

## **iChurch? – What does it take to qualify as a tax-exempt “Church”**

The IRS recently denied an application for 501(c)(3) status because the applicant failed to meet several qualifying factors for a “religious” organization.<sup>1</sup> While the IRS may seem to construe “religion” or “church” broadly (for example, the IRS approved the Church of Scientology’s 501(c)(3) tax-exempt status in October of 1993<sup>2</sup>), the recent denial shows that not any organization can qualify. In fact, there are some very specific requirements that might not occur to everyone who wants to start a nonprofit religious organization.

The recently denied applicant (whose name was not disclosed) proffered the following religious mission: “Providing Christian spiritual leadership and pastoral care to individuals and fellowships in the international community of believers that visit [the organization’s] ministry website.”<sup>3</sup> This mission may seem to many, on its face, to embody a religious goal. In support of this goal, the organization asserted that it would provide “free spiritual services through the website including . . . sermon preparation, outlines, and spiritual illustrations; Bible study, prayer group, and leadership training materials; membership, statement of faith, and other church-building materials; articles and fictional reading materials, etc.” as well as providing services to “[i]ndividuals who need access to spiritual community for their own purposes, [i]nternational individuals who need more spiritual sources in English than their local community provides, [and] [l]eaders of international Christian groups who lack trained Christian leadership that need materials found on this website to help them provide spiritually for their group.”<sup>4</sup>

Unfortunately for the applicant, the IRS found these goals and stated religious purposes were insufficient to justify 501(c)(3). The IRS denial noted that, although the applicant claimed to generate funds by hosting seminars, there were none currently being held, nor had any been held recently, and there overviews of the others available on the web for free.<sup>5</sup> The IRS denial also noted that the applicant had cited revenue from book sales as an additional source of income, but that the books were not currently being sold, meaning that all positions are currently unpaid due to a lack of funds.<sup>6</sup> Nonetheless, the applicant’s founder and manager of the organization claimed that writing books and giving seminars constituted 50% of her time.<sup>7</sup> The IRS also found the organizational structure flawed because the board chairman is the founder and minister, and the other two board members are siblings of the founder/minister, resulting in insufficient distance between profits and management of the organization.<sup>8</sup> Finally, the IRS noted that the applicant had failed to include a dissolution clause in its bylaws.<sup>9</sup>

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<sup>1</sup> *On-Line Religious Entity Denied Exemption and Church Status*, Nonprofit Law Prof Blog, Aug. 14, 2012, available at: <http://lawprofessors.typepad.com/nonprofit/>.

<sup>2</sup> *Officially Recognised by Scholars, Courts, and Governments Worldwide*, Church of Scientology: Effective Solutions, accessed Aug. 30, 2012, <http://www.scientologyreligion.org/pg004.html>.

<sup>3</sup> IRS Priv. Ltr. Rul. 2012-32-034, accessed Aug. 30, 2012, available at <http://www.irs.gov/pub/irs-wd/1232034.pdf>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

Beyond the decision of whether or not the organization could be recognized as a tax-exempt nonprofit, the IRS found that the organization could not possibly qualify as a “church.”<sup>10</sup> First, its seminars were not specifically religious, but rather served as a “self-help course for leading a happier life.”<sup>11</sup> Second, the organization did not hold regularly scheduled services.<sup>12</sup> Third, there was no established place of worship (cyberspace does not count).<sup>13</sup> Finally, the applicant did not conduct any traditional church services, such as baptisms, weddings, funerals, or religious instruction of the young.<sup>14</sup> The IRS found that “[applicant] lack[s] the most important, associational characteristics of a church, as well as most of the other factors deemed important to church identity” and therefore, “[the IRS] cannot recognize [applicant] as a church for the purposes of public charity status.”<sup>15</sup>

For those seeking to create a nonprofit entity, the moral of the story is clear: it is not as straightforward as it seems. Thus, before applying, every organization seeking tax-exempt status should carefully review the specific IRS requirements for recognition under §501(c)(3) and anticipate potential criticisms and shortfalls in its application.

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*