

APPEAL # 23-781  
TAX TYPE: PROPERTY TAX/ EXCLUSIVE USE EXEMPTION  
TAX YEAR: 2023  
DATE SIGNED: 8/1/2024  
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PROPERTY OWNER,  Petitioner,  v.  BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH,  Respondent.</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b></p> <p>Appeal No. 23-781 Parcel No: ##### Tax Type: Property Tax/ Exclusive Use Exemption Tax Year: 2023 Judge: Phan</p>
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**This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. Subsection 6 of that rule, pursuant to Sec. 59-1-404(4)(b)(iii)(B), prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. Pursuant to Utah Admin. Rule R861-1A-37(7), the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must send the response via email to [taxredact@utah.gov](mailto:taxredact@utah.gov), or via mail to Utah State Tax Commission, Appeals Division, 210 North 1950 West, Salt Lake City, Utah 84134.**

**Presiding:**

Rebecca L. Rockwell, Commissioner  
Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER REP-1, PETITIONER'S REP-1, PROPERTY OWNER  
PETITIONER'S REP-2, Witness<sup>1</sup>

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<sup>1</sup> Ms. Grabish attended the later part of the hearing and provided some testimony.

For Respondent:   RESPONDENT'S REP-1, COUNTY-1, Attorney  
                          RESPONDENT'S REP-2, COUNTY-1, Assessor  
                          RESPONDENT'S REP-3, COUNTY-1, Tax Administration  
                          Supervisor

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on April 2, 2024, in accordance with Utah Code Ann. §59-2-1006 and §63G-4-201 et seq. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner (“Property Owner” or “Ministry”) is appealing Respondent’s (“County’s”) denial of an exclusive use property tax exemption for property owned by the Property Owner for tax year 2023. The County had notified the Property Owner of the denial of the application by letter dated DATE, and provided a written decision from the County Board of Equalization. The Property Owner had timely appealed the denial and the matter proceeded to this Formal Hearing before the Tax Commission.

2. As stated in the County Board of Equalization's decision, the denial was on the basis that the County found the Property Owner had failed to meet their burden of proof regarding the issues of private inurement and exclusive use of the subject property in order for the subject property to qualify for an exclusive use exemption.

3. The subject property is owned by the PROPERTY OWNER. (“Ministry”).

4. The subject property is a single family residence located at ADDRESS-1. The residence is a two-story style property with no basement. The residence has a total of ##### square feet above grade and was constructed in 2010. The land size is ##### acres. The residence has a kitchen, dining space/living room and bathroom on the main floor level. On the second floor there are three bedrooms and two bathrooms. There is an attached two-car garage and the subject property is located in a residential neighborhood. The Property Owner’s representative, PETITIONER'S REP-1, and his family live in the residence full time and also use the residence for the Ministry.

5. At the hearing, PETITIONER'S REP-1 testified that the main floor level of the residence was used by the Ministry for its religious operations. He testified that

the upstairs space with the bedrooms and bathrooms was used by himself and family as their personal living space and an occasional overnight guest of the Ministry. He acknowledged that he and his family did use the kitchen and main floor areas for their own personal needs, but the main floor area was also where the Ministry conducted its religious activities, including weekly church services and many other activities. PETITIONER'S REP-1 argued that the entire residence, however, should be exempt from property tax as a parsonage.

6. PETITIONER'S REP-1 testified that they held a weekly church service each Sunday at the subject property, plus meetings and services nearly every day of the week. He testified they held prayer meetings on Mondays and a meeting for church leaders before they go visiting on Tuesdays. On Wednesdays they held classes to address addiction and finances and to teach languages. He testified that they held meetings on Thursdays and a men's meeting on Fridays. He also testified the residence was where he had his office from which he worked full-time to run the Ministry.

7. PETITIONER'S REP-1 stated that the Ministry was organized as a nonprofit organization and that it was exempt under the ORGANIZATION-1 ("ORGANIZATION-1") group exemption number. In support of this position, PETITIONER'S REP-1 provided a copy of IRS Publication 4573 (Rev. 10-2019),<sup>2</sup> which generally supported the position that if the central organization was recognized by the IRS as tax-exempt, the subordinate organizations that were part of the group would be tax exempt and not require their own determination letter from the IRS. However, there were requirements stated in that publication that if the central organization was a church, the church was required to maintain a list of the subordinate organizations.

8. PETITIONER'S REP-1 testified that the Ministry was under the supervision of the ORGANIZATION-1 and he was required to file a monthly report

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<sup>2</sup> Petitioner's Exhibit-IRS Group Exemptions Article. This publication provided the following question: "Must the central organization be recognized by the IRS as tax-exempt before the organization can obtain a group exemption?" The publication then provided the following answer: "No. A central organization may submit its request for a group exemption at the same time it submits its exemption application on Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code; Form 1024, Application for Recognition of Exemption Under Section 501(a); or Form 1024-A, Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code. Although churches are not required to apply for recognition of their own status to be tax-exempt, under the procedures for group rulings, a church must request recognition of its own exempt status to be the central organization in a group ruling."

with the ORGANIZATION-1 of all of their activities for that month plus pay a \$\$\$\$ report filing fee. He stated that they are supervised by a Bishop from the ORGANIZATION-1 and that every September the ORGANIZATION-1 has a conference that he is required to attend.

9. PETITIONER'S REP-1 testified at the hearing that his full time work was for the Ministry and in return, the Ministry paid him a wage of \$\$\$\$ per month plus provided the use of the residence to him and his family and paid all utilities and related expenses for the residence. He also testified that the church owned four motor vehicles and as part of his pay, allowed him and his family to use the vehicles.

10. PETITIONER'S REP-1 testified at the hearing that the Ministry was mostly supported by donations. He testified that 10% of the church budget came from classes and helping people prepare immigration paperwork and tax forms. He stated that they only charged \$\$\$\$ per immigration form. He testified that the Ministry charged a very minimal cost for these services. He explained that they also taught language classes and asked for donations for the classes. PETITIONER'S REP-1 testified that the Ministry was a ORGANIZATION-1 and supported his adult son as a missionary in CITY-1, where he has been a missionary for a number of years. PETITIONER'S REP-1 testified that the Ministry currently had a second employee, an administrative assistant, who worked twice a week. However, as of 2022, he was the only employee of the Ministry that received a W-2. He provided a copy of the W-2, which stated that PETITIONER'S REP-1 was paid \$\$\$\$ in wages for tax year 2022.

11. PETITIONER'S REP-1 testified that his wife had employment outside of the Ministry and she worked for BUSINESS-1.<sup>3</sup>

12. PETITIONER'S REP-1 testified that the church had not prepared and filed a federal Form 990 with the IRS for tax year 2022 or prior years. He stated that they were working on trying to get that form filed for tax year 2023.

13. The Property Owner had provided documentation to the County with its application for the property tax exemption and in response to some requests from the County. The County had forwarded to the Tax Commission the Property Owner's application for a property tax exemption and all the documents that the Property

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<sup>3</sup> This statement appears inconsistent with the 2022 federal individual income tax return that PROPERTY OWNER had submitted in this matter.

Owner had submitted to the County Board of Equalization for consideration in that proceeding. These documents included:

a. Articles of Incorporation, which were certified by the Utah Department of Commerce as having been filed on DATE, for the PROPERTY OWNER. These Articles of Incorporation stated that the undersigned were acting as “incorporators under the Utah Revised Nonprofit Corporation Act.” Article II indicated that the purpose of the Ministry was to “be a church and preach the gospel of Jesus Christ . . . also help other ministries and support PETITIONER'S REP-1s and missionaries. . .” “To engage in any and all other lawful purposes, activities and pursuits, which are substantially similar to the foregoing and which are or may hereafter be authorized by Section 501(c)(3) of the Internal Revenue Code . . .” These Articles of Incorporation listed the Directors/Trustees as PETITIONER'S REP-1 (PETITIONER'S REP-1), PERSON-1 (PETITIONER'S REP-1's wife) and PERSON-2 (PETITIONER'S REP-1' son).

b. A letter from the IRS dated DATE, stated that the IRS had granted the ORGANIZATION-1 an Employer Identification Number and a Group Exemption Number. This letter did not state that the IRS had made a determination that the ORGANIZATION-1 was tax exempt.

c. A letter dated DATE, from the ORGANIZATION-1 to PETITIONER'S REP-1, which notified him of the Group EIN number and the Group Status Exemption number. The ORGANIZATION-1 stated in this letter that the Ministry was able to use the Group Status Exemption number as an affiliate at that time of the ORGANIZATION-1.

d. A certificate dated DATE, titled “Ministry Charter,” indicating that the Ministry was authorized to operate and minister according to the ORGANIZATION-1 Articles of Faith and Constitution.

e. A letter from the IRS dated DATE, which granted the PROPERTY OWNER an Employer Identification Number. As stated by the IRS in that letter, “Assigning an EIN does not grant tax-exempt status to non-profit organizations.”

f. Photographs of the interior and exterior of the subject property. The exterior photographs show a residential property located in a residential neighborhood, with a non-permanent banner sign over the garage stating it was the PROPERTY OWNER. The interior photographs are of the main floor level of the subject property and show people meeting or working in the main floor spaces of the subject property. In one

photograph, a table had been set up in the living room space with room for the eight people sitting around the table. Two photos showed people meeting in that space with the table removed and there were possibly eight or ten folding chairs filling that space. Another photograph showed a desk set up in a different area of the subject property and someone working at the desk.

g. A Profit and Loss statement and detail for the Ministry dated January - December 2022 was submitted. This statement showed the Ministry had received \$\$\$\$ in income, of which \$\$\$\$ was from donations, \$\$\$\$ was from services and \$\$\$\$ was from sales. This statement indicated that the Ministry had incurred \$\$\$\$ in total expenses during that period.<sup>4</sup>

h. Bank statements for the Ministry for all of 2022 were provided. The County had highlighted a number of charges on these statements for cash withdrawals, payment transfers made to other accounts and charges for personal expenses. Additionally, bank statements from a Wells Fargo checking account were provided for PROPERTY OWNER and PERSON-1.

i. A copy of an unsigned federal income tax return for PROPERTY OWNER and PERSON-1 was provided for tax year 2022. The return status was married filing jointly. The return showed that PETITIONER'S REP-1 and PERSON-1 had received a total of \$\$\$\$ in wage income in 2022, which was the wage income paid to PETITIONER'S REP-1 from the Ministry and that W-2 was attached. This tax return also indicated that PERSON-2 and PERSON-3 were the sons of PETITIONER'S REP-1 and PERSON-1. There was no wage income for PERSON-1 listed on the 2022 tax return. The return listed a \$\$\$\$ business loss on Schedule C, which indicated the business name to be the PROPERTY OWNER. The return also showed on Line 1, Part I, Schedule C, \$\$\$\$ in gross receipts or sales. The return also listed \$\$\$\$ in total expenses, which included \$\$\$\$ in vehicle expenses, \$\$\$\$ in office expenses, \$\$\$\$ in deductible meal expenses, \$\$\$\$ in wage expenses, \$\$\$\$ in utility expenses, and other expenses.

j. A letter from the Utah State Tax Commission dated DATE, which approved the Ministry's request for a sales tax exemption number as a religious or charitable institution.

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<sup>4</sup> This appears to be inconsistent with the 2022 federal individual income tax return for PETITIONER'S REP-1 and PERSON-1, which reported business expenses, as noted in the Findings of Fact below.

14. PETITIONER'S REP-1 also provided some additional information at the Formal Hearing in this matter. He provided two lists of the Board of Directors of the PROPERTY OWNER. Neither list was dated and they were not from the Department of Commerce, but instead were prepared by the Ministry. Both lists indicated that most of the board members were family members of PETITIONER'S REP-1. On the first list, PETITIONER'S REP-1 was listed as the Board Chair, PERSON-1 was listed as the Board Secretary, PERSON-3 was listed as the Board Treasurer, and PERSON-2 was listed as a Board Member. The only other person listed on the first list was PERSON-4, and she was listed as "Committee Chair."<sup>5</sup> On the second list, PETITIONER'S REP-1 was listed as the Board Chair, PERSON-1 was listed as the Board Vice-Chair, PERSON-4 was listed as the Board Treasurer and PERSON-2 was listed as a Board Member. This second list stated that the Committee Chair was PERSON-5 and the Board Secretary was PETITIONER'S REP-2.<sup>6</sup>

15. PETITIONER'S REP-1 provided a document from the Department of Commerce that was undated and stated the Ministry was a Utah nonprofit corporation and it had been registered on DATE. The last renewal of registration was shown to be on DATE. The document did not show whether the Ministry's registration was active as of the tax year at issue in this appeal.<sup>7</sup>

16. PETITIONER'S REP-1 provided a copy of the Ministry's Bylaws. The Bylaws did not indicate whether they were filed with the Department of Commerce and the certification that they were adopted was unsigned. The Bylaws were dated DATE.

- a. The Bylaws indicated that the Ministry's corporate purpose, at Article 2.01, was:

. . . to preach the gospel of Jesus Christ. To help believers to mature in knowledge and spirituality. To have a place of worship and fellowship and help alleviate the suffering of the needy and see people's life changed. We provide training through Bible study in small groups as well as utilizing social media channels and the corporation's website to provide help counseling, teaching and hope. Our programs include sending out ambassadors on missions locally and globally level, and to hold fundraising events to provide support for the missionaries.
- b. The Bylaws provided at Article 2.03(b): "No part of the net earnings of the corporation shall inure to the benefit or be distributable to any director, officer, member or other private person, except that the corporation shall be authorized and

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<sup>5</sup> Petitioner's Exhibit - PROPERTY OWNER Corporation.

<sup>6</sup> Petitioner's Exhibit Board Chair List.

<sup>7</sup> Petitioner's Exhibit Department of Commerce Statement.

empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the Articles of Incorporation and these Bylaws.” At Article 2.03(c), the Bylaws provided, “Upon termination or dissolution of the PROPERTY OWNER, any assets lawfully available for distribution shall be distributed to one (1) or more qualifying organizations described in Section 501(c)(3) of the 1986 Internal Revenue Code . . .”

c. Section 11.04 of the Bylaws required the Ministry to file federal Forms 990, although PETITIONER'S REP-1 testified that the Ministry had never filed a federal Form 990.

17. PETITIONER'S REP-1 provided a copy of a bank statement showing that the PROPERTY OWNER had its own bank account at Chase Bank. He also provided a copy of another bank statement that showed he and his wife PERSON-1 had their own joint bank account at Chase Bank.<sup>8</sup>

18. PETITIONER'S REP-1 provided a copy of a Warranty Deed that had been recorded on DATE. The Warranty Deed showed that PETITIONER'S REP-1 and PERSON-1 had deeded the subject property to the Ministry.<sup>9</sup>

19. PETITIONER'S REP-1 provided a photograph that showed six people sitting on folding chairs and one person standing with a microphone in what appeared to be the living room of the subject property. He testified that this was a Board Meeting being held at the subject property.<sup>10</sup>

20. The County also submitted information at the Formal Hearing in this matter. The County provided an abstract for the subject property, which showed each time a deed was recorded for the subject property. This abstract indicated that Rafael and PERSON-1 had deeded the subject property to the Ministry on DATE, but the ministry had deeded the subject property back to PETITIONER'S REP-1 and PERSON-1 on DATE, and then PETITIONER'S REP-1 and PERSON-1 had deeded the subject property back to the Ministry on May 19, 2020.

21. The County provided the 2022 tax notice, which showed that the subject property was receiving the primary residential exemption.

22. The County provided documents printed from the Grow and Multiply Ministries website, which showed various events and meetings.

23. The County's representatives pointed to information from the bank statements, credit card statements and account summaries that showed that the PROPERTY OWNER paid for

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<sup>8</sup> Petitioner's Exhibits Bank Statement and PROPERTY OWNER Bank Statement.

<sup>9</sup> Petitioner's Exhibit - Warranty Deed.

<sup>10</sup> Petitioner's Exhibit PROPERTY OWNER Photo.



many expenses that appeared to be personal expenses of PETITIONER'S REP-1 and PERSON-1, such as groceries, travel, airline tickets, restaurants and television and movie subscriptions. The County's representatives noted that the Board of Directors of the Ministry were mostly members of the PETITIONER REP-1 family and argued that the Ministry would need to clearly demonstrate that the PETITIONER REP-1 family and the Ministry finances were separate, and not intermingled. The County's representatives argued that the bank and credit card statements showed the Ministry and the PETITIONER'S REP-1 family funds were commingled and that this showed that the Ministry's funds inured to the benefit of private individuals, meaning PETITIONER'S REP-1 and his family.

24. The County's representatives also asserted that the Ministry had not established that it was a nonprofit organization. The County's representatives argued that the Ministry has not shown that the IRS determined the Ministry was an organization exempt under Section 501(c)(3), Internal Revenue Code. The County's representatives further argued that the fact that the ORGANIZATION-1 had given the Ministry a group exemption number in 2009 is not sufficient to show that the Ministry is exempt as a Section 501(c)(3) organization. The County's representatives asserted that the Ministry would have to show that it was still affiliated with, and subject to the general supervision and control of, the ORGANIZATION-1 to be exempt under the group exemption.

25. The County's representatives asked questions at the Formal Hearing in this matter and PETITIONER'S REP-1 testified that four people were authorized to make charges on the Ministry's credit card. These four people were himself, his wife, his son, who was the missionary in CITY-1, and PETITIONER'S REP-2, the administrative assistant. PETITIONER'S REP-1 stated that the Ministry's board has to approve the purchases. He also testified that the Ministry had mission trips every year and they had an entertainment budget of \$\$\$\$ per month. PETITIONER'S REP-1 explained that he attended church activities at restaurants, for which the church paid the expenses for PETITIONER'S REP-1 and PERSON-1, while everyone else paid their own expenses. He also stated that the Ministry hosted movie nights at the subject property. At the hearing, PETITIONER'S REP-1 referred to an employment contract between himself and the Ministry. He asserted that the employment contract stated the Ministry was to pay for all of these expenses, but that contract was not provided at the Formal Hearing.

APPLICABLE LAW

Utah Code Ann. §59-2-103(2) provides for the assessment of property, as follows:

All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

Article XIII, Section 3 of the Utah Constitution exempts certain property from property tax, as set forth below in relevant part:

- (1) The following are exempt from property tax...
  - (f) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes...

Based on the constitutional exemption, Utah Code Ann. §59-2-1101(2023)<sup>11</sup> provides that certain properties are exempt from property tax as follows, in pertinent part:

- (3)(a) The following property is exempt from taxation...
  - (iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity used exclusively for one or more of the following purposes:
    - (A) religious purposes;
    - (B) charitable purposes; or
    - (C) educational purposes;
    - . . . .
- (6)(a) A property may not receive an exemption under Subsection (3)(a)(iv) if:
  - (i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or
  - (ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.
- (b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.
- (7) A property may not receive an exemption under Subsection (3)(a)(iv) if:
  - (a) the property is used for a purpose that is not religious, charitable or educational; and
  - (b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.
- (8) A county legislative body may adopt rules or ordinances to:
  - (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions;<sup>12</sup> . . .
- (9) If a person is dissatisfied with a tax relief decision made under designated decision-making authority as described in Subsection (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

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<sup>11</sup> Utah Code Sec. 59-2-1101 was substantially revised effective beginning with tax year 2021. The Commission notes that this decision refers to the version of the Utah Code that became effective as of January 1, 2021 and is applicable in this appeal for the 2023 tax year.

<sup>12</sup> The Commission notes that the County did not provide any information at the hearing to indicate that the County has adopted rules or ordinances to effectuate the exemption at issue in this appeal.

“Exclusive use exemption” is defined in Utah Code Ann. §59-2-1101(1)(c), as follows:

- (c) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the following purposes:
  - (i) religious purposes;
  - (ii) charitable purposes; or
  - (iii) educational purposes.

Guidance on what constitutes a “nonprofit entity” is provided in Utah Code Ann. §59-2-1101(1)(g), below:

- (i) “Nonprofit entity” means an entity:
  - (A) that is organized on a nonprofit basis, that dedicates the entity's property to the entity's nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;
  - (B) for which, upon dissolution, the entity’s assets are distributable only for exempt purposes under state law or to the government for a public purpose; and
  - (C) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.
- (ii) “Nonprofit entity” includes an entity:
  - (A) if the entity is treated as a disregarded entity for federal income tax purposes and wholly owned by, and controlled under the direction of, a nonprofit entity; and
  - (B) for which none of the net earnings and profits of the entity inure to the benefit of any person other than a nonprofit entity.

The procedures for filing an application and having the County issue a decision regarding an exemption are as follows in Utah Code Ann. §59-2-1102:

- (2) Except as provided in Subsection (7) and subject to Subsection (8), a reduction in the value of property may not be made under this part or Part 18, Tax Deferral and Tax Abatement, and an exemption may not be granted under this part or Part 19, Armed Forces Exemptions, unless the party affected or the party's agent:
  - (a) submits a written application to the county board of equalization; and
  - (b) verifies the application by signed statement.
- (3) (a) The county board of equalization may require a person making an application for exemption or reduction to appear before the county board of equalization and be examined under oath.
- (b) If the county board of equalization requires a person making an application for exemption or reduction to appear before the county board of equalization, a reduction may not be made or exemption granted unless the person appears and answers all questions pertinent to the inquiry.

- (4) For the hearing on the application, the county board of equalization may subpoena any witnesses, and hear and take any evidence in relation to the pending application.
- (5) Except as provided in Subsection (10)(b), the county board of equalization shall hold hearings and render a written decision to determine any exemption on or before May 1 in each year.
- (6) Any property owner dissatisfied with the decision of the county board of equalization regarding any reduction or exemption may appeal to the commission under Section 59-2-1006.

A person may appeal a decision of a county board of equalization, as provided in Utah Code Ann. §59-2-1006(1), below:

Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, or a tax relief decision made under designated decision-making authority as described in Section 59-2-1101, may appeal that decision to the commission . . . .

A party claiming an exemption has the burden of proof, and must demonstrate facts to support the application of the exemption. *See Butler v. State Tax Comm'n*, 367 P.2d 852, 854 (Utah 1962). Further, in *Corporation of the Episcopal Church in Utah v. Utah State Tax Comm'n*, 919 P.2d 556 (Utah 1996), the Court stated, "[t]he burden of establishing the exemption lies with the entity claiming it, although that burden must not be permitted to frustrate the exemption's objectives." In addition, the Court noted, "[e]xemptions are strictly construed[,]" but noted that the strict construction "should not be so narrowly applied, however, that it defeats the purpose of the exemptions."

#### CONCLUSIONS OF LAW

1. Utah Code §59-2-103 provides that all tangible property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, unless otherwise provided by law.

2. Utah law provides several exemptions from property tax, including the exclusive use exemption at issue in this appeal. A property may qualify for the exclusive use exemption at issue in this appeal if the property is owned by a nonprofit entity and used exclusively for religious, charitable or educational purposes. *See* Utah Constitution, Art. XIII, Sec. 3 and Utah Code §59-2-1101(3).

3. The Commission considers from the facts presented whether the subject property meets the first requirement of Utah Code §59-2-1101(3), that the property be owned by a nonprofit entity. Utah Code Ann. §59-2-1101(1)(g) provides that a

“nonprofit entity” means an entity: “(A) that is organized on a nonprofit basis, that dedicates the entity's property to the entity's nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest; (B) for which, upon dissolution, the entity’s assets are distributable only for exempt purposes under state law or to the government for a public purpose; and (C) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.” The Property Owner has the burden of proof in this matter and has not established that it meets the statutory definition of “nonprofit entity.”

4. First, as the County asserted at the Formal Hearing in this matter, the Ministry has not established that the IRS has determined that the Ministry is a tax exempt entity under Section 501(c)(3), Internal Revenue Code. The only letter the Ministry provided from the IRS regarding the ORGANIZATION-1 stated that the IRS had granted the ORGANIZATION-1 an employer identification number and a group exemption number.<sup>13</sup> Although the Ministry provided documentation that it received a charter and was affiliated with the ORGANIZATION-1 in 2009, there was no documentation or letter to show that was still the case for tax year 2023.

5. The Ministry has not established it met the criteria to qualify as a nonprofit entity at Utah Code Subsection 59-2-1101(1)(g)(i) for tax year 2023. Subsection 59-2-1101(1)(g)(i)(B) states that “upon dissolution, the entity’s assets are distributable only for exempt purposes under state law or to the government for a public purpose.” The County explained that the PETITIONER’S REP-1 family and the Ministry had transferred the ownership of the subject residence back and forth several times. Furthermore, the registered Articles of Incorporation for the Ministry do not address the disposition of the Ministry’s assets upon dissolution. Although the

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<sup>13</sup> As noted in IRS Publication 4573 (Rev. 10-2019), which the Ministry submitted at the Formal Hearing in this matter, in answer to the question, “Must the central organization be recognized by the IRS as tax-exempt before the organization can obtain a group exemption?” the publication provided the following answer:

No. A central organization may submit its request for a group exemption at the same time it submits its exemption application on Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code; Form 1024, Application for Recognition of Exemption Under 501(a); or Form 1024-A, Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code. Although churches are not required to apply for recognition of their own status to be tax-exempt, under the procedures for group rulings, a church must request recognition of its own exempt status to be the central organization in a group ruling.

Bylaws submitted in this matter limit the disposition of the Ministry's assets upon dissolution, the Bylaws were not certified.

6. The County also raised the concern that the Ministry pays many of the PETITIONER'S REP-1 family's personal expenses, and argued that it showed that the donations and earnings of the organization inured to the benefit of the PETITIONER'S REP-1 family. The PETITIONER'S REP-1 family comprised a majority of the Ministry board members. Thus, the PETITIONER'S REP-1 family would have a majority vote on actions of the board. This calls into question whether the Ministry meets the requirements of Utah Code Ann. §59-2-1101(1)(g)(i)(A), which requires a nonprofit entity to “[dedicate] the entity's property to the entity's nonprofit purpose, and . . . [make] no dividend or other form of financial benefit available to a private interest.” The Ministry bank accounts show that the Ministry paid for personal items for the PETITIONER'S REP-1 family. PETITIONER'S REP-1 had testified in this matter that there was an employment contract between himself and the Ministry, that the Ministry would pay him a salary, plus cover these types of expenses. However, the contract was not provided. Additionally, the amounts paid by the Ministry for the personal expenses of the PETITIONER'S REP-1 family appear to be listed as business expenses on the federal income tax return of PETITIONER'S REP-1 and PERSON-1 under Schedule C for tax year 2022. Thus, the Commission concludes that the Property Owner has not met its burden of proof to establish that the subject property was owned by a “nonprofit entity” for tax year 2023.

7. The Commission also considers, based on the facts presented, whether the property was “used exclusively” for religious, charitable or educational purposes. Utah Code §59-2-1101(7) provides that a “property may not receive an exemption under Subsection (3)(a)(iv) if: (a) the property is used for a purpose that is not religious, charitable or educational; and (b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.” For tax year 2023, the subject property was used both as the primary residence of the PETITIONER'S REP-1 family and for the religious purposes of the Ministry. Furthermore, there were no segregated areas within the subject property that were used exclusively for religious purposes.. All of the subject property was used, at least in part, as the PETITIONER'S REP-1 family's personal residence. The use of the subject property by the PETITIONER'S REP-1 family as their personal residence for the 2023 tax

year was more than de minimis. Based on this express provision, the subject property does not qualify for the exemption.

8. At the hearing, PETITIONER'S REP-1 argued that the subject property should be exempt as a parsonage pursuant to Utah Admin. Rule R884-24P-40. Utah Admin. Rule R884-24P-40(1) provides that parsonages, rectories, monasteries, homes and residences if used exclusively for religious purposes, are exempt from property taxes if they meet certain requirements including that the "land and building are owned by a religious organization which has qualified with the Internal Revenue Service as a Section 501(c)(3) organization and which organization continues to meet the requirements of that section. . . ." As noted above, the Property Owner has not met its burden of proof to establish that the subject property is owned by a religious organization which has qualified with the Internal Revenue Service as a Section 501(c)(3) organization. The Ministry itself has not shown that it is a Section 501(c)(3) organization. At best, the Ministry has shown that in 2009 it was affiliated with the ORGANIZATION-1 and had been given the Group Status Exemption number from the ORGANIZATION-1 in 2009. As noted by the Utah Supreme Court in *Corporation of the Episcopal Church in Utah v. Utah State Tax Comm'n*, 919 P.2d 556 (Utah 1996), "[t]he burden of establishing the exemption lies with the entity claiming it," and "[e]xemptions are strictly construed." The Ministry has not shown it met the requirements of Utah Admin. Rule R884-24P-40(1)(a).

On this basis, the subject property does not qualify for the exclusive use exemption provided at Utah Code §59-2-1101 as property owned by a nonprofit entity used exclusively for religious purposes for tax year 2023. The Petitioner's appeal in this matter should be denied.

Jane Phan  
Administrative Law Judge

#### DECISION AND ORDER

Based on the foregoing, the Tax Commission upholds the decision of the COUNTY-1 Board of Equalization, which denied the exclusive use exemption to the subject property for tax year 2023, and denies the Petitioner's appeal. It is so ordered.

DATED this \_\_\_\_ day of \_\_\_\_, 2024.

John L. Valentine  
Commission Chair

Michael J. Cragun  
Commissioner

Rebecca L. Rockwell  
Commissioner

Jennifer N. Fresques  
Commissioner

**Notice of Appeal Rights:** You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §59-1-601 et seq. and §63G-4-401 et seq.