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November 5, 1996

Ms. Dawn Hammond  
Massachusetts Conference of the United Church Of Christ  
Salem End and Badger Roads  
P.O. Box 2246  
Framingham, MA 01701-1998

Re: Rental of Steeple Space

Dear Dawn:

In response to your letter of October 22, 1996, I agree with your assumption that the income generated from the rental of steeple space for cellular phone antennas would not be considered unrelated business taxable income.

The property tax exemption applies to property devoted to religious or charitable uses. Once the property or a portion thereof is leased to a commercial entity, the exemption no longer applies to the whole of the property and a property tax may be levied.

The assessment would be based on the fair market value of the portion of the property being leased for commercial purposes. In cases such as these, it appears to me that towns will determine the fair market value of a steeple using an income approach based on the rental income. That is, the local assessor would capitalize the rental. Thus, if the rent were \$5,000 per year and the assessor capitalized the rent @ 10%, the value of the property for real estate tax purposes would be \$50,000. Arguably, a sales comparison approach could be used, comparing the sales price of churches with steeples to the sales price of churches without steeples, although this approach may be more difficult to apply and likely result in a lower assessed value. The local church has the ability to appeal the assessment by filing an appeal with the Appellate Tax Board. Such

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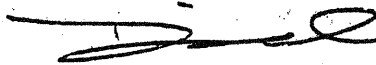
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an appeal would necessitate obtaining a professional appraisal which results in a different outcome either using the same appraisal methodology or arguing for the use of different methodology. I would not recommend that the church raise the issue with the assessors; let the assessors raise it with the church. In negotiating the lease, the church should attempt to negotiate a net lease arrangement thereby having the real estate tax (if levied) be the responsibility of the cellular phone company.

Please note the environmental and health concerns involved in locating a cellular phone antennae on church property. Current scientific literature, to my knowledge, does not demonstrate a link between cellular phone antennae and disease. Engineering studies must be performed to measure the radiowave output and ensure safety and compliance with regulations. The cellular phone companies will typically be seeking long term leases. It may be prudent to allow the church to terminate the lease in the face of scientific evidence of an association between the radiowaves and disease.

Please contact me if you have any further questions.

Respectfully yours,



Richard B. Osterberg

RBO:na  
n:hammond.let

\* Business Manager Dawn Hammond wrote that she assumed that a church which rented its steeple space to a wireless phone company would not be subjected to Federal or State taxes on unrelated business income, because "passive rents" are usually excluded from definitions of unrelated business income. Also, it seems unlikely that there could be any question of unfair competition with for-profit businesses, as they tend not to have steeples in which to hide antennas.

Additionally, it should be noted that taxes may be due if the church has a mortgage.