of the activities described in the 2014 Men's Conference agenda are religious or spiritual in nature falling in the category of religious worship. Moreover, the record indicates that the vast majority of these activities are identical to religious activities that take place during public worship in Catholic churches (tr. pp. 96, 97, 135, 137, 139) and that, like such church activities, GL Catholic Fellowship's religious worship activities must be conducted by ecclesiastical rather than lay persons (tr. pp. 59, 134, 135, 137, 138). The Men's Conference's ecclesiastical staff also gives individual spiritual guidance and instruction to conference attendees. Tr. p. 138.

Based upon the foregoing, I find that these activities are predominantly forms of public worship and religious instruction constituting elements of a “religious purpose” under the Deutsche Evangelisch test. I further find that these activities are conducted regularly, i.e. annually, at the Men’s Conferences the GL Catholic Fellowship organizes and has conducted every year since 1994. Tr. pp. 95, 96. For the aforementioned reasons, I find that GL Catholic Fellowship has demonstrated through the presentation of credible documentary evidence and testimony that it meets the parameters of the narrow Deutsche Evangelische test by engaging in regular public religious worship and religious instruction.

Admittedly, the record contains evidence of some secular activities that take place during the annual conference GL Catholic Fellowship conducts. Tr. p. 35. However, the “exclusively religious” requirement for exemption as an organization organized and operated for religious purposes is satisfied if the organization’s primary activity is for a religious purpose; the fact that the organization incidentally engages in functions other than public religious worship and instruction does not destroy the exemption. McKenzie, *supra* at 98.

The Department, in its brief, also contends that GL Catholic Fellowship’s activities are predominantly secular rather than religious for the same reasons activities other than regular worship by a church were deemed to be predominantly secular rather than religious in Leadertreks v. Department of Revenue, 385 Ill. App. 3d 442 (2d Dist., 2008) and Cook Communications Ministries v. Department of Revenue, 345 Ill. App. 3d 753 (2d Dist. 2004), cases involving entities primarily engaged in the printing and dissemination of religious materials to churches and other religious organizations.

Department's Brief, pp. 3, 4. In both of these cases, the court found that the entities seeking exemption were purely secular operations not eligible for exemption because neither of them were affiliated with any particular religious organization, and no one in the management of these entities were clergy involved in any religious activities.

The Department's contention is contradicted by the evidence contained in the record. The record clearly demonstrates that GL Catholic Fellowship is recognized by the Rockford Diocese as being affiliated with the diocese, and that it is under the direct supervision and control of the diocese acting through the Spiritual Leader of GL Catholic Fellowship the diocese appoints. Tr. pp. 32, 33, 38, 98-100; Taxpayer's Ex. 2, p. 2 (Letter from Rev. David Malloy, Bishop of Rockford Diocese dated October 2014). The record further shows that GL Catholic Fellowship is governed by a Board of Directors having ecclesiastical members (Rev. Max Striedl and Deacon Gregory Urban) that lead and directly participate in the religious activities GL Catholic Fellowship conducts. Tr. pp. 36, 69. 156-158; Taxpayer's Ex. 6 (General Not For Profit Corporation Act Annual Report listing GL Catholic Fellowship's directors). Actual participation in religious activities conducted by GL Catholic Fellowship during its Men's Conference by members of the Board of Directors of this organization is a fundamental factual distinction between the instant case and the facts at issue in Leadertreks, *supra* and Cook Communications, *supra*, wherein the courts upheld the denial of religious exemptions based upon the lack of participation by the organization's leaders in those cases in any religious activities. Given this fundamental factual distinction between the instant case and both Leadertreks and Cook Communications, I find that the rulings in Leadertreks

and Cook Communications are not precedents for denying exemption to GL Catholic Fellowship. ⁶

QUALIFICATION FOR EXEMPTION UNDER JUDICIAL TESTS DEVELOPED TO COMPORT WITH CONSTITUTIONAL PARAMETERS GOVERNING THE DETERMINATION OF “RELIGIOUS PURPOSE”

In determining whether a “religious purpose” exemption can be applied, the courts have recognized the constitutional parameters set forth in the First Amendment of the United States Constitution (U.S. Const. Amend. 1) and section 3, Article 1 of the Illinois Constitution (Ill. Const. 1970, Art. 1, section 3). Three Angels Broadcasting Network Inc. v. Department of Revenue, 381 Ill. App. 3d 679, 696 (5th Dist. 2008); Fairview Haven v. Department of Revenue, 153 Ill. App. 3d 763, 772-773 (4th Dist. 1987). These provisions provide that “governmental bodies are precluded from resolving disputes on the basis of religious doctrine and must respect the internal autonomy of religious organizations.” Three Angels, *supra* at 696. In keeping with the aforementioned requirements, the court must accept an organization’s characterization of the purpose of its activities as religious before determining whether the organization is in fact organized exclusively for religious purposes.

In order to comport with the aforementioned constitutional limitations, the Appellate Court, in Fairview Haven, *supra* states as follows:

⁶ Although the Department does not base its denial of exemption in the instant case upon any of the financial data concerning GL Catholic Fellowship’s operations contained in the record, it should be noted that this financial data indicates that all of GL Catholic Fellowship’s revenues are either given to Catholic 501(c)(3) organizations or used to organize and conduct each year’s Men’s Conference. Tr. pp. 105-108, 122, 123; Taxpayer’s Ex. 10. Consequently, I find that the financial data included in the record supports GL Catholic Fellowship’s claim that its operations are primarily religious in nature.

The first amendment of the United States Constitution (U.S. Const. amend. I) and article I of the Illinois Constitution (Ill. Const. 1970, art. I, §3), provide that governmental entities may not inhibit the free exercise of religion or act in such a way as to foster any particular belief. Therefore, governmental bodies are precluded from resolving disputes on the basis of religious doctrine [citations omitted] and must respect the internal autonomy of religious organizations [citations omitted]. In the tax context, the first amendment requires the court to accept the entity's characterization of its activities and beliefs as religious as long as the characterization is in good faith. Holy Spirit Association for the Unification of World Christianity v. Tax Commission (1982), 55 N.Y. 2d 512, 518, 450 N.Y.S. 2d 292, 293, 435 N.E. 2d 662, 663.

In Holy Spirit, the New York Court of Appeals stated: “When, as here, particular purposes and activities of a religious organization are claimed to be other than religious, the civil authorities may engage in but two inquiries: Does the religious organization assert that the challenged purposes and activities are religious, and is that assertion bona fide? Neither the courts nor the administrative agencies may go behind the declared content of the religious beliefs any more than they may examine into their validity.” (55 N.Y. 2d 512, 521, 450 N.Y.S. 2d 292, 295, 435 N.E. 2d 662, 665.)

No cases in Illinois have directly addressed the issue of the constitutional parameters of the religious use inquiry in tax matters. However, the format set forth in Holy Spirit is persuasive and has been followed. First, the court must accept the organization's characterization of the purpose of its activities and, second, determine whether the property is in fact exclusively used for religious purposes. [Citations omitted]

In the instant case, the Department did not reject Fairview's characterization of the beliefs of the Apostolic Christian Church nor did it assess the doctrinal structure of that church. It did not reject Fairview's contention that part of its use was for religious purposes. However, it found that the primary use, rather than being religious, was commercial in nature. Inquiry into the primary use to which property is in fact put under the facts presented in this case does not necessarily violate a party's first amendment rights as it neither assesses the inherent validity of the belief structure, nor determines whether the particular conduct conforms to the standards or purposes of a religious group. [Citations omitted]. Inquiry into the use to which the property was put is not precluded by constitutional principles. Fairview Haven, *supra* at 641.

Pursuant to the court's guidance in Fairview Haven, *supra*, only two inquiries can be made when an entity seeks entitlement to a religious exemption. First, does the religious entity assert that its purposes and activities are religious. Second, does the record contain evidence that such an assertion is *bona fide*. See also Calvary Baptist Church, *supra* at 331.

In the instant case, GL Catholic Fellowship has provided documentary evidence that it was organized for religious purposes. The Articles of Incorporation and Bylaws of this organization plainly document that its purpose is the glorification of God through worship, ministry, evangelism and discipleship. Specifically, GL Catholic Fellowship's Articles of Incorporation state the purpose of this organization is "[T]o promote Catholic fellowship and Catholic evangelization and all purposes corollary thereto." Taxpayer's Ex. 7. In conformity with the foregoing, GL Catholic Fellowship's Bylaws indicate that its purpose includes "[remaining] loyal to the Roman Catholic Church" and "[being] guided by the [tenets] and beliefs of the Roman Catholic Church, as they are found in the Sacred Scripture, in Sacred Tradition, and through the official teaching office of the Church, that is, the Magisterium of Bishops united with the Holy Father, the Pope." Taxpayer's Ex. 9 (Bylaws, p. 4).

Moreover, as summarized above, the record is replete with evidence of the religious nature of GL Catholic Fellowship's activities and operations. Based upon the evidence discussed above, I have determined that all but 10% to 20% of each year's Men's Conference is devoted to activities that are traditional religious worship activities. Tr. p. 161.

The record also contains sufficient evidence to conclude that GL Catholic Fellowship's claim that it is organized and operated exclusively for religious purposes is bona fide. The record in this case indicates that GL Catholic Fellowship is under the ecclesiastical authority of the Rockford Diocese of the Catholic Church and that the diocese exercises complete supervision and control over all of the organization's activities. Tr. pp. 32, 33, 38, 98-100. GL Catholic Fellowship's 2014 Men's Conference agenda, which begins with a welcome message from the Bishop of the Diocese of Rockford, evidences that the Men's Conference is affiliated with the Rockford Diocese, and makes it very clear that the activities of the Men's Conference are centered on the incorporation of Catholic tenets into one's personal life. Taxpayer's Ex. 2 (20th Annual Great Lakes Catholic Men's Conference Agenda).

The head of GL Catholic Fellowship's activities is its Spiritual Director, Reverend Max Streidl. Tr. pp. 77, 78; Taxpayer's Ex. 1. Reverend Striedl was appointed to this position by Bishop Thomas Doran, who was Bishop of the Rockford Diocese at the time, on April 21, 1999. *Id.* Moreover, GL Catholic Fellowship is governed by a Board of Directors composed of a priest, an ordained deacon and three laymen. Taxpayer's Ex. 6 (GL Catholic Fellowship's General Not For Profit Act Annual Report, list of directors). The ecclesiastical members of GL Catholic Fellowship's Board not only oversee the organization's affairs, but also actively participate in leading religious worship activities taking place at each year's Men's Conference. Tr. pp. 36, 69, 156-158.

The mission of the Rockford Diocese, as stated on the diocese website, is as follows:

We, the People of the Catholic Diocese of Rockford, are called by the Father through baptism to be the new People of God. United in faith and relying on the abiding presence of the Holy Spirit, we have access to the redeeming love of Jesus, the Christ, and are called to share in his mission to proclaim the Reign of God in Word, Sacrament and Service. Diocese of Rockford website, at www.rockforddiocese.org

This mission strongly resembles the mission of GL Catholic Fellowship which, as stated in its Articles of Incorporation, is as follows:

The purposes for which the corporation is organized are: To promote Catholic fellowship and Catholic evangelization and all purposes corollary thereto.
Taxpayer's Ex. 7 (Articles of Incorporation)

Moreover, GL Catholic Fellowship accomplishes its purposes in the same way the Rockford Diocese does, through offering religious worship and instruction espoused by prelates, priests and deacons during the vast majority of its activities. GL Catholic Fellowship seeks to interest Catholic men in finding spiritual enlightenment and to do so by committing themselves to living better lives through Catholic religious observation and moral tenets. Tr. pp. 54, 55, 70, 71, 117, 118, 164, 182. The evidence provided conclusively leads to a determination that the religious mission of GL Catholic Fellowship pervades all of its activities. Based upon the evidence of record, I conclude that the record contains ample evidence that GL Catholic Fellowship's claim to be organized and operated for religious purposes is bona fide.

APPLICABILITY OF THE RELIGIOUS FREEDOM RESTORATION ACT

GL Catholic Fellowship contends that the Illinois Religious Freedom Restoration Act, 775 ILCS 35/1 *et seq.* provides a further basis for its entitlement to a sales tax exemption as an entity organized and operated for religious purposes. The "findings and purposes" section of the Religious Freedom Restoration Act, *supra*, states as follows:

(a) The General Assembly finds the following:

- (1) The free exercise of religion is an inherent, fundamental, and inalienable right secured by Article I, Section 3 of the Constitution of the State of Illinois.
- (2) Laws “neutral” toward religion, as well as laws intended to interfere with the exercise of religion, may burden the exercise of religion.
- (3) Government should not substantially burden the exercise of religion without compelling justification.
- (4) In Employment Division v. Smith, 494 U.S. 872 (1990) the Supreme Court virtually eliminated the requirement under the First Amendment to the United States Constitution that government justify burdens on the exercise of religion imposed by laws neutral toward religion.
- (5) In City of Boerne v. P.F. Flores, 65 LW 4612 (1997) the Supreme Court held that an Act passed by Congress to address the matter of burdens placed on the exercise of religion infringed on the legislative powers reserved to the states under the Constitution of the United States.
- (6) The compelling interest test, as set forth in Wisconsin v. Yoder, 406 U.S. 205 (1972), and Sherbert v. Verner, 374 U.S. 398 (1963), is a workable test for striking sensible balances between religious liberty and competing governmental interests.

(b) The purposes of this Act are as follows:

- (1) To restore the compelling interest test as set forth in Wisconsin v. Yoder, 406 U.S. 205 (1972), and Sherbert v. Verner, 374 U.S. 398 (1963), and to guarantee that a test of compelling governmental interest will be imposed on all State and local (including home rule unit) laws, ordinances, policies, procedures, practices, and governmental actions in all cases in which the free exercise of religion is substantially burdened.
- (2) To provide a claim or defense to persons whose exercise of religion is substantially burdened by government.

775 ILCS 35/10

As an alternative argument, GL Catholic Fellowship asserts that the Department’s denial of its application for sales tax exemption as an entity organized and operated for religious purposes in this case is a violation of the Religious Freedom Restoration Act, *supra* because it imposes a burden on the free exercise of religion by GL Catholic

Fellowship which is not the least restrictive means of furthering its governmental interest.
GL Catholic Fellowship's Brief, p. 25.

For the reasons enumerated above, I have determined that GL Catholic Fellowship has provided sufficient evidence to establish its right to a sales tax exemption as an entity organized and operated exclusively for religious purposes. Accordingly, it is not necessary to determine whether denial of the requested exemption violates the Religious Freedom Restoration Act. Calvary Baptist Church, *supra* at 334.

CONCLUSION

WHEREFORE, for the reasons stated above, it is my recommendation that GL Catholic Fellowship be granted an exemption number pursuant to 35 ILCS 120/1g as an entity organized and operated exclusively for religious purposes.

Ted Sherrod
Administrative Law Judge

Date: February 4, 2016