

**PRESBYTERY OF CHICAGO**  
**POLICY ON AGREEMENTS FOR THE USE**  
**OF CHURCH FACILITIES**

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**Introduction**

To help cover expenses and expand the ministry of the church, many churches permit third parties to use the Church facilities (the Church building, the parking lot, the manse or other property). These arrangements can lead to the imposition of real estate taxes on those facilities. Such a result can cause grave financial distress to the congregation involved.

**Exempt Use**

Illinois property tax law provides for the exemption of property used exclusively for religious purposes or for school and religious purposes. There are other categories of exemption, such as property exclusively used for charitable or beneficent purposes. The law expressly provides that exempt property be used exclusively for the exempt purpose or purposes and also provides that it not be “leased or otherwise used with a view to profit.” Accordingly, a manse used by an individual not the pastor of the church for a monthly payment or a “donation” would not be exempt. Not only is that property not used exclusively for religious purposes, but also it is being used by the church for profit, as would be the case with any rental property.

**Payments by Third-Party Users**

The prohibition against using the property with a view to profit does not prevent a church from charging a third party for the use of church facilities. Under established case law, a third party user of a church facility may share in the expenses for the operation of that facility without causing the loss of the real estate tax exemption if two tests are met: (1) use of the property would qualify for a real estate tax exemption if the user owned the property; and (2) the third-party user shares in operating expenses such as heat, electricity, water, janitorial services, repairs and the other expenditures incurred in operating a building such that the church does not derive a “profit” from the arrangement.

For example, if a pre-school (being an exempt use under the property tax code) uses a church basement 5 days a week for its pre-school program and it qualifies as a Section 501(c)(3) tax exempt organization, so that the property would be exempt from real estate taxes if the pre-school owned the property, the pre-school can pay the church a fair apportionment of the church’s expenses without affecting the real estate tax exemption of the church building and associated

property. The opposite result would occur if the user were a gymnastics organization run privately by an owner as his or her business or if an exempt user was paying the church so much that the church derived a “profit” from the arrangement. In the case of the gymnastics use, the basement would be used with a view to profit (the profit of the business owner), making the church’s facilities subject to tax. In the case where the church received more than its expenses, the church would be receiving a “profit”, thereby violating the provision that the property not be used with a view to profit.

### **Section 501(c)(3) Organizations**

A 501(c)(3) organization will only be exempt from State of Illinois real estate tax if its purposes fall specifically within the uses described under Exempt Use above. Section 501(c)(3) status, therefore, is only evidence that helps to establish that the organization qualifies for real estate tax exemption as a religious, charitable or educational institution. The same, in many respects, may be said for a Sales Tax Exemption from the State of Illinois. When qualifying for a real estate tax exemption, an organization must be prepared to demonstrate that it qualifies in all particulars for the exemption it claims. In addition to being exempt from income tax and sales tax, the charter, by-laws, constitution, financial information and all other documentation and relevant evidence may be required to convince the Illinois Department of Revenue that a third party organization would be entitled to a real estate tax exemption and hence, its use of church property will not trigger the revocation of the church’s real estate tax exemption. The amount being paid and the rationale for the determination of that amount may be subject to scrutiny. The question of such an inquiry is whether there is any “profit” being derived by the church from the arrangement.

### **Equitable Share of Expenses:**

Central to avoiding complications with regard to the real estate tax exemption of a church property is the process of determining an equitable share of building expenses to be paid by a Program that will not violate the “view to profit” restriction. Churches should base their determination of the maximum allowable share for a Program using the Presbytery of Chicago: Sample Calculation of Share of Expenses between Church and 2 Programs (copy attached) based on the actual annual expense allocable to the spaces used and times used by the Program. For a previously existing program, this allowable share may be more or less than previously agreed. If less, the adjustment downward should be made at the time of the next annual renewal.

### **Use of Presbytery Form of Agreement**

When a church intends to enter into an arrangement with a third-party user of any part of its facilities, the Director of Business Affairs of the Presbytery should be informed and the Presbytery's Agreement for Use of Church Facilities (see the attached) should be used as a model for the agreement. Where a lease or a "donation" -based (see Footnote) understanding already exists, each should be replaced with the Presbytery's Agreement for Use of Church Facilities at the earliest opportunity, certainly at the next renewal of the arrangement.

FOOTNOTE: Previous arrangements of space-use in exchange for agreed "donations" have tended to obscure the quid-pro-quo nature of these arrangements; without the donation the space would not have been made available: in other words, a rental lease by another name.