

ST 15-08

Tax Type: Sales Tax

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

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

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

v.

**ABC Business,
Taxpayer**

**No. XXXX
Account ID XXXX
DENIAL OF SALES TAX
EXEMPTION
Ted Sherrod
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

Appearances: Special Assistant Attorney General Paula Hunter on behalf of the Illinois Department of Revenue; Jane Doe, *pro se*, on behalf of ABC Business.

Synopsis:

ABC Business (“Applicant” or “Taxpayer”) sought an exemption from the imposition of tax under the Illinois Retailers’ Occupation Tax Act (35 ILCS 120/1 *et seq.*) (the “ROTA”) and the Illinois Use Tax Act (35 ILCS 105/1 *et seq.*) (the “UTA”) as an entity organized and operated exclusively for charitable or educational purposes. The Department denied the Applicant’s request, with the Applicant formally protesting and requesting a hearing following its receipt of the Department’s form STS-68 letter of denial. A hearing was held on May 15, 2015 during which the Applicant submitted testimony and the Department and the Applicant submitted documentary evidence. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the Department. In support of this recommendation, the following findings of fact and conclusions of law are made.

Findings of Fact:

1. The Applicant was denied an exemption identification number (35 ILCS 120/1g) by the Department on the basis that it was not exempt from taxes imposed by the ROTA and the UTA as an entity organized and operated exclusively for charitable or educational purposes. Department Exhibit (“Ex.”) 1 (Form STS-68 letter dated October 3, 2014).
2. The Department’s case, inclusive of all jurisdictional elements, is established by the admission into evidence of the Department’s denial of exemption dated October 3, 2014. *Id.*
3. The Applicant is an Illinois non-profit corporation which was incorporated on September 13, 1945. Taxpayer’s Ex. 1.
4. The Applicant’s stated purpose, as set forth in its by-laws, is: “To facilitate the exchange of knowledge and results of experience among persons interested or engaged in the field of public administration ... To encourage the collection, compilation and dissemination of information on matters relating to public administration ... To encourage the improvement of public service ... To advance generally the science, processes, and art of public administration[.]” Taxpayer’s Ex. 3.
5. The Applicant was formed under the Illinois Not-for-Profit Corporation Act, and its general office is in Anywhere. Department Ex, 1; Taxpayer’s Ex. 1, 2. Including its local subordinate units or chapters, it has over 8,000 members. Tr. pp. 5, 6; Taxpayer’s Ex. 3.
6. The Applicant is engaged in organizing conferences and professional development activities related to the field of public administration, and in publishing newspapers, newsletters and journals of interest to persons in this field. Tr. pp. 5, 6.
7. The Applicant is exempt from Federal and Illinois income taxes under section 501(c)(3) of the Internal Revenue Code as an education and research organization. Taxpayer’s Ex. 2 (U.S.

Treasury Department/Internal Revenue Service letters dated January 29, 1946, November 29, 1962, July 26, 1974, March 30, 1981).

8. The Applicant was previously exempt from Illinois Retailers' Occupation Tax and Use Tax; on August 14, 1956, it received a letter granting it an exemption from Illinois Sales and Use Tax pursuant to Rule 38, paragraph 2 of the Department's Rules and Regulations. Taxpayer's Ex. 2.¹
9. The affairs of the Applicant are managed by a board of directors known as the National Council ("Council"). Taxpayer's Ex. 3. The duties of the Applicant's Council, as enumerated in the Applicant's by-laws are as follows: " [to] (1) contract for all necessary things and services in connection with the management of the Society, including the employment of auditors, (2) delegate powers and duties to its officers and employees, and provide for the business and conduct of annual and special meetings, (3) ...issue and distribute the Society's journal and other publications; (4) establish, oversee, and disestablish chapters and sections; (5) establish, oversee, and disestablish committees and other bodies for various purposes; (6) appoint and remove any Executive Director; and (7) recommend to the membership, the adoption, amendment, [and] repeal of bylaws of the Society." *Id.*
10. The officer positions of the Applicant, as provided by its bylaws, are President, President Elect, Vice President, Immediate Past President, and Secretary Treasurer aka Executive Director. *Id.*
11. The Applicant has no capital structure, no capital stock, and no provision for disbursing dividends or other profits and pays no director fees. Taxpayer's Ex. 3, 4.

¹ Department Rule 38 has been superseded by 86 Ill. Admin. Code, ch. I, section 130.2005 as amended and effective October 2, 2000 (24 Ill. Reg. 150104), and is no longer in effect.

12. The Applicant has a comprehensive committee structure made up of members appointed to committees by the Applicant's President. Taxpayer's Ex. 3.
13. The Applicant has a payroll of salaried employees; during calendar year 2013, it paid salaries and fringe benefits in the amount of \$XXXX. Taxpayer's Ex. 4.
14. In 2013, the Applicant's sources of revenue were as follows:

SOURCE OF REVENUE	AMOUNT
Conferences and Meetings	\$XXXX
Membership dues	\$XXXX
Royalties	\$XXXX
Advertising	\$XXXX
Contributions and Grants	\$XXXX
Service Fees	\$XXXX
Other Income	\$XXXX
Publication subscriptions	\$ XXXX

Taxpayer's Ex. 4.

15. "Contributions and Grants" received by the Applicant in 2013, in the amount of \$XXXX, accounted for approximately 2% of the Applicant's total revenues of \$XXXX. *Id.*
16. Applicant's expenses during 2013 were as follows:

EXPENSES	AMOUNT
Salaries and fringe benefits	\$XXXX
Consultants/Professional Services	\$XXXX
Rent	\$XXXX
Travel	\$XXXX

Web and network support	\$ XXXX
Postage and mailing	\$ XXXX
Bank service fees	\$ XXXX
Printing and publications	\$ XXXX
Equipment rental/ maintenance	\$ XXXX
Taxes	\$ XXXX
Depreciation	\$ XXXX
Insurance	\$ XXXX
Other	\$ XXXX
Telephone	\$ XXXX
Office supplies	\$ XXXX
Professional development	\$ XXXX
Dues and subscriptions	\$ XXXX
Grants, awards and scholarships	\$ XXXX
Bad debt expense	\$ XXXX
Events	\$ XXXX
Advertising and promotion	\$ XXXX

Id.

17. During 2013, the Applicant allocated \$XXXX for grants, awards and scholarships. *Id.* This amounted to less than 1% of the Applicant's total expenditures of \$XXXX during that year.

Id.

18. During 2013, the Applicant's total expenses exceeded its total revenues by \$XXXX. *Id.*

19. Members of the Applicant are required to pay dues and members that do not do so are automatically removed from the Applicant's membership rolls. Taxpayer's Ex. 3 (Bylaws, Article II, section 5, which provides: "Membership shall terminate without the necessity of any action by the Council whenever any member fails to pay dues when said dues are due and payable... [.]").

20. Members of the Applicant are classified based upon dues payment levels established by the Applicant's Council. *Id.*

Conclusions of Law:

Section 2-5 of the Retailers' Occupation Tax Act ("ROTA") provides that gross receipts from the sale of tangible personal property sold to a governmental body, corporation, society, association, foundation or institution organized exclusively for charitable purposes are exempt from tax imposed by the ROTA. 35 ILCS 120/2-5(11). Section 3-5 of the Use Tax Act ("UTA") compliments section 2-5(11) of the ROTA and provides in pertinent part that the use of the following tangible personal property is exempt from tax imposed by the UTA: personal property purchased by a government body, corporation, society, association, foundation or institution organized and operated exclusively for charitable purposes. 35 ILCS 105/3-5(4).

In the instant case, the ABC Business ("Applicant" or "Taxpayer") seeks to qualify for an exemption identification number as a "corporation, society, association, foundation or institution organized and operated exclusively for charitable ...purposes." 35 ILCS 105/3-5(4); 35 ILCS 120/2-5(11). As statutory provisions exempting property or entities from taxation, section 2-5(11) of the ROTA and section 3-5(4) of the UTA must be strictly construed against exemption with any doubts concerning the applicability of the exemption resolved in favor of taxation. Van's Material Co., Inc. v Department of Revenue, 131 Ill. 2d 196 (1989). The applicant, in this

case ABC Business, bears the burden of proving "by clear and convincing" evidence that the exemption applies. Evangelical Hospitals Corp. v. Department of Revenue, 223 Ill. App. 3d 225 (2nd Dist. 1991). All debatable questions must be resolved in favor of taxation. People ex rel Nordlund vs. Association of Winnebago Home for the Aged, 40 Ill. 2d 91 (1968).

An examination of the record establishes that the Applicant has not demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exemption from sales and use tax as an association organized exclusively for charitable purposes. Accordingly, under the reasoning given below, the determination by the Department denying the Applicant a sales tax exemption number should be affirmed.

In Methodist Old Peoples Home v. Korzen, 39 Ill. 2d 149 (1968), hereinafter "Korzen", the Illinois Supreme Court outlined several factors to be considered in assessing whether an organization is actually an institution of public charity. During the Department's closing argument, Paula Hunter, the Department's counsel, outlined these factors as follows.

In Methodist Old Peoples Home v. Korzen, the Illinois Supreme Court set forth the characteristics of a charitable organization. These are:
Number one, the organization has no capital, capital stock or shareholders. ...
Number two, the organization earns no profits or dividends, but rather derives its funds mainly from private and public charity and holds them in trust for purposes expressed in its charter. ...
Number three, the organization dispenses charity to all who need and apply for it.
Number four, the organization does not provide gain or profit in a private sense to any person connected with it. ...
Number five, the organization does not appear to place obstacles in the way of those who need and would avail themselves of the charitable benefit [it dispenses].
Transcript of Hearing Proceeding in Department of Revenue v. ABC Business, May 15, 2015 ("Tr.") p. 23.

The Department concedes that several of these factors that are characteristic of a charity, have been shown by the Applicant, stating as follows:

Factor one and factor four [indicated above] are not at issue here, because the Applicant has no capital, capital stock or shareholders, and there is no indication that the organization provides gain or profit to a private person.

Tr. p. 24

However, the Department argues that the Applicant has failed to establish that the following characteristics of a charity have been identified by evidence contained in the record:

- That charity is dispensed by the Applicant, and that it is dispensed to all who need and apply for it (indicated above as Korzen factor 3);
- That the Applicant's funds are derived mainly from private and public charity and the Applicant earns no profits or dividends (indicated above as Korzen factor 2); and
- That the Applicant does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses (indicated above as Korzen factor 5).

KORZEN FACTOR 3: THE APPLICANT DISPENSES CHARITY TO ALL WHO NEED OR APPLY FOR IT

The Department argues that the Applicant does not meet this Korzen factor because the Applicant is not engaged in the dispensation of charity. Specifically, the Department argues as follows:

Here there is no evidence of any charity on the part of the applicant. The applicant has presented no evidence of any existing charitable policy... that the organization has, and there is nothing in the by-laws that establishes that the applicant was extending charity ... nothing in the by-laws that establishes that the applicant will extend charity to those ... that need it. ... There is no evidence that the public was made aware that the applicant will provide charity, no evidence that anyone applied for, and was granted charity. In sum, there is no evidence whatsoever that the applicant dispenses charity to all who need and apply for it.

Tr. p. 25

The record in this case supports the Department's claims.

In determining whether an organization is engaged in charitable activities, it is proper to consider the provisions of its charter. Rotary International v. Paschen, 14 Ill. 2d 480 (1958). The Applicant's purpose, as stated in its bylaws, is "to facilitate the exchange of knowledge and results of experience among persons interested or engaged in the field of public administration ... to encourage the collection, compilation and dissemination of information on matters related to public administration ... To encourage the improvement of public service ... To advance generally the science, process and art of public administration." Taxpayer's Ex. 3. Enhancing knowledge in, and the improvement of, the field of public administration is not an endeavor recognized by the Illinois courts as inherently charitable. The Applicant has not referred me to, and my own research does not indicate, any case in Illinois where an organization whose main purpose was to enhance the knowledge of public administration by providing information to persons engaged in this field was found to be exclusively charitable.

As noted in Korzen, "charity is a gift to be applied, consistently with existing laws, for the benefit of an indefinite number of persons ... for their general welfare – or in some way relieving the burden of government ... [.]” Korzen, *supra* at 156, 157 (Emphasis added). I am unable to conclude that the Applicant lessens any burden of government, which, according to Korzen, is a principal distinctive characteristic of a charitable benefit qualifying for exemption. The fundamental ground upon which all exemptions in favor of charitable institutions are based is the benefit conferred upon the public by them and the consequent relief, to some extent, of the burdens upon the state to care for and advance the interests of citizens. School of Domestic Arts and Science v. Carr, 322 Ill. 562 (1926). For example, public education is a governmental "burden" according to the Illinois Constitution because the state "has the primary responsibility for financing the system of public education." Illinois Constitution, Article X, section 1. My

research indicates that there is no governmental burden to enhance the field of public administration, the stated purpose of the Applicant. There is no Illinois statute requiring the state to improve the knowledge of public administration among practitioners of this profession. Moreover, no evidence was offered that the government requested any enhancement to the knowledge of public administration that was funded by the Applicant.

35 ILCS 120/2-5(11) of the ROTA and 35 ILCS 105/3-5 (4) of the UTA require that an organization be “organized and operated exclusively for charitable ... purposes” in order to qualify for a sales and use tax exemption as a charity. "Exclusively" as used in the phrase "organized and operated exclusively for charitable ... purposes" has been defined by the Department in a regulation promulgated pursuant to the authority of the ROTA. Regulation 2005(n) provides that if a substantial purpose or activity of the purchaser is not charitable, the Department will not consider the purchaser to be organized and operated exclusively for charitable purposes. 86 Ill. Admin. Code, ch. I, section 130.2005(n). An "exclusively" charitable purpose may not be interpreted literally as the entity's sole purpose; it should be interpreted to mean the primary purpose, but not a merely incidental or secondary purpose or effect. Gas Research Institute v. Department of Revenue, 154 Ill App. 3d 430, 436 (1st Dist. 1987).

The word "charity" or "charitable" does not appear in the Applicant's statement of its purpose. It would defy logic to conclude that the Applicant is "exclusively" charitable or that its primary purposes are charitable as required by Illinois statutes, when there is no distinctly charitable purpose noted in its statement of its purposes for existing.

The record in this case indicates that the Applicant is organized to serve and advance the interests of its members, who are public administrators in government and academics teaching

public administration at colleges and universities. Tr. p. 7. According to the Applicant's financial statements, these members contributed \$XXXX in membership dues to the Applicant in 2013. Taxpayer's Ex. 4.

Department regulation 2005(g) entitled "Non-profit Professional and Trade Associations" notes that organizations "which draw their funds largely from their own members," and as to which an important purpose is to protect and advance the interests of their members are not organized and operated exclusively for charitable purposes even though such organizations may engage in some charitable work. 86 Ill. Admin. Code, ch. I, section 130.2005(g). Based on the record, I must conclude that the primary purpose of the Applicant is to advance the interests of its members, who are persons interested in the field of public administration. To infer the dispensation of charitable benefits from such activity is inconsistent with the clear import of the aforementioned Department regulation.

There is also insufficient support in the record for me to conclude that the Applicant's benefits are dispensed to all who need and apply for them. It appears from the testimony in evidence that funds dispensed by the Applicant have a direct benefit mainly to its members. This is evident from the fact that this money is used primarily to promote and sponsor conferences, and publish newsletters, newspapers and other publications that benefit members of the public administration profession. Tr. p. 7 ("Our dues are minimal[.] Any revenue that we make barely covers the cost to provide professional development and information to people who are practicing public administration[.]").

The reason for exemptions in favor of charitable institutions is the benefit conferred upon the public by them, and the consequent relief, to some extent, of the burden upon the state to care for and advance the interests of its citizens. People v. Young Men's Christian Association, 365

Ill. 118 (1936). Funds that are being used to benefit the members of a professional association like the Applicant are conferring a direct benefit on its membership, but not the public.

Tax exemptions are to be strictly construed since they are inherently injurious to public funds because they impose lost revenue costs on taxing bodies. Gas Research Institute, supra. These lost public funds may, in fact, be otherwise used to fund state programs that benefit the public at large rather than the members of a professional society. I am unable to conclude from the testimony and the evidence presented by the Applicant that the resources dispensed by the Applicant are reducing the burden on the state to care for and advance the interests of its citizens.

In sum, for the reasons enumerated above, I must agree with the Department's claim that Korzen factor number 3, which is a distinctive characteristic of a charity, has not been demonstrated to be a characteristic of the Applicant. The evidence contained in the record is insufficient to show the dispensation of any charitable benefit, or the dispensation of such a benefit to all who need and apply for it.²

KORZEN FACTOR 2 - THE APPLICANT'S FUNDS ARE DERIVED MAINLY FROM PRIVATE AND PUBLIC CHARITY AND THE APPLICANT EARNS NO PROFIT OR DIVIDENDS

The Department also argues that the Applicant cannot be classified as a charitable organization because it does not meet the criteria enumerated in Korzen that requires it to derive its funds mainly from private and public charity. Specifically, the Department argues as follows:

The applicant's financial statements show total income of \$XXXX. ... Of that amount only \$XXXX, or two percent of its income, comes from charitable grants and contributions. The vast majority of the applicant's income is from fees and membership dues. ... The financial statement shows that the applicant had \$XXXX in membership dues in 2013. ... It had \$XXXX in

² While the Applicant's financial statement (Taxpayer's Ex. 4) indicates the dispensation of "grants, awards and scholarships", this activity constituted less than 1% of the Applicant's total expenditures in 2013. Even assuming that the beneficiaries of these benefits were not members of the Applicant, this evidence is insufficient to show that the dispensation of such benefits to the public constituted a primary function of the Applicant.

royalties and \$XXXX in fees. Clearly the applicant does not meet the requirement that it derives its income mainly from charitable donations. Tr. pp. 24, 25.

The record supports the Department's claims.

Since one of the guidelines enumerated in Korzen is whether an Applicant's funds come from public or private charity, an analysis of the sources of the Applicant's funding is appropriate. The Applicant obtains the majority of its revenues from conference fees, membership dues and royalties. Department Ex. 4. In each of these situations, people are giving money to the Applicant in return for a definite benefit, that is, conferences, publications, newsletters, newspapers and other resources enhancing their knowledge of the field of public administration. These payments are not public and private charity, which would be given without expectation of return, compensation or added benefits as envisioned under the guidelines set forth in Korzen. True charity is conducted not for profit, but for the welfare of others. Korzen, *supra* at 156 ("charity is a gift [.]").

Korzen also requires that the Applicant earn no profit or dividends. (Korzen, *supra* at 157 ("[A] charitable institution ... earns no profit or dividends ... [.]" Emphasis added). The Applicant's financials show that the Applicant derived revenues from such typically for-profit sources as "royalties", "advertising" and "publication subscriptions." While the record shows that the Applicant's overall expenditures exceeded its overall revenues, there was no testimony at the hearing whether any of the aforementioned activities were conducted at a profit. The Applicant bears the burden of proving by clear and convincing evidence that the exemption applies. Evangelical Hospitals Corp., *supra*. The lack of evidence and testimony concerning the nature of the Applicant's income from advertising, royalties and publication subscriptions forces me to conclude that Applicant has not borne the burden of proving that the Applicant does not

earn any profits from any of its revenue generating activities. Accordingly, I find that the Applicant has not demonstrated that it earns no profits. Consequently, this characteristic of a charitable institution identified in Korzen has not been shown.

KORZEN FACTOR 5 - THE ORGANIZATION DOES NOT APPEAR TO PLACE OBSTACLES OF ANY CHARACTER IN THE WAY OF THOSE WHO NEED AND WOULD AVAIL THEMSELVES OF THE CHARITABLE BENEFITS IT DISPENSES

The fifth and final Korzen characteristic of a charitable organization indicated by the Department in its closing argument is that the organization places no obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. The Department argues that the Applicant cannot be classified as a charitable organization because it places significant obstacles before the persons to whom it confers its benefits. Specifically, the Department argues as follows:

Factor five requires that an organization not appear [to] place obstacles in the way of those who need and would avail themselves of the charitable benefits it dispenses. The Applicant has not made this showing. ... This is evidenced by Article 2 of the applicant's bylaws which allows the applicant to determine a dues structure for its members. Article 2 also provides that membership shall terminate automatically whenever any member fails to pay dues, when said dues are due and payable. ... Nothing in the Applicant's by-laws indicates that the Applicant's dues may be waived or reduced for those who cannot afford to pay, nor is there any documentation that the applicant will waive program service fees for those who cannot afford them. ... The dues and fees that the applicant charges for its programs represent obstacles to those who cannot afford them, and without provision of a waiver thereof, the applicant cannot meet the fifth Korzen requirement.

Tr. pp. 25, 26.

As previously indicated in the findings of fact, members of the Applicant are required to pay dues and members that do not do so are automatically barred from membership and, accordingly, prevented from enjoying the benefits of membership. Taxpayer's Ex. 3, (Bylaws, Article II, section 5 which provides: "Membership shall terminate without the necessity of any

action by the Council whenever any member fails to pay dues when said dues are due and payable ...[.]”). As also indicated in the findings of fact, the rights and benefits to which members are entitled vary depending upon dues payment levels established by the Applicant. Taxpayer’s Ex. 3, (Bylaws, Article II, section 1). Because the Applicant’s by-laws require the imposition of mandatory dues for membership eligibility, they present a definite obstacle to those who might want to avail themselves of the Applicant’s services.

It is recognized that charging fees for membership benefits to persons who are not poverty stricken does not destroy the charitable nature of an organization for tax exemption purposes, but this is only true to the extent that the organization also admits persons who need and seek benefits offered but are unable to pay. Wyndemere Retirement Community v. Department of Revenue, 274 Ill. App. 3d 455, 460 (2d Dist. 1995). No evidence was presented to show that any person or organization could become a member of the Applicant at any level without making the required dues contribution. A finding that the Applicant places no obstacles of any character in the way of those who need its benefits is negated by the provisions in the Applicant’s by-laws indicating eligibility for membership expressly linked to being current in paying dues, membership benefit levels based upon dues and the lack of a waiver provision for those unable to pay. Taxpayer’s Ex. 3. Based upon the foregoing, I find that the absence of obstacles to those who wish to seek the Applicant’s benefits, a distinguishing characteristic of a charitable institution, has not been shown here.

WHETHER THE APPLICANT IS ORGANIZED AND OPERATED FOR EXCLUSIVELY EDUCATIONAL PURPOSES

The ROTA (35 ILCS 120/2-5(11)) and the UTA (at 35 ILCS 105/3-5(4)) also exempt from sales and use tax purchases by a company, society, association, foundation or institution organized exclusively for educational purposes. In the instant case, the Department also argues

that the Applicant is not organized and operated exclusively for educational purposes as required to be exempt from the ROTA and the UTA pursuant to aforementioned provisions.

Section 2h of the ROTA and section 2c of the UTA provide:

For purposes of this Act, a corporation ... association, foundation or institution organized and operated exclusively for educational purposes shall include: all tax-supported public schools; private schools which offer systematic instruction in useful branches of learning by methods common to the public schools and which compare favorably in their scope and intensity with the course of study presented in tax-supported schools; ... vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business or commercial occupation.

However, a corporation, society, association, foundation or institution organized and operated for the purpose of offering professional, trade or business seminars of short duration, self-improvement or personality development courses ... or courses which do not provide specialized training within a specific vocational or technical field shall not be considered to be organized and operated exclusively for educational purposes.

35 ILCS 105/2c; 35 ILCS 120/2h.

The Illinois General Assembly was specific when identifying the organizations entitled to the educational exemption. At the hearing, the Applicant presented no evidence that it is one of the entities identified by the legislature in sections 2h of the ROTA and 2c of the UTA. The Applicant is not a publicly supported school, nor is it a “private school [that offers] systematic instruction in useful branches of learning by methods common to the public schools.” *Id.* Ordinarily the course of study offered at public schools does not consist primarily of conferences and meetings, which are the bulk of the educational activities the Applicant conducted as identified by the Applicant’s financial statement. Taxpayer’s Ex. 4. Rather, these activities are more akin to “business seminars of short duration” which the second paragraph of sections 2h of the ROTA and 2c of the UTA indicate are a basis for classifying an organization as one that is

not operating for exclusively educational purposes. Regular and systematic instruction is the benchmark the Illinois General Assembly has set for private schools, vocational schools or technical schools or institutes seeking to receive an ROTA or UTA exemption as an “exclusively” educational institution. *Id.* The documentary evidence contained in the record indicates that the Applicant has not met this benchmark.

Moreover, Department regulation 86 Ill. Admin. Code, Ch. I, section 130.2005(g) provides, in part that “professional, trade or business associations ... which draw their funds largely from their own members, and as to which an important purpose is to protect and advance the interests of their members ... are not organized and operated exclusively for ...educational ... purposes[.]” As previously noted, the record in this case indicates that the Applicant is organized to serve and advance the interests of its members in the field of public administration, and these members contributed \$XXXX in membership dues to the Applicant in 2013. Tr. p. 7; Taxpayer’s Ex. 4. Given the guidelines enumerated in regulation 130.2005(g), these purposes and activities mitigate against a finding that the Applicant is organized and operated “exclusively” for educational purposes so as to qualify for exemption pursuant to section 2h of the ROTA and section 2c of the UTA.

CONCLUSION

WHEREFORE, for the reasons stated above, I conclude that the Applicant has not shown that it is organized and operated exclusively for charitable or educational purposes. Therefore, I recommend that the Director finalize the Department’s denial of the Taxpayer’s application for a tax exemption identification number.

Ted Sherrod
Administrative Law Judge

Date: August 12, 2015