

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF REVENUE,)
)
 Petitioner,)
)
 vs.) CASE NO. 95-1728
)
 CONSUMER CREDIT COUNSELING SERVICE)
 OF THE FLORIDA GULF COAST, INC.,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

A hearing was held in this case in Tampa, Florida on May 14, 1996, before Arnold H. Pollock, a Hearing Officer with the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Kent L. Weissinger, Esquire
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STATEMENT OF THE ISSUE

The issue for consideration in this matter is whether Consumer Credit Counseling Service of the Florida Gulf Coast, Inc. (CCS), qualifies for a certificate of exemption from sales and use tax.

PRELIMINARY STATEMENT

By letter dated March 16, 1995 Shirley Towne, Agency Official for the Department of Revenue, indicated the Department's intention to revoke Consumer Credit Counseling Service of the Gulf Coast, Inc.'s (CCS) consumer certificate of exemption number 39-22-124883-56C because, based on its evaluation of the circumstances, it appeared the organization is not a charitable organization in that it does not provide one of the seven charitable services listed in Chapter 212, Florida Statutes. Thereafter, Diane L. Trithart, then President of CCS, requested a formal hearing and this hearing ensued.

Neither party presented testimony at the hearing. However, the parties agreed to the admittance of Joint Exhibits 1 through 7 which included the depositions of several individuals whose testimony was pertinent to the issues

involved, including Carl Doeing, President and Chief Executive Officer of the Family Service Association of Greater Tampa; Karen Dakan, an instructor in the "Challenge" program at the Women's Resource Center of Sarasota, Inc.; Lucious G. Davis, manager of the Hillsborough County Department of Social Services; and Mabel Bexley, Executive Director of The Spring of Tampa Bay, Inc.

No transcript was provided and neither counsel submitted Proposed Findings of Fact, but subsequent to the hearing both counsel submitted written legal argument which have been considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. Each counsel presented a stipulation of facts signed by both counsel. While the facts to which the stipulations relate appear to be fundamentally the same, the approach to each fact agreed to is different to some degree and based upon the relative position of the parties.

2. The parties agreed that CCS is a not-for-profit corporation organized under the laws of the State of Florida, with its principal business located in Tampa, though it operates offices in Hillsborough, Hernando, Manatee, Sarasota and Lee counties. It is qualified as a non-profit corporation pursuant to Section 501(c)(3) of the United States Internal Revenue Code. Its primary purpose is to provide education and counseling services to individuals and families who lack the basic knowledge of budgeting and financial management in order to render them self-sufficient. It is an organization recognized by the United Way and currently receives funding through that organization in Hillsborough, Hernando and Lee counties. All such funding received from the United Way is utilized exclusively for educational purposes. It is also a member of the National Foundation for Consumer Credit Counseling.

3. The functions of CCS consist primarily of four types of services. These include educational programs, individual budget counseling, debt management, and referral services to agencies that provide other services or benefits such as food, clothing, shelter, mental health services, marital and parenting counseling and drug and alcohol abuse counseling to needy individuals. None of the clients are charged for any of the services provided by CCS.

4. Until January 1, 1995, CCS held consumer sales tax exemption number, 39-22-124883-56C. Its prior number was 06-0138-00-39. The prior exemption was granted to CCS in January, 1975.

5. On November 8, 1994, Diane L. Trithart, then President and CEO of CCS, submitted an application for renewal of CCS' certificate of exemption. Included with the application was a background history of the organization containing the charter, by-laws, certificates of incorporation and registration with the state, financial statements and statements of agencies to which CCS refers clients and from which clients are referred to CCS. After the submittal of that application package, on March 16, 1995, the Department issued an Administrative Complaint seeking to revoke CCS' certificate of exemption on the basis that the organization was not a charitable organization with a sole or primary purpose which fulfilled one of the seven criteria outlined in Section 212.08(7)(O)2.b., Florida Statutes.

6. By letter dated January 13, 1995, prior to the preparation of the Administrative Complaint ultimately filed herein, Patricia M. Chin, Chief of the Department's Bureau of Registration and Records in the Division of Tax

Processing, conveyed to Ms. Trithart the Department's position that CCS no longer qualified for its exemption. This opinion was based upon the provisions of Section 212.08(7)(o)2.b., Florida Statutes, which defines the requirements which an organization must satisfy in order to be deemed a "charitable institution" exempt from sale and use tax. It was the Department's position that the primary purpose of CCS was to provide credit counseling which was not one of the statutorily defined services, and on that basis, the exemption could not be renewed.

7. The functions of CCS in detail are varied and extensive. The parties agreed and stipulated that in 1995, CCS expended approximately twenty-one percent of its budget in direct educational programs which were offered through a number of other agencies such as Head Start, Salvation Army, Lighthouse for the Blind, AARP and other similar organizations. The relationship between CCS and these agencies is a collaborative effort in which all agencies seek to meet the needs of the client. In 1995, of the target audience for the educational programs which were conducted by CCS, seventy-two percent fell below federal poverty guidelines, and in addition, in 1995, CCS conducted sixty-six programs for in excess of twenty-eight hundred school age children in Hillsborough County which focused on basic money management and budgeting.

8. Another thirty-seven percent of CCS' expenditures was devoted to budget counseling for clients in individual counseling sessions, each lasting between one and a half to two hours, and in which individuals and families are taught the basic skills of prioritizing needs so that they can be self-sufficient and provide for their basic needs in the area of food, clothing and shelter. In this category, 5489 various counseling appointments were met, and of the individuals and families who received this budget counseling, ninety-five percent were also referred to another agency or source for food assistance; sixty-one percent were referred to other agencies for additional help and services; seventy-one percent were either unemployed or on reduced income; fifty-three percent constituted separated, divorced or single individuals, many with minor children; and many were in need of other services for the prevention of or the rehabilitation of alcoholism, drug abuse, suicide prevention or the alleviation of mental, physical or sensory health problems. Many of these individuals faced the immediate prospect of losing their homes or having utility service disconnected, and their financial difficulties were having severe, adverse effects on their marital and family relationships.

9. In 1994, forty-eight percent of the individuals or families who received budget counseling fell below the federal poverty guideline. In 1995, thirty-nine percent fell within that category.

10. Of those individuals who received budget counseling, only twenty percent went on a debt management plan pursuant to which CCS acted as an intermediary between the client and the creditor and assisted the individual in paying off the outstanding debt. In 1995, approximately twenty-four percent of CCS' expenditures were devoted to service debt management plans, and eighteen percent of those expenditures were for administrative purposes. Less than one half of one percent of CCS' income was derived from interest on money deposited by clients into trust accounts and which was thereafter distributed by CCS to the clients' creditors.

11. In addition, in 1995, CCS assisted 708 families in retaining their homes and avoiding foreclosure, with a success rate of ninety-eight percent. The most common cause of the family financial problems in those cases was loss of employment or reduced income. In that regard, CCS participates in the

Florida Department of Labor's Rapid Response Program which provides counseling and educational services to employees who are losing their jobs as a result of corporate lay-offs or down-sizing. It is not, however, the primary purpose of CCS to assist individuals in establishing or re-establishing credit.

12. As was stated previously, CCS operates educational programs in conjunction with other service organizations. One of these is The Women's Resource Center of Sarasota, a Section 501(c)(3) organization which serves women of a certain age who are seeking to enter the job market as a result of divorce, widowhood or other non-self-caused conditions. The majority of these clients find themselves unable to provide their own basic necessities and facing an uncertain future. They are lacking in the financial skills to manage their limited resources and many are facing the loss of their home. A large percentage have minor children, and the Center helps these women provide for themselves and their children by giving them the basic skills they need to survive. As a part of this program, CCS teaches classes in basic budgeting skills, money management, credit and spending, and provides assistance in avoiding foreclosure. CCS also instructs these clients on accessing other community resources which might help, but the fundamental goal of both agencies is to teach the clients to handle their finances and to be able to provide for themselves. These consumer credit services are provided at no cost to the client, and though no direct aid, such as food, clothing or shelter is provided by CCS, the education assists the client in learning to provide for herself.

13. Similarly, CCS operates a collaborative educational program with The Spring of Tampa Bay, also an exempt organization. The Spring is a domestic violence center which provides comprehensive services to violent families, the majority of whom are brought in by law enforcement agencies. These clients are almost uniformly poor who come to The Spring with nothing but their immediate belongings in a garbage bag. Approximately one third of the clients are victims of aggravated battery and all are in immediate danger and have no place else to go. CCS offers a series of monthly programs to clients of The Spring. These programs are designed to assist the women in becoming functional so that they can get back on their feet and move toward leading normal lives. The courses are designed to teach the women how take care of themselves, and CCS educates the women in the management of their personal finances. The emphasis is decidedly not on reestablishing credit. Any client who can establish credit is not a suitable candidate for The Spring or, thereby, CCS. Neither The Spring nor the client pays CCS anything for its services.

14. A third collaborative effort of CCS is that with The West Tampa Neighborhood Service Center, operated by Hillsborough County's Department of Social Services. This is a multipurpose human service facility that provides help to low income families including direct assistance in medical treatment, utility and rent payments and emergency assistance in the form of blankets, heaters, fans and food. All of the clients of West Tampa fall within the federal poverty guidelines.

15. West Tampa has identified core agencies which it wants housed in its facility to promote a team approach to addressing the needs and services required by its low income clients. CCS workshops are a part of this team effort made up of other agencies providing such things as indigent care, medical assistance and the like. The concept of the West Tampa program is to develop the individual to allow that person to help himself, and CCS provides basic budget instruction to the individuals who seek assistance from West Tampa. These individuals are experiencing severe financial problems as a result of poor money management or poor budgeting skills, and need basic information in

budgeting, in financial planning, in establishing a bank account and in avoiding the stigma of being characterized as a low income individual who lives off the system.

16. CCS has also collaborated with the Family Services Association of Greater Tampa which provides counseling and psychotherapy to individuals, couples or families suffering from alcoholism, drug abuse or other difficulties. This organization also addresses marital and parent/child issues and unemployment/financial issues, and it is in that latter area that CCS participates. The individuals at risk have problems with daily living because of an inability to find or keep a job as a result of lack of skill, insufficient technology and inability to cope. Approximately fifty percent of the individuals in this category serviced by this agency fall below the federal poverty guidelines.

17. The services provided by CCS, in conjunction with the agencies listed above, are comparable with similar programs in which it participates with several other agencies in the geographical area serviced and described previously herein.

18. In all of its efforts and in the programs it presents CCS does not, as its sole or primary function, provide or raise funds for organizations which provide medical aid for the relief of disease, injury or disability. It does not, as its sole or primary function, provide or raise funds for organizations which provide regular physical necessities such as food, clothing or shelter.

19. On the other hand, CCS does provide education and counseling services to individuals who lack the basic knowledge of budgeting and personal financial management so that they can provide for their own food, clothing and shelter, and it constantly acts as a referring agency to other agencies that do provide food, clothing and shelter.

20. CCS does not, as its sole or primary function, provide or raise funds for organizations which provide medical research for the relief of disease, disability or injury, and it does not, as its sole or primary function, provide or raise funds for organizations which provide legal services. By the same token, it does not, as its sole or primary function, provide or raise funds for organizations which provide food, shelter or medical care for animals, or adoption services, cruelty investigations or education programs concerning animals. It also does not, as its primary function, provide or raise funds for organizations which provide adoption, placement, child care or community care for the elderly.

21. Article II of CCS' By-Laws, as approved in October 1994, defines its community service as, "delivering professional consumer credit education, confidential counseling and debt reduction programs," such services rendered to "all segments of the community regardless of ability to pay." While CCS has no income guidelines for its clients, consistent with the terms of its by-laws, it will counsel anyone, regardless of ability to pay.

22. The funds which CCS receives from that small percentage of clients who are eligible for debt management plan participation, (only twenty percent of those seen in 1995), are deposited in an interest-bearing account. Distributions to creditors are made from this account twice a month, timed to coincide with receipt of the bulk of client funds. Any interest earned on the deposited funds is used by CCS to offset the cost of providing services. This earned interest amounts to less than one half of one percent of CCS' revenue.

23. Though CCS provides its services without charge, some clients voluntarily donate funds as able. These donations, along with the interest earned on client deposits, are also used to offset the costs of the debt management programs and the educational and counseling programs made available without charge to all segments of the community.

24. By far the greatest amount of revenue received by CCS in 1992 and 1993 came from contributions from business creditors of CCS' clients. Business creditors are presented with an invoice with payment, but the creditor is under no obligation to contribute. Nonetheless, during those years, that income constituted eighty-five percent of revenue while client contributions constituted only nine percent one year, and slightly more than ten percent the next.

CONCLUSIONS OF LAW

25. The Division of Administrative Hearings has jurisdiction over the parties and the subject matter in this case. Section 120.57(1), Florida Statutes.

26. The Department of Revenue has declined to reissue and seeks to revoke CCS' exemption from state sales tax on the basis that the organization does not have an exclusive charitable purpose which falls within one of the seven categories outlined in Section 212.08(7)(o)2.b., Florida Statutes.

27. To demonstrate it is entitled to a sales tax exemption certificate, CCS must demonstrate it meets all the criteria of one of the definitions listed in the cited portion of the statute. Since in the instant case CCS claims its exemption as a charitable institution, it must show that it is a nonprofit entity whose sole or primary purpose is either to provide one of the seven services listed in the statute or provide funds to other organizations which provide one of the seven services.

28. Section 212.08(7), Florida Statutes, defines "charitable institutions" as:

... only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, and any other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such services.

* * *

(II) Regular provision of physical necessities such as food, clothing or shelter;

(III) Services for the prevention of or rehabilitation of persons from alcoholism or drug abuse, the prevention of suicide, or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption, placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

29. Rule 12A-1.001(3)(g), F.A.C. provides, with respect to the term, "sole or primary function":

[a] charitable organization, excluding hospitals, must establish and support its function as providing or raising funds for services as outlined in subparagraphs 1 and 2 above, by expending in excess of 50 percent of the charitable organization's expenditures towards referenced charitable concerns, within the charitable organization's most recent fiscal year.

30. Within the parameter of that definition, the charitable organization must show that more than fifty percent of its total expenditure is used to directly provide the statutory services described above, or is donated to other charitable organizations that directly provide that service.

31. Section 212.08(7)(o)2.b., Florida Statutes, in relevant part, provides that it is to be "strictly defined, limited, and applied in each category." The law is well settled that tax exemptions are strictly construed against taxpayers and in favor of the state. *State, Department of Revenue v. Anderson*, 402 So.2d 397, 399 (Fla.1981); *Asphalt Pavers, Inc. v. Department of Revenue*, 584 So.2d 55, 57 (Fla. 1st DCA 1991). Therefore, CCS has the burden to show, by a preponderance of the evidence, that it is entitled to the sales tax exemption.

32. CCS is qualified as a nonprofit organization pursuant to Section 501(c)(3) United States Internal Revenue Code. The question remaining for determination, then, is whether it has as its sole or primary function one of the seven classifications defined by statute at Section 212.08(7)(o)23.b., and whether it meets all the criteria outlined in one or more of those definitions. *Gainesville Amateur Radio Society, Inc. v. DOR*, DOAH Case 94-1200 (Final Order entered July 31, 1995).

33. By stipulation the parties agreed that CCS does not, as its sole or primary function, provide or raise funds for the organizations described in Section 212.08(7)(o)2.b.(I) or (V) - (VII). By the same token, it does not, as its sole or primary function, provide or raise funds for those organizations described in (II) - (IV) of the same statute, but it does provide budget and financial education and counseling in conjunction with programs run by other organizations which do have as their sole or primary function the regular provision of physical necessities such as food, clothing or shelter; marital and family counseling; drug and alcohol abuse counseling; and a myriad of other social services, without which the clients of those organizations would not be able to function.

34. A portion of the clients serviced by CCS, those somewhat more affluent but still near poverty, receive debt management services from the organization, but by far the majority of the clients serviced by CCS do not. They are beyond debt management and require counseling and training to enable them to provide

food, clothing and shelter for themselves and their children; to manage within or to escape from an abusive marriage; to combat the ravages of drug or alcohol addiction; and to learn how to operate as a successful and productive member of society. Many of these clients may be employed, but almost all are well within one hundred and fifty percent of the federal poverty guidelines and owe far more than they can afford to pay.

35. The evidence introduced at the hearing, regarding which there is no dispute, shows that CCS is a nonprofit entity which expends by far the majority, (far in excess of fifty percent), of its funds on assisting those most in need by education and counseling in financial and life skills management targeted at those individuals who have demonstrated an inability to manage the limited financial resources at their disposal. The majority of the support provided is through and in conjunction with the direct support agencies identified earlier in this Order. The testimony of the directors of those organizations clearly indicates that CCS' services are necessary to and an integral part of the organizational objectives.

36. Though CCS receives a very small portion of its income by way of donations from clients, the majority of its income comes from voluntary contributions from business creditors of CCS clients and from the United Way. Another source of income is generated by interest earned on client deposits as a result of or during debt management services. Regardless of the source of CCS' income, it is clear that it provides its services free of charge to persons unable to pay for its service and no one is turned away merely because he or she cannot pay.

37. It is clear that CCS services are provided free of charge to individuals who receive the services which fall within the categories of individuals described in Section 212.08(7)(o)2.b.(II) - (IV), Florida Statutes. Since these services are provided to individuals who, without these services and those rendered in conjunction therewith by the organizations with whom CCS operates, could be classified as disadvantaged or suffering hardship, CCS appears to be a "charitable institution" under the statute and to have demonstrated its entitlement to the requested exemption and the exemption should be granted. See Department of Revenue v. Pinellas Rebos Club, Inc., DOAH Hearing 95-1800 (Final Order entered May 8, 1996).

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is recommended that the Department of Revenue enter a final order dismissing the Administrative complaint filed herein and approving the application for consumer sales tax exemption submitted by Consumer Credit counseling Service of the Florida Gulf Coast, Inc. as a charitable institution.

DONE and ENTERED this 4th day of June, 1996, in Tallahassee, Florida.

ARNOLD H. POLLOCK, Hearing Officer
Division of Administrative Hearings
The DeSoto Building
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Filed with the Clerk of the
Division of Administrative Hearings
this 4th day of June, 1996.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions to the Recommended Order. All agencies allow each party at least 10 days in which to submit written exceptions. Some agencies allow a larger period within which to submit written exceptions. You should consult with the agency that will issue the Final Order in this case concerning their rules on the deadline for filing exceptions to this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

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AGENCY FINAL ORDER

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STATE OF FLORIDA
DEPARTMENT OF REVENUE

FLORIDA DEPARTMENT OF REVENUE

Petitioner,

vs.

Case No. 95-1728
DOR 96-17-FOF

CONSUMER CREDIT COUNSELING SERVICE
OF THE FLORIDA GULF COAST, INC.

Respondent.

_____ /

FINAL ORDER

This cause came on before the Department of Revenue for the purpose of issuing a final order. The hearing officer assigned by the Division of Administrative Hearings heard this cause and issued a Recommended Order dated June 4, 1996. A copy of the Recommended Order is attached to this Final Order. No exceptions to the Recommended Order were filed and there are no proposed substituted orders to consider. The Department has jurisdiction of this cause.

STATEMENT OF THE ISSUE

The Department adopts and incorporates in this Final Order the Statement of the Issues in the Recommended Order.

PRELIMINARY STATEMENT

The Department adopts and incorporates in this Final Order the Preliminary Statement in the Recommended Order except that the notification dated March 16, 1995, sent by Shirley Towne to Consumer Credit Counseling Service of the Florida Gulf Coast, Inc.

("CCS") bore the title of "Administrative Complaint."

FINDINGS OF FACT

The Department hereby adopts and incorporates by reference the findings of fact set forth in the Recommended Order.

CONCLUSIONS OF LAW

The Department hereby adopts and incorporates by reference the conclusions of law set forth in the Recommended Order in paragraphs 25 through 27. The Hearing Officer's conclusions of law, set forth in paragraphs 28 through 37 of the Recommended Order, are rejected in their entirety and are hereby replaced as follows:

28. The burden of proof in this case is on CCS to show that it is entitled to a sales tax exemption.

29. Section 212.08(7)(o)2., Fla. Stat., reads in pertinent part as follows:

2. The provisions of this section ... [shall be strictly defined, limited, and applied in each category ...]
[Emphasis Supplied].

30. Tax exemptions are matters of legislative grace. It is a well-recognized rule of law that tax exemptions must be strictly construed against the taxpayer seeking them and in favor of the State. *Asphalt Pavers, Inc. v. Department of Revenue*, 584 So.2d 55 (Fla. 1st DCA 1991); *State Department of Revenue v. Anderson*, 403 So.2d 397, 399 (Fla. 1981); *Green v. Pederson*, 99 So.2d 292, 296 (Fla. 1957). Thus, CCS has the burden to show clearly that it is entitled to a sales tax exemption.

31. Section 212.08(7)(o)2.b., Fla. Stat. reads in pertinent part as follows:

"Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code of 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

- (I) Medical aid for the relief of disease, injury, or disability;
- (II) Regular provision of physical necessities such as food, clothing, or shelter;
- (III) Services for the prevention of or rehabilitation of persons from alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;
- (IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;
- (V) Medical research for the relief of disease, injury, or disability;
- (VI) Legal services; or
- (VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

[Emphasis Supplied].

32. Rule 12A-1.001(3)(g)3.d., F.A.C. (1994) defined "sole or primary function" as follows:

"Sole or primary function" means that a charitable organization, excluding hospitals, must establish and support its function as providing or raising funds for services as outlined in subparagraphs 1. and 2. above, by expending in excess of 50 percent of the charitable organization's expenditures towards referenced charitable concerns, within the charitable organization's most recent fiscal year.

Subparagraphs 1. and 2. of the rule contain a list of the seven services listed in the statute. This rule was amended in December of 1995; the definition of "sole or primary function" is now found at Rule 12A-1.001(3)(g)3.e., F.A.C. (1995). The definition is substantially identical in the revised rule as it was in the 1994 version of this rule.

33. CCS does not, as its sole or primary function provide, or raise funds for organizations which provide, any of the services listed in paragraphs 1, II, V, VI, or VII of Section 212.08(7)(o) 2.b., Fla. Stat. See Findings of Fact paragraphs 18 through 20, in the Recommended Order.

34. CCS does not, as its sole or primary function, raise funds for organizations which provide any of the services listed in paragraph III of Section 212.08(7)(o)2.b, Fla. Stat. See Findings of Fact, paragraphs 7, and 8, in the Recommended Order.

35. CCS does not provide the any of the services listed in paragraph III of Section 212.08(7)(o)2.b., Fla. Stat. See Findings of Fact, paragraphs 2, 3, 7, 8, 12, 15, 19 and 21.

36. CCS appears to be taking the position that it should be entitled to a consumers certificate of exemption as a "charitable institution" because it provides its services in coordination with other organizations in the area that do provide one or more of the services listed in the statute. See Findings of Fact, paragraphs 3, 7, 8, 11, 12, 13, 14, 15, 16 and 17.

37. The exemption for "charitable institutions" clearly requires that the recipient of such exemption provide one or more of the services listed in the statute or provide funds to organizations that are providing one or more of the services listed in the statute. No organization can ride in on the coattails of another organization. Vicarious charitable activities do not constitute the direct provision of one or more of the services listed in the statute and will not qualify one for the "charitable institutions" exemption. National Christian Network, Inc. v. Department of Revenue, Case No. 84-4115, Final Order entered on December 17, 1985. The statutory requirements must be met for each applicant before an exemption can be granted. CCS has failed to provide any evidence that it provides any of the services listed in paragraph III of Section 212.08(7)(o)2.b., Fla. Stat. or that it raises funds for organizations providing such services.

38. Paragraph IV of Section 212.08(7)(o)2.b., Fla. Stat. as quoted above in paragraph 31 of this Final Order, includes the following services in the list of statutorily authorized services to be rendered by an entity seeking exemption as a "charitable institution": "Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship."

39. CCS does not provide or raise funds for organizations which provide adoption, placement, child care or community care for the elderly. See Findings of Fact paragraphs 18 through 20, in the Recommended Order. Thus, CCS must show that its services qualify as "other welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship." This claim will be considered below applying this principle: "While doubtful language in taxing statutes should be resolved in favor of the taxpayer, the reverse is true in construction of exceptions and exemptions from taxation." Department of Revenue v. Skop, 363 So.2d 678, 680 (Fla. 5th DCA 1980).

40. Under the statutory construction maxim "ejusdem generis," where general words in a statute follow a designation of particular persons or subjects, the meaning of the general words is limited to include only those persons or subjects that are of the same kind, character, class or nature as those specifically designated in the statute. See Green v. State, 604 So.2d 471 (Fla. 1992); Florida Police Benevolent Ass'n, Inc. v. Department of Agriculture and Consumer Services, 574 So.2d 120 (Fla. 1991). Thus, the general phrase "other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship" will refer to services which are similar to adoption placement, community care for the elderly and child care. All of these types of enumerated services are targeted at ensuring that certain basic needs of individuals who are dependent upon special care and/or attention are satisfied. In the case of adoption placement, the object of the service is to provide a safe and secure environment for the child who is incapable of self-care. In the case of community care for the elderly, the object of the service is to provide either food or physical assistance to those older members of the population who are incapable of self-care with respect to daily activities of life (bathing, grooming, preparing meals, etc.) In the case of day care, again the services are provided to children incapable of self-care with respect to the activities of daily life. These types of services are in the nature of what a state government might ordinarily provide that is, they are services to help ensure the survival of individuals who because of some factor such as age, mental or physical inability, or lack of a safe and secure home environment might otherwise be unable to provide for themselves. Insurance may be either unavailable to, or inapplicable to the particular needs of these individuals. If a charitable organization provides those types of services on behalf of the state, it obviously is saving state resources. In return for this saving of state resources, the state is willing to forego some sales tax revenue. CCS has not provided any evidence that it provides "social welfare services" as that term is defined by Section 212.08(7), Florida Statutes.

41. CCS does make referrals, however it does not, as its sole or primary function, as that term is defined in Rule 12A- 1.001(3)(g), F.A.C., coordinate, network, or link other institutions designated as charitable institutions which do provide the types of services listed in paragraphs I through VII of Section 212.08(7)(o)2.b., Fla. Stat., with those in need of their services. See Findings of Fact, paragraphs 7 and 8, in the Recommended Order; Stipulation of Facts, para. 2, submitted by CCS at the hearing and incorporated into the Recommended Order in paragraph 2 of that Recommended Orders and the Articles of Incorporation of CCS which were admitted into evidence as an exhibit.

42. A reasonable percentage of CCS' services are not provided free of charge or at a substantially reduced cost. Rather, 85 percent of the cost of CCS' services were reimbursed by the business creditors of CCS' clients and between 9 percent and 10 percent of the cost of CCS's services are borne by the clients. In addition, CCS uses the interest on money deposited by clients into

trust accounts and which CCS later distributes to the creditors of the its clients to offset its expenses. It appears that CCS uses the funding it receives from the United Way to offset the remaining 4-5 percent or so of the costs of rendering the services. See paragraphs 2, 10, 23 and 24 of the Findings of Fact in the Recommended Order.

43. CCS is not providing services free or at a substantially reduced rate if it in fact receives payment for the services provided. See *Consumer Credit Consultants, Inc. v. Department of Revenue*, Case No. 94-4076, Final Order entered December 1, 1995, ("A reasonable percentage of the services provided ... are not provided free of charge or at a substantially reduced cost. Rather, Petitioner charges either its clients, the creditors of its clients, or both..."), and *Consumer Credit Counseling Service of Centra Florida v. DOR*, 7 FALR 5433, 5436-5437, ("Petitioner's clients pay indirectly for the services, through the interest earned on their money as well as the tax deductible contributions creditors send Petitioner out of clients' funds.") Based on the foregoing, it is,

ORDERED that CONSUMER CREDIT COUNSELING SERVICE OF THE FLORIDA GULF COAST, INC.'s application for a consumers' certificate of exemption be denied.

ENTERED in Tallahassee, Leon County, Florida this 31st day of July, 1996.

State of Florida
DEPARTMENT OF REVENUE

L. H. FUCHS
EXECUTIVE DIRECTOR

I HEREBY CERTIFY that the foregoing FINAL ORDER in DEPARTMENT OF REVENUE vs. CONSUMER CREDIT COUNSELING SERVICE OF THE FLORIDA GULF COAST, INC., DOAH Case No. 95-1728, has been filed in the official records of the Florida Department of Revenue this 31st day of July, 1996.

JUDY LANGSTON
AGENCY CLERK

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NOTICE OF RIGHT TO JUDICIAL REVIEW

PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DIVISION OF ADMINISTRATIVE HEARINGS AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.