

## **When is a Church a Church in the Eyes of the Internal Revenue Service?**

### **Definition**

To be tax-exempt under the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual. In addition, it may not be an action organization, (i.e., it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates).

Organizations described in section 501(c)(3) are commonly referred to as “charitable organizations” and are eligible to receive tax-deductible contributions in accordance with Code section 170.

The organization must not be organized or operated for the benefit of private interests, and no part of a section 501(c)(3) organization's net earnings may inure to the benefit of any private shareholder or individual. If the organization engages in an excess benefit transaction with a person having substantial influence over the organization, an excise tax may be imposed on the person and any organization managers agreeing to the transaction.

Section 501(c)(3) organizations are restricted in how much political and legislative (lobbying) activities they may conduct.

### **What This Really Means**

A private letter ruling issued by the Internal Revenue Service (IRS) gives practical insight in just exactly what this means. In the ruling, the IRS rejected an application for recognition of church tax-exempt status by a self-described “online ministry.”

According to the IRS letter, the primary activities of the organization were to promote seminars and books by the organization’s founder. In addition, the “virtual church” would not hold regularly scheduled religious services at established places of worship because all of the organization’s activities were conducted online through its website.

In reaching its decision, the IRS concluded that the organization had not demonstrated it was “exclusively” operated for exempt purposes because of its significant activities promoting the founder’s work.

The IRS went on to conclude that, even assuming it was recognized as a tax-exempt religious organization, the entity would not have qualified as a “church” within the meaning of the current tax code. The IRS then cited 14 characteristics it considers when determining whether a religious organization qualifies as a church.

### **14 Characteristics of a Church**

1. A distinct legal existence.
2. A recognized creed and form of worship.
3. A definite and distinct ecclesiastical government.

4. A formal code of doctrine and discipline.
5. A distinct religious history.
6. A membership not associated with any other church or denomination.
7. An organization of ordained ministers.
8. Ordained ministers selected after completing prescribed courses of study.
9. A literature of its own.
10. Established places of worship.
11. Regular congregations.
12. Regular religious services.
13. Sunday schools for the religious instruction of the young.
14. Schools for the preparation of its ministers.

Source: IRS News Release 1930.

Although the IRS says no single factor is controlling, they did cite case law concerning the most important associational characteristics of a church:

*“A church’s principal means of accomplishing its religious purposes must be to assemble regularly a group of individuals related by common worship and faith. At a minimum, a church includes a body of believers or communicants that assembles regularly in order to worship... A website on the internet does not qualify as a place of worship, nor do individuals accessing that website constitute a congregation assembled to worship.”*

The IRS went on to state that in this particular case:

*“...you do not ordain ministers, do not have regular congregations or services, do not have schools for religious instruction, and do not perform any sacraments such as weddings, baptisms, or funerals. Also, you encourage members to maintain membership in other churches and be baptized by other ministers. Therefore, although your purposes and activities would be religious, we cannot recognize you as a church for the purposes of public charity status.”*

Source: Priv. Ltr. Rul. 201232034

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