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INTERNAL REVENUE SERVICE
ENTANGLEMENT WITH CHURCHES
THROUGH THE AUDIT PROCESS
UNDER SECTION 7605 (c) OF THE
INTERNAL REVENUE CODE

(An analysis of the problems
and proposed remedies)

by

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Instructions For This Booklet

The first seven pages contain the narrative sections of the booklet which analyze the problems with the Internal Revenue Service auditing churches and also the proposed remedies to these problems.

The next section deals with examples of churches who have been abused by the Internal Revenue Service to illustrate the need for legislative reform of Section 7605(c) of the Internal Revenue Code.

Then the remainder of the booklet are resource materials for further study of this issue. A table of contents to these resource materials is provided behind the tab divider entitled Senator Bennett's amendment to 7605(c).

Internal Revenue Service
Entanglement With Churches
Through The Audit Process
Under Section 7605(c) of The
Internal Revenue Code

The purpose of this paper is to discuss the use by the Internal Revenue Service of its audit authority and summons power over churches in the United States. The basis for the audit authority used by the Internal Revenue Service comes from Section 7605(c) of the Internal Revenue Code, which was passed as part of the Tax Reform Act of 1969. There are many serious Constitutional questions which arise when the Internal Revenue Service begins an audit on a church.

The First Amendment of the Constitution is clear in its prohibition of any hindrance of the free exercise of religion or the promotion of the establishment of any religion. It has been the United States Government's policy that the least restrictive means for the government to interface and interact with churches is to afford them a tax-exempt status, thereby fulfilling First Amendment restrictions in the Constitution. However, recent Supreme Court decisions broadening the meaning of religion to include non-theistic philosophies, such as secular humanism, have complicated the whole realm of tax-exempt laws that relate to churches. (See John W. Whitehead, *The Establishment of The Religion of Secular Humanism and It's First Amendment Implications*, 10 Texas Tech Law Review 1 (1978)).

The recent proliferation of all types of religious groups have also compounded the problem. With this proliferation of new religious groups have come blatant abuses of the tax laws applicable to churches in the United States. The abuse of these laws has heightened the government's interest in overseeing and investigating churches, a stance contrary to their previous posture of non-involvement. One can see from the outset that this is a very sensitive area and one which cannot be easily resolved. However, in this paper I will point out possible administrative and legislative solutions.

To provide a brief history of how Section 7605(c) of the Internal Revenue Code gave authority to the Internal Revenue Service to audit churches, in 1969 the Tax Reform Act was passed, allowing the Internal Revenue Service for the first time to tax unrelated business income of churches. In other words, if a church were running a shoe factory, it would be required to pay income taxes on profits from its shoe factory. Along with the authority to extract unrelated business income tax, Congress gave the Internal Revenue Service the authority to audit churches which are involved in unrelated business income activity. (See Section 7605(c)(3) of the Internal Revenue Code, enclosed.)

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In giving the Internal Revenue Service audit authority of churches, Congress placed restrictions on any attempt of the Internal Revenue Service to delve into the religious activities of these churches. (See Congressional Record, Senator Bennett's Amendment to Section 7605(c) of the Code, enclosed). The Internal Revenue Service was not to look into the religious activities any further than necessary to determine that the organization was, in fact, a church legitimately practicing its sincerely held religious beliefs. The content of those beliefs could not be brought into question by the Internal Revenue Service.

Section 7605(c) is a limitation placed by Congress on the Internal Revenue Service which allows the Internal Revenue Service to audit the books of account of the church to determine any tax liability for unrelated business income and to check religious beliefs only to the extent necessary to determine that it is a church. Section 7605(c) also requires approval from the Regional Commissioner before an audit on a church can take place.

On the surface it would seem that the above restrictions in the Internal Revenue Code would be sufficient to give guidance and constraint to the Internal Revenue Service in relating to churches. However, such is not the case. According to my study and documentation, which has spanned a two year period, Internal Revenue Service audit procedures have come into ever-increasing practice. Most of the time the agents who have conducted audits or who have become involved in these procedures have very little knowledge of the nature of a church or how it operates and, consequently, they have misunderstood, misinterpreted and mistreated these churches in their dealings with them.

The Internal Revenue Code regarding churches is not as clear as it needs to be in establishing the fact that churches are generically distinct and different from other exempt organizations and, therefore, should be dealt with accordingly. Most of the provisions of the Internal Revenue Code that deal with exempt organizations have certain exceptions in them for churches, but there is no comprehensive body of law in the Code to deal specifically with churches. They are always dealt with as exceptions to the rule. For instance, Section 508(c) provides that churches do not need to apply for recognition of exempt status in order to be considered qualified for exemption under 501(c)(3). In other words, a church does not file a Form 1023 but is instantly recognized automatically upon organization. Another example: every organization exempt from taxation, except churches, is required to file an annual return (990) giving income, receipts and disbursements. In conclusion, there are provisions in the Code that treat churches differently than other exempt organizations. However, the Code is still not as clear as it needs to be in making these distinctions.

The following is a brief overview of how the Internal Revenue Service begins its proceedings against a church. Whether by infor-

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mant information, a referral from a field examination of an individual by a revenue agent, or by some other means, the Internal Revenue Service will initiate proceedings against a church. It begins with pre-examination, which consists of written communications between the Internal Revenue Service and the church. The regulations under 7605(c) and the Internal Revenue Manual 7(10)70 are the two sources of procedure and authority used by the Internal Revenue Service in this process. This pre-examination process can take up to six months and sometimes longer. At the conclusion of the pre-examination stage, the pre-examination agent may then request that the Regional Commissioner grant authority for a field examination to be conducted on the church. The Regional Commissioner then approves or disapproves the request.

If he grants authority to do an audit, he will issue a letter notifying the church that it will be examined by an Exempt Organizations specialist and that it has thirty days before the agent will be in contact with it to schedule the dates for the audit. At this point the Internal Revenue Service tells the church not only to have books of account available, but also minutes, correspondence, contributors lists, etc. In other words, every operational document of the church must be available.

These demands raise serious Constitutional questions, particularly at the point of the contributors list and minutes, since both involve the Constitutionally protected exercise of religious beliefs. Most minutes of a church contain pastoral discussions, internal church matters of a religious nature and other such items which would obviously fall outside the purview of the Internal Revenue Service.

Once the church is contacted by a field agent, an examination is conducted and the subsequent findings are reviewed with the exempt status of the church either continued or revoked. (I have enclosed a copy of the Internal Revenue Regulations under Section 7605(c) and also a copy of the Internal Revenue Manual Section 7(10)70, describing the entire process of auditing a church.)

One of the most serious problems with the Internal Revenue Manual procedures is a recent amendment to the Manual 7(10)70 which states that if a church refused to comply and provide information under the pre-examination procedures, their exempt status would be automatically revoked. This is a punitive and unjust action on the part of the Internal Revenue Service. A church does not even have to apply to the Internal Revenue Service for exempt status in the first place and, even if the Internal Revenue Service starts a pre-examination procedure on a church, just because that church does not respond to that particular inquiry does not give the Internal Revenue Service the right to automatically revoke that

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church's exempt status. This procedure takes the pressure off the Internal Revenue Service to pursue the information requested in a dialog with the church and throws the burden of proof back on the church, forcing the church to go into court to have its exempt status upheld. It is an unjust proceeding. (Please see Section 7(10)70 of the Internal Revenue Manual as substantiation of this procedure, enclosed).

I have enclosed a section of examples of churches who have gone through or are going through the audit procedures by the Internal Revenue Service. Please refer to this section at this point in order to acquaint yourself with the types of abuses that have occurred, and read these examples before continuing on with this paper.

It seems clear that the only long-term solution to the problems I have described is legislative reform of Section 7605(c). I believe that the intent and the basic restrictions in this Section are correct. However, the administrative implementation of them has not been handled in the same manner as the spirit and intent of the law. In other words, Section 7605(c) needs to be amended to force the Internal Revenue Service to be more open and more concerned with the spirit of 7605(c) thereby, averting a great deal of unnecessary church/state tensions in this area. The Internal Revenue Service does need the prerogative of looking into church situations which may be violations of the tax law. However, the manner and spirit with which they approach it should be greatly modified from their present stance. I am proposing the following amendments to Section 7605(c) which I feel would greatly help to reduce the abuses occurring when the Internal Revenue Service deals with legitimate churches without significantly hampering the Internal Revenue Service's ability to deal with illegitimate churches who are, in actuality, violating the tax laws.

The problem I have described needs to be resolved both administratively and legislatively. Some of the administrative remedies needed are:

1. The attitude of the Treasury Department and the Internal Revenue Service towards churches needs to be totally revised. Most government officials dealing with churches have only a government perspective of the problem and very little understanding of the problem from a church's perspective. Many of the Internal Revenue Service Exempt Organization agents who are dealing with churches understand neither the nature of a Christian church nor how it operates. If these government officials dealing with churches could gain a church perspective of the problems posed by the Internal Revenue Service auditing churches, then I believe it would temper the Internal Revenue Service's policy towards churches.

2. A special office or position should be established in the Treasury Department with the authority to oversee the tax policy area involving churches. This would be an oversight position and should be manned by someone with an understanding of the nature and operation of Christian churches so that this person could bring balance to the Internal Revenue Service policies and practices.
3. The Oversight Subcommittee on the Internal Revenue Service in both the United States Senate and House of Representatives should take a more active role in overseeing the Internal Revenue Service in the church vs. Internal Revenue Service arena.

The legislative remedy would be the most effective and yield the most permanent reforms in this area. Section 7605(c) of the Internal Revenue Code should be amended to include the following provisions:

1. At the outset of the pre-examination process (when the first letter of pre-examination questions are sent to the church) the District Director should be required to:
 - a. Specify in detail the legal and/or factual points about the church under question by the Internal Revenue Service and provide a face to face conference in which the church could respond to such questions prior to the Regional Commissioner's decision to investigate. (For example, the church is suspected of private inurement, which is a violation of 501(c)(3) or the church is suspected of unrelated business income tax which it did not report, etc.) This would bring greater legal due process for the church because it is put on notice as to the problem areas and can specifically respond to them. Under the current proceedings, this is not the case and a church is often forced to go on for a long period of time without really knowing why the Internal Revenue Service has instigated this process against them. This process would help end the investigation at this point thereby averting further government entanglement with the church and saving both the church's and the government's resources for more constructive pursuits.

The church which I serve as Administrator, Gulf Coast Covenant Church, probably would not have had a full scale field audit if this last point would have been followed. If the District Director had specified the facts being questioned and the church had been given the opportunity to respond to those questions, the matter probably would have been settled, and a full

scale field examination would never have occurred. (Please refer to the example section of "Abuses Toward Churches" for further amplification of the case on Gulf Coast Covenant Church).

- b. Explain why the audit is being conducted and how it got started.
 - c. Explain in clear terms to the church the Internal Revenue Service's authority to start such a process on the church and what procedural steps the Internal Revenue Service will take before an on-site audit occurs.
2. Once the first step has taken place, if an investigation is authorized by the Regional Commissioner, it would be limited to the points raised in the Regional Commissioner's pre-audit Letter of Notification. (See Section 534 of the Internal Revenue Code as an example of this type statute).
 3. The Internal Revenue Service should be bound to a time constraint of one calendar year from the date of the first pre-examination letter to the date the final determination letter regarding the church's exempt status, thus expediting the process and eliminating interminable proceedings which disrupt the church's normal activities. In other words, the Internal Revenue Service would have 365 days from the date of the first pre-examination letter to the date of a no change letter of exempt status or a thirty day letter of revocation of exempt status. This 365 day period would encompass the pre-examination procedures, the Regional Commissioner authorization, the actual on-site investigation, the conclusion on the findings of the audit and the final ruling either for or against the church.

If the ruling is a thirty day letter revoking the church's exempt status, then the church can go through the appeals process in the Internal Revenue Service and/or into court. This 365 day limitation would not apply to such appeals processes or court deliberations on a revocation of exemption. This time limitation in the law would serve to expedite the process and assure that churches get the special administrative treatment from the Internal Revenue Service that they Constitutionally deserve.

4. Some provision would need to be included under Section 7605(c) which would allow a church to sue the Internal Revenue Service to recoup its' legal fees expended defending itself against the Internal Revenue Service. The church would have to demonstrate in a court of law that the Internal Revenue Service violated the law or acted in bad faith in its dealings with a church.

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These are proposed remedies which should be included in any amendment to 7605(c) of the Internal Revenue Code. The Reagan Administration should take immediate steps to curtail the abuse of churches by the Internal Revenue Service and it is in the power of the Administration to do so.

I am indebted to the following attorneys for their invaluable input, research and suggestions in this area of the law in order to remedy this problem:

Mr. Bob Liken	Former Regional Counsel in the Internal Revenue Service, Mid-Atlantic Region.
Mr. Michael Ford	An attorney whose law practice specializes in this area of exempt organizations.
Mr. John Whitehead	An attorney who specializes in the Church/State area of law, especially with regard to Constitutional issues.

Most of the legislative proposals presented in this paper originate with these attorneys as a result of their legal research and experience.

I trust this paper will serve to be a catalyst toward the solution of this volatile and serious problem. Also, I would be interested in any other person's proposals for possible solutions to these problems in the relationship of the Internal Revenue Service to churches.

Respectfully Submitted,

Mike Coleman

Mike Coleman,
May 22, 1981

Ex. of Abuses

Examples of Internal Revenue Service Abuses Toward Churches

It is difficult for us to know how many churches are undergoing audits at the present time. The Internal Revenue Service would have a complete record of those activities. We do know, however, of several churches; Calvary Temple near Atlanta, GA; Christian Liberty Church in Milwaukee, WI; Morningside Baptist Church in Texas; Gulf Coast Fellowship in Mobile, AL; The Lord's Covenant Church in Scottsdale, AZ; and a church in Chicago, named Church of Christian Liberty. I do not know the factual situations of each of these churches and in some cases there may be actual violations of the tax laws. However, I would like to select two of these churches and describe what happened to them to show there were unwarranted abuses of a legitimate Christian church.

Gulf Coast Covenant Church (formerly known as Gulf Coast Fellowship) where I am church administrator came under Internal Revenue Service pre-examination procedures in March, 1979. Our church was formed in 1972 and received an Internal Revenue Service exemption letter as a church in March, 1973. As our church grew and established other churches in other parts of the country, we applied for and received group exemption status from the Internal Revenue Service in March, 1976. A church is not required to file for 501(c)(3) status with the Internal Revenue Service but we had elected to do so. The pre-examination questions from the Internal Revenue Service which we received in March, 1979, came quite unexpectedly. They took us totally by surprise and we had no idea of their purpose or their implications. Nor was there any notification provided by the Internal Revenue Service to inform us of the reason for the inquiry. We answered their questions to the best of our ability and even enclosed a 1978 financial statement with our answers to demonstrate to the Internal Revenue Service our desire to be open and honest with them.

Then in June, 1979, we received a second set of questions and answered them as well. Finally, in November, 1979, (eight months later) we received a letter from the Regional Commissioner, Mr. Harold McGuffin, in Atlanta, informing us that the Internal Revenue Service intended to do an on-site audit of our church. For six months after this date we wrote the Internal Revenue Service requesting that the church be notified of the specific reasons for the audit and what issues were being questioned and what years of church business they intended to audit. We were never notified of the specific reasons for the audit, nor how the audit would be conducted. It was only after six months and three letters that we found out they intended to audit the years 1975 through 1979.

Abuses Continued
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The auditing agent, Jerry Shaw from the EP/EO Division of the Internal Revenue Service in Birmingham, Alabama, scheduled April 7th, then April 20th, then May 5th as dates the audit would begin. However, all of these dates were subsequently changed. As a result of this the schedules of both the church and its pastors were severely disrupted. Finally on June 2, 1980, six months after we were notified that we would be audited, the audit started, and lasted five weeks with as many as three Internal Revenue Service agents present at one time.

From July, 1980 until now we have been waiting for the final outcome and determination from the Internal Revenue Service. Our case is presently in the District Counsel's office in Atlanta awaiting final disposition. It has been strongly indicated to us that the Internal Revenue Service will uphold our exempt status for all five years that were audited and that we will receive a "clean bill of health".

In all of this, we have had to spend over \$70,000 in legal fees to deal with the Internal Revenue Service allegations and investigations. The whole process has taken two years to get to the present point of a pending final disposition of the case. During that time we have had a Federal Court suit under the Freedom of Information Act filed which has yielded some very interesting information.

We found that the Internal Revenue Service had in its possession stolen internal documents of the church allegedly turned in to them by an anonymous informant. The Internal Revenue Service possessed cancelled checks of the church for the years 1975 and 1976, contribution envelopes from a special church meeting held in the fall of 1975, and copies of our financial statements. Later, through the court suit, we discovered that apparently someone had broken into our CPA's offices, stolen copies of the tax returns of some of the pastors of the church and turned them in to the Internal Revenue Service as well.

From the Freedom of Information Act documents, it is evident that the Internal Revenue Service used this stolen information and other information to compile a list of individuals and organizations associated with our church with a view to initiate audits on them. We cannot prove this with 100% certainty but the preponderance of evidence indicates that the three audits on individuals which were conducted were directly a result of the audit on the church. I was audited in 1979 after I listed myself as the man to contact on the pre-examination answers. Our attorney was audited shortly after he filed a power of attorney to represent the church before the Internal Revenue Service and then, just recently another administrative staff member was audited. The result of all of these three individual audits was that either there were refunds issued to the audited

Abuses Continued
Page Three

individuals or a small amount of tax was paid (under \$100.00). So, it is obvious that none of the staff had been engaged in any illegal activity, rendering these personal audits, in my opinion, strictly a form of harassment.

When we had made our first Freedom of Information Act request, we were not even notified at the time that they had any of our stolen internal documents. It was only five days before the audit actually started that the confiscated internal documents were returned to us. On numerous occasions the Internal Revenue Service violated any faith or confidence that we had had in them by their behavior toward us. They treated us with disrespect for the problems their procedures were causing for our church, they had no sensitivity toward the scheduling problems some of their proceedings posed. In addition they have subjected us to the strain of continuing for two years under the specter of an audit with the possible revocation of church exemption and the prospect of long court fights ensuing as a result. They have compounded that strain by their negligence in bringing the case to a conclusion when it is fully in their power to immediately do so.

We know that the Internal Revenue Service has violated its policy norms in the audit of our church because one of our four attorneys is the former Regional Counsel for the Internal Revenue Service in the Mid-Atlantic Region, Mr. Bob Liken. Mr. Liken retired in the early part of 1980 and began to work with various church and tax exempt organizations regarding their tax problems. When he came into our case he was appalled at the way the Internal Revenue Service had treated us, so much so that he wrote a personal letter to Mr. Harold McGuffin, the Regional Commissioner, telling him he had better investigate the manner in which our audit had been conducted. So, we have ample reason to believe there have been numerous violations of the law in the way our case has been handled.

The documents that were stolen and turned in to the Internal Revenue Service were presented in such a way that any reasonable Internal Revenue Service agent would want to investigate what our church was doing because the evidence was slanted very much against us. We do not object to the fact that the Internal Revenue Service inquired. What we object to is that even when we offered to fly to their office at our expense to sit down face to face and explain or answer any questions they had, they have refused to grant us that right. Much of what has taken place could have been avoided if they had been candid in specifying their concerns in the beginning, allowing us to answer them. Because we are a legitimate Christian church, our position would have been then and has always been to function in honesty with them.

Even though we may come out with our exempt status intact, these proceedings have had an extremely deleterious effect upon all of us who have been involved in them. We believe that the cumulative effect of all we have described above is an infringement on our Constitutional rights as a church and has served, by the sheer length of the inquiry alone, to punish and deter our church from its Constitutionally promised pursuit of religious freedom.

The second church that I will list as an example is the Christian Liberty Church in Milwaukee, Wisconsin. This church came under pre-examination questions also. The church, based on counsel from its attorneys, told the Internal Revenue Service it would cooperate, except that some of the information requested would not be provided to the Internal Revenue Service, particularly the church minutes and its contributors list. The reason for these exclusions was that the church minutes reflected many religious matters that the Internal Revenue Service had no legal right to see and that tithing to a church was essentially a religious act, thereby making contributor information exempt from any Internal Revenue Service inquiry.

This church was then subjected to such injustices as Internal Revenue Service agents walking through their premises, visiting at church services as an act of surveillance, and ultimately issuing a summons for all the documents that the church possessed. The enclosed questionnaire directed toward this church shows the scope of the Internal Revenue Service summons, including books of account, contributors list, minutes, correspondence, etc. The Internal Revenue Service informed this church that the basic issue was that they needed all of the above information to determine that it was, in fact, a church and thus exempt under 501(c)(3).

In an attempt to demonstrate their willingness to cooperate except for the specified exclusions, the church showed the agents a financial statement, church documents related to religious beliefs, such as creeds, etc. and even offered to show the agents contributors cards with amounts contributed by individuals without disclosing the identity of the contributors. The response of the Internal Revenue Service to these gestures was that the information being offered was insufficient to determine if they were a church and the Internal Revenue Service enforced the summons by taking the church to court.

The Federal District Judge ruled that the church had been reasonable in providing sufficient information to the Internal Revenue Service in order to document that it was a legitimate Christian church and he ruled that the summons would not be enforced against the church. The Internal Revenue Service appealed this case to the Seventh Circuit Court of Appeals and it is presently awaiting a hearing before that court. This Christian Liberty

Abuses Continued
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Church has a very small membership and is not able to bear up under all of the attorneys' fees created by such proceedings, not to mention their interference with regular church activities nor the mental anguish that comes with such proceedings.

I have also enclosed questions that were asked of Calvary Temple in Atlanta, GA; and Morningside Baptist Church in Texas. Again, to illustrate the type of questions that are being asked in pre-examination procedures.

I trust that these examples will serve to illustrate the intense need for legislative reform.

Bennett Amend.
7605 (C)

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of experience with the distinction between a casualty loss and one which is not considered, for two purposes, a casualty loss, because it did not happen suddenly enough. That is why it is important to have the word "disease" written into the Finance Committee bill. That is what we have done, by the pending amendment as modified, so that, as in the example of the Senator from Georgia, if there were a loss, from disease, in a dairy herd amounting to \$50,000, our amendment will protect that and will permit, in addition to that, \$20,000 of farm loss if there is one. So I think we have covered the casualty and disease problems the Senator from Georgia pointed out.

Mr. COOPER. Mr. President, will the Senator yield? May I ask the Chair how much time the Senator has left?

The PRESIDING OFFICER. The Senator from Louisiana has 8 minutes remaining.

Mr. COOPER. May I have 3 minutes?

Mr. LONG. I yield 3 minutes to the Senator from Kentucky.

Mr. COOPER. Mr. President, as Senators know, my State of Kentucky, among others, is engaged in the breeding of horses—thoroughbreds for racing, saddle horses, show horses, and other registered purebred horses. I had thought the provisions that were agreed to in the committee were an improvement over the House bill, and that while they may present the horse industry with some difficulty they would not be punitive or destructive of the industry, as would the amendments offered today.

Kentucky is known throughout the country and throughout the world for the breeding and training of thoroughbred racing horses, of trotting and pacing harness racehorses, or three-gaited and five-gaited saddle horses—including, I may say, Tennessee walking horses—and other registered horses for show and pleasure.

There are now about 6 million horses in the United States. Approximately 1.2 million are registered horses—more than double the number a decade ago—over 800,000 recreational and over 400,000 commercial horses. Breeding, training, showing, and racing horses are a legitimate business. It is a business in which hundreds of millions of dollars have been invested. It provides a large volume of taxes to our country and to my State and provides wide employment.

In his testimony before the committee, Gov. Louis B. Nunn estimated that the horse industry was responsible for half the tourist business which brought \$43 million in direct taxes to Kentucky, and that nationally breeding, training, and showing horses provides 150,000 full-time jobs. Of course, the business requires tremendous investment by individuals engaged in it. One never knows whether the work of 1 year will be successful. Actually, there is a cycle of at least 8 consecutive years from the time breeding stock is purchased until the offspring race and the results of that breeding are known and proved. It is a business with substantial risk, by its nature often involving investment over many years before that work is rewarded with success.

I want to call to the attention of the

Senate the character and importance of this business to Kentucky and other States. In my opinion, the pending amendment would destroy that industry, as would the amendment proposed before it, which the Senate rejected. I think the committee amendments, on the other hand, will at least give the industry a chance. I hope that the Miller-Metcalf amendment will be rejected.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time has been yielded back. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL (when his name was called). Mr. President, on this vote I have a pair with the Senator from Louisiana (Mr. ELLENDER). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. NELSON (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from California (Mr. CRANSTON). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from California (Mr. CRANSTON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON) and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH) and the Senator from Nevada (Mr. CANNON) are absent on official business.

On this vote, the Senator from Indiana (Mr. BAYH) is paired with the Senator from Arkansas (Mr. FULBRIGHT). If present and voting, the Senator from Indiana would vote "yea," and the Senator from Arkansas would vote "nay."

On this vote, the Senator from Missouri (Mr. SYMINGTON) is paired with the Senator from Mississippi (Mr. STENNIS). If present and voting, the Senator from Missouri would vote "yea," and the Senator from Mississippi would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), the Senator from California (Mr. MURPHY); the Senator from Ohio (Mr. SAXE), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from South Dakota (Mr. MURPHY) is absent because of illness.

The Senator from Vermont (Mr. ANKEN) is detained on official business to attend the funeral of a friend.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from California (Mr. MURPHY) would each vote "nay."

The result was announced—yeas 32, nays 47, as follows:

[No. 183 Leg.]

YEAS—32

Burdick	Rush	Mondak
Church	Knoups	Moss
Dodd	Jackson	Muskie
Easton	Kennedy	Partee
Goulden	Magnuson	Proxmire
Gore	Mansfield	Ribicoff
Griffin	Mathias	Schweiker
Harris	McGee	Williams, Del.
Hart	McGovern	Young, N. Dak.
Harkin	Metcalf	Young, Ohio
Hatfield	Miller	

NAYS—47

Allen	Eastland	Packwood
Alford	Ervin	Pearson
Baker	Fannin	Percy
Bellmon	Fong	Proity
Bennett	Gurney	Randolph
Bible	Hansen	Scott
Boggs	Holland	Smith, Maine
Brooks	Hollings	Sparkman
Byrd, Va.	Hruska	Spong
Byrd, W. Va.	Javits	Stevens
Cass	Jordan, N.C.	Talmadge
Cooper	Jordan, Idaho	Thurmond
Cotton	Long	Tower
Curtis	McCarthy	Tydings
Dole	McIntyre	Williams, N.J.
Downick	Monroney	

PRESENT AND GIVING LIVE PAIRS,
AS PREVIOUSLY RECORDED—2

Nelson, for.
Pell, for.

NOT VOTING—19

Alten	Fulbright	Saxe
Anderson	Goldwater	Smith, Ill.
Bayh	Gravel	Stennis
Cannon	McClellan	Symington
Cook	Mundt	Yarborough
Cranston	Murphy	
Ellender	Russell	

So the amendment, as modified, was rejected.

Mr. BENNETT. Mr. President, I send to the desk two amendments which are numbered A and B and ask that they be considered separately in that order.

I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be printed in the Record.

The amendments ordered to be printed in the Record are as follows:

On page 148, after line 18, insert the following:

"(h) CERTAIN PRIOR TAXABLE YEARS.—In the case of a water users association which is organized to operate a reclamation project of the Bureau of Reclamation, Department of the Interior, and which is a membership organization described in section 277 of the Internal Revenue Code of 1954 (as added by subsection (b)(3)), no deduction attributable to furnishing services, goods, or other items of value to members shall be denied for any taxable year beginning before January 1, 1971."

On page 148, line 8, strike out the quotation mark and add:

"No examination of the religious activities of such an organization shall be made except to the extent necessary to determine whether such organization is a church or a convention or association of churches, and no examination of the books or account of such an organization shall be made other than to the extent necessary to determine the amount of tax imposed by this title."

Mr. BENNETT. Mr. President, in order to understand this amendment, it is necessary briefly to review how the basic provision came to be included in the Senate version of the Tax Reform Act.

Back in 1916, Congress exempted "mutual ditch or irrigation companies" from income tax where their income was "solely" from members. Ultimately because nonmembers had occasion to utilize

the water and related facilities of these organizations. Congress later moderated the "solely" test to allow exemption where nonmember income was "incidental" to the operation of the company, that is, where not more than 15 percent of the organization's gross revenues came from nonmember sources. Eventually, because of the general need for water development and irrigation many of these organizations came to supply services to nonmembers in excess of 15 percent of their gross income. Consequently, they lost their tax-exempt status.

When they lost this tax-exempt status, the Internal Revenue Service took the position that since the organization's basic operation of selling water rights to its members was not intended to be a profitmaking venture, the expenses incurred in supplying water to members were not ordinary and necessary business expenses and could not be deducted in excess of the amount of income received from members. It had won similar cases in situations where the corporations involved were not tax-exempt or non-profit organizations—*International Trading Co. v. Commissioner*, 27 F. 2d 578, and *American Properties Inc. v. Commissioner*, 262 F. 2d 150. In a recent case—*Anaheim Water Company v. Commissioner*, 321 F. 2d 253, C.A. 9th, 1963, which reversed 35 T.C. 1072—the circuit court disagreed with the position of the Commissioner and held that the expenditures made by the company to supply water to its members were "ordinary and necessary" because this activity did constitute the carrying on of a trade or business. The Commissioner has not acquiesced in the court's decision and has continued to take the position that the expenses are not deductible. There has been subsequent litigation and two cases are now being considered on appeal—*Bear Valley Mutual Water Company*, 283 F. Supp. 949 (1968)—on appeal, C.A. 9th; *San Antonio Water Company*, 285 F. Supp. 297 (1968), on appeal, C.A. 9th. There is also one case pending in the Tax Court and another in the District Court in Oklahoma.

The Senate bill adds a new section to the Internal Revenue Code—section 277—which would codify the position taken by the Commissioner of Internal Revenue. The provision would not become effective until January 1, 1971. My amendment would not change what is now contained in the bill.

What it would do would be to allow water users associations organized to operate reclamation projects of the Bureau of Reclamation of the Department of the Interior to deduct all expenses incurred in supplying services and benefits to their members up to the effective date of the provision in the Senate bill. In other words, up until January 1, 1971, the expenses would be treated in accordance with the position taken by the taxpayers and approved by the courts in the Anaheim case. From January 1, 1971, on, the position expressed in the committee bill would apply.

I think this amendment is fair and feasible in that it would eliminate further litigation, and uncertainty on the part of the taxpayers contained in the reform bill become operative.

Mr. President, also at this time I would like to engage the chairman of the committee in a brief colloquy.

During the executive session in the Committee on Finance, I raised a question as to whether the effective date of the income averaging amendment contained in the bill would in any way upset the effective date approved by Congress when it enacted the income averaging provision in 1964.

I was concerned that an individual who had engaged in a long-term employment contract prior to the 1964 act might inadvertently be denied the long-term spread permitted under the present 1964 law with respect to a payment he receives after this tax reform bill becomes operative. I was assured in committee that the situation I described would not be affected by the tax reform legislation and that an individual who had embarked before 1964 on a long-term employment could average the income he received from that employment over the period the services were rendered. It was my understanding the committee report would be clarified on this matter.

Unfortunately, the explanation I expected to see in the committee report is not there, and so I am directing this inquiry to the chairman of the committee: Does the effective date of the income averaging provision apply in any way to restrict the application of the savings clause contained in the original income averaging provision in 1964?

Mr. LONG. No. It does not. The effective date of the tax reform act does not limit the operation of the savings clause contained in the 1964 act. An individual who began an employment under the savings clause could still report his income under that savings clause even though he receives it after the 1969 tax reform bill goes into effect.

As the Senator knows, the committee report was prepared with considerable haste. I regret that the language we had intended to include in the report is not there.

Mr. BENNETT. I recognize that this is a complete inadvertence. I appreciate the willingness of the chairman to straighten the matter out on the floor.

It is my understanding, as I am sure the chairman will confirm, that the two amendments I have offered are so limited in nature that the chairman is willing to accept them and take them to conference.

The first amendment refers to the problem of a water user's association organized to operate a reclamation project of the Bureau of Reclamation which is a membership organization described in section 277 of the Internal Revenue Code of 1954.

Under that code, in providing those services if more than 15 percent of the water users were not members of the association, it loses its tax exemption.

Mr. President, in the normal course of the operation of a number of these projects, this number has crept up above 15 percent. And that matter is being litigated.

The purpose of the amendment is to make sure that no deductions attributable to furnishing services, goods, or any other items of value to members

shall be denied for any taxable years beginning before January 1, 1971.

This will be the matter in conference where it can be discussed carefully. I think it is so complicated that it should not be debated on the floor of the Senate.

Mr. LONG. Mr. President, I have discussed this matter with the members of the staff. I see no objection to it. I have also discussed it with other members of the committee. So far as I know, there is no objection to the amendment. I am willing to agree to it and to take it to conference.

THE PRESIDING OFFICER (Mr. Young of Ohio in the chair). The question is on agreeing to the amendment of the Senator from Utah on page 148, after line 16, to insert new language.

The amendment was agreed to.
Mr. BENNETT. Mr. President, the other amendment refers to what I think is a desirable clarification of the language in the bill which, for the first time, allows the Internal Revenue Service to audit churches.

This has not been possible under the previous law. And the language of the bill, I think, is too loose.

The Treasury agrees with me. I am offering alternate language which adds on page 148, line 9, these limiting requirements:

On page 148, line 9, strike out the quotation mark and add

"No examination of the religious activities of such an organization shall be made except to the extent necessary to determine whether such organization is a church or a convention or association of churches, and no examination of the books or account of such an organization shall be made other than to the extent necessary to determine the amount of tax imposed by this title."

Mr. President, that is the title imposing a tax on unrelated business income.

There is a fear the language would open it up so that the IRS could go through all the church books that pertain to religious activities.

They did not intend to do this. Therefore, the IRS agrees with me that the limiting language will have uses.

It is my understanding again that the chairman agrees with me and is willing to take the amendment to conference.

Mr. LONG. I have no objection to the amendment, Mr. President.

THE PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. BENNETT. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

THE PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Utah on page 148, line 9.

The amendment was agreed to.

AMENDMENT NO. 230
Mr. LONG. Mr. President, I ask unanimous consent that the Senator from Arizona (Mr. FANNIN) may offer an amendment at this time.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. I think the distinguished Senator

Mr. President, I call up amendment No. 230.

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date fixed for appearance before the Secretary shall not be less than 10 days from the date of the summons.

Last amendment.—Sec. 7605(a) appears above as amended by Sec. 505(c)(5) of Public Law 95-599, Nov. 6, 1978, effective (Sec. 505(d) of P.L. 95-599) Jan. 1, 1979.

Prior amendments.—Sec. 7605(a) was previously amended by the following:

Sec. 11(c)(6) of Public Law 94-530, Oct. 17, 1976, effective (Sec. 11(d) of P.L. 94-530) Oct. 1, 1976.*

Sec. 207(d)(9) of Public Law 91-258, May 21, 1970, effective (Sec. 211(a) of P.L. 91-258) July 1, 1970.*

Sec. 202(c)(4) of Public Law 89-44, June 21, 1966, effective (Sec. 701(a)(2), (3) of P.L. 89-44) Jan. 1, 1966.*

Sec. 209(d)(4) of Public Law 627, June 29, 1966, effective (Sec. 211 of P.L. 627) June 29, 1966.*

Sec. 4(i) of Public Law 466, Apr. 2, 1956.*

*Sec. 7605(a) as so amended is in P-H Cumulative Changes.

Section 7

(b) **Restrictions on Examination of Taxpayer.**—No taxpayer shall be subjected to unnecessary examination or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the Secretary, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

(c) **Restriction on Examination of Churches.**—No examination of the books of account of a church or convention or association of churches shall be made to determine whether such organization may be engaged in the carrying on of an unrelated trade or business or may be otherwise engaged in activities which may be subject to tax under part III or subchapter F of chapter 1 of this title (sec. 511 and following, relating to taxation of business income of exempt organizations) unless the Secretary (such officer being no lower than a principal internal revenue officer for an internal revenue region) believes that such organization may be so engaged and so notifies the organization in advance of the examination. No examination of the religious activities of such an organization shall be made except to the extent necessary to determine whether such organization is a church or a convention or association of churches, and no examination of the books of account of such an organization shall be made other than to the extent necessary to determine the amount of tax imposed by this title.

Addition.—Sec. 7605(c) was added by Sec. 121(f) of Public Law 91-172, Dec. 30, 1969, effective (Sec. 121(g) of P.L. 91-172) with respect to taxable years beginning after Dec. 31, 1969.

C. 7606. ENTRY OF PREMISES FOR EXAMINATION OF TAXABLE OBJECTS.

(a) **Entry During Day.**—The Secretary may enter, in the daytime, any building or place where any articles or objects subject to tax are made, produced, or kept, so far as it may be necessary for the purpose of examining said articles or objects.

(b) **Entry at Night.**—When such premises are open at night, the Secretary may enter them while so open, in the performance of his official duties.

(c) **Penalties.**—

For penalty for refusal to permit entry or examination, see section 7342.

SEC. 7607. ADDITIONAL AUTHORITY FOR BUREAU OF CUSTOMS.

Officers of the customs (as defined in section 401(1) of the Tariff Act of 1930, as amended; 19 U.S.C., sec. 1401(1)), may—

(1) carry firearms, execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under the authority of the United States, and

(2) make arrests without warrant for violations of any law of the United States relating to narcotic drugs (as defined in section 102(16) of the Controlled Substances Act) or marihuana (as defined in section 102(15) of the Controlled Substances Act) where the violation is committed in the presence of the person making the arrest or where such person has reasonable grounds to believe that the person to be arrested has committed or is committing such violation.

Last amendment.—Sec. 7607 appears above as amended by Sec. 1102(g)(1) of Public Law 91-513, Oct. 27, 1970, effective (Sec. 1105 of P.L. 91-513) May 1, 1971.

Addition.—Sec. 7607 was added by Sec. 104(a) of Public Law 728, July 18, 1966, effective (Sec. 401 of P.L. 728) July 19, 1966.

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dividual before whom a person summoned pursuant to section 6420(e)(2), 6421(f)(2), 6424(d)(2), 6427(e)(2), or 7602 shall appear. Any such employee, when so designated in a summons, is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records, or other data produced in compliance with the summons.

7602 shall be such time and place as may be fixed by an officer or employee of the Internal Revenue Service and as are reasonable under the circumstances. In the case of a summons under authority of section 7602(2) and § 301.7602-1, or under the corresponding authority of section 6420(e)(2) or 6421(f)(2), the date fixed for appearance before an officer or employee of the Service, shall not be less than 10 days from the date of the summons.

Reg. § 301.7603 Statutory provisions; service of summons. [Sec. 7603, IRC]

Reg. § 301.7606-1 (T.D. 6421, filed 10-23-59; republished in T.D. 6498, filed 10-24-60; amended by T.D. 7188, filed 8-28-72 and T.D. 7297, filed 12-18-73.) Service of summons.

(a) In general. A summons issued under section 6420(e)(2), 6421(f)(2), 6424(d)(2), 6427(e)(2), or 7602 shall be served by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode. The certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

(b) Restrictions on examination of taxpayer. No taxpayer shall be subjected to unnecessary examination or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless an authorized internal revenue officer, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

(b) Persons who may serve a summons. The officers and employees of the Internal Revenue Service whom the Commissioner has designated to carry out the authority given him by § 301.7602-1(b) to issue a summons are authorized to serve a summons issued under section 6420(e)(2), 6421(f)(2), 6424(d)(2), 6427(e)(2), or 7602.

(c) Restriction on examination of churches—(1) In general. This section imposes certain restrictions upon the examination of the books of account and religious activities of a church or convention or association of churches for the purpose of determining whether such organization may be engaged in activities the income from which is subject to tax under section 511 as unrelated business taxable income. The purposes of these restrictions are to protect such organizations from undue interference in their internal financial affairs through unnecessary examinations to determine the existence of unrelated business taxable income, and to limit the scope of examination for this purpose to matters directly relevant to a determination of the existence or amount of such income. This section also imposes additional restrictions upon other examinations of such organizations.

Reg. § 301.7604 Statutory provisions; enforcement of summons. [Sec. 7604, IRC]

Reg. § 301.7604-1 (T.D. 6421, filed 10-23-59; republished in T.D. 6498, filed 10-24-60; amended by T.D. 7297, filed 12-18-73.) Enforcement of summons.

(a) In general. Whenever any person summoned under section 6420(e)(2), 6421(f)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, application may be made to the judge of the district court or to a U.S. commissioner for the district within which the person so summoned resides or is found for an attachment against him as for a contempt.

(2) Books of account. No examination of the books of account of an organization which claims to be a church or a convention or association of churches shall be made except after the giving of notice as provided in this subparagraph and except to the extent necessary (i) to determine the initial or continuing qualification of the organization under section 501(c)(3); (ii) to determine whether the organization qualifies as one, contributions to which are deductible under section 170, 545, 556, 642, 2055, 2106, or 2622; (iii) to obtain information for the purpose of ascertaining or verifying payments made by the organization to another person in determining the tax liability of the recipient, such as payments of salaries, wages, or other forms of compensation; or (iv) to determine the amount of tax, if any, imposed by the Code upon such organization. No examination of the books of account of a church or convention or association of churches shall be made unless the Regional Commissioner believes that such examination is necessary and so notifies the organization in writing at least 30 days in advance of examination. The Regional Commissioner will conclude that such examination is necessary only after reasonable attempts have been made to obtain information from the books of account by written request and the Regional Commissioner has determined that the informa-

(b) Persons who may apply for an attachment. The officers and employees of the Internal Revenue Service whom the Commissioner has designated to carry out the authority given him by § 301.7602-1(b) to issue a summons are authorized to apply for an attachment as provided in paragraph (a) of this section.

Reg. § 301.7606 Statutory provisions; time and place of examination. [Sec. 7606, IRC]

Reg. § 301.7606-1 (T.D. 6421, filed 10-23-59; republished in T.D. 6498, filed 10-24-60; amended by T.D. 7144, filed 10-26-71.) Time and place of examination.

(a) Time and place. The time and place of examination pursuant to the provisions of section 6420(e)(2), 6421(f)(2), or

Reg. § 301.7605-1(c)(2)

tion cannot be fully or satisfactorily obtained in that manner. In any examination of a church or convention or association of churches for the purpose of determining unrelated business income tax liability pursuant to such notice, no examination of the books of account of the organization shall be made except to the extent necessary to determine such liability.

(3) Religious activities. No examination of the religious activities of an organization which claims to be a church or convention or association of churches shall be made except (i) to the extent necessary to determine the initial or continuing qualification of the organization under section 501(c)(3); (ii) to determine whether the organization qualifies as one, contributions to which are deductible under section 170, 545, 556, 642, 2055, 2106, or 2522; or (iii) to

determine whether the organization is a church or convention or association of churches subject to the provisions of part III of subchapter F of chapter 1. The requirements of subparagraph (2) of this paragraph that the Regional Commissioner give notice prior to examination of the books of account of an organization do not apply to an examination of the religious activities of the organization for any purpose described in this subparagraph. Once it has been determined that the organization is a church or convention or association of churches, no further examination of its religious activities may be made in connection with determining its liability, if any, for unrelated business income tax.

(4) Effective date. The provisions of this paragraph shall apply to audits and examinations of taxable years beginning after December 31, 1969.

GENERAL POWERS AND DUTIES

— § 301.7621 Statutory provisions; internal revenue districts. [Sec. 7621, IRC]

— § 301.7621-1 (T.D. 6421, filed 10-23-59; republished in T.D. 6496, filed 10-24-60.) Internal revenue districts.

— For delegation to the Secretary of authority to prescribe internal revenue districts for the purpose of administering the internal revenue laws, see Executive Order No. 10288, dated September 17, 1961 (16 F.R. 8498), as made applicable to the Code by Executive Order No. 10574, dated November 5, 1964 (19 F.R. 7349).

— § 301.7622 Statutory provisions; authority to administer oaths and certify. [Sec. 7622, IRC].

— § 301.7622-1 (T.D. 6421, filed 10-23-59; republished in T.D. 6496, filed 10-24-60; amended by T.D. 6585, filed 12-27-61, T.D. 7186, filed 6-26-72; T.D. 7297, filed 12-18-73 and T.D. 7358, filed 5-30-75.) Authority to administer oaths and certify

The officers and employees of the Internal Revenue Service whom the Commissioner has designated are authorized to administer such oaths or affirmations and to certify to such papers as may be necessary under the internal revenue laws or regulations issued thereunder, except that the authority to certify shall not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive.

— § 301.7623 Statutory provisions; expenses of detection and punishment of frauds. [Sec. 7623, IRC]

— § 301.7623-1 (T.D. 6421, filed 10-23-59; republished in T.D. 6496, filed 10-24-60; amended by T.D. 7297, filed 12-18-73.) Rewards for information relating to violations of internal revenue laws.

(a) In general. A district director may approve such reward as he deems suitable for information that leads to the detection and punishment of any person guilty of violating any internal revenue law, or conspiring at the same. The rewards provided for by section 7623 are limited in their aggregate to the sum appropriated therefor

and shall be paid only in cases not otherwise provided for by law.

(b) Eligibility to file claim for reward. — (1) In general. Any person, other than certain present or former federal employees (see subparagraph (2) of this paragraph), who submits, in the manner set forth in paragraph (d) of this section, information relating to the violation of an internal revenue law is eligible to file a claim for reward under section 7623.

(2) Federal employees. No person who was an officer or employee of the Department of the Treasury at the time he came into possession of information relating to violations of the internal revenue laws, or at the time he divulged such information, shall be eligible for reward under section 7623 and this section. Any other federal employee, or former federal employee, is eligible to file a claim for reward if the information submitted came to his knowledge other than in the course of his official duties.

(3) Deceased informants. A claim for reward may be filed by an executor, administrator, or other legal representative on behalf of a deceased informant if, prior to his death, the informant was eligible to file a claim for such reward under section 7623 and this section. Certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed to such a claim for reward on behalf of a deceased informant in order to show the authority of the legal representative to file the claim for reward.

(c) Amount and payment of reward. All relevant factors, including the value of the information furnished in relation to the facts developed by the investigation of the violation, shall be taken into account by a district director in determining whether a reward shall be paid, and, if so, the amount thereof. The amount of a reward shall represent what the district director deems to be adequate compensation in the particular case, normally not to exceed ten percent of the additional taxes, penalties, and fines which are recovered as a result of the information. No reward, however, shall be paid with respect to any additional interest that may be collected. Payment of a reward will be made as promptly as the circumstances of

IRM 7(10) 70

7(10)70 (1-12-79)

Specialized Examinations

7(10)71 (8-20-79)

Churches or Convention or Association of Churches

7(10)71.1 (8-20-79)

Introduction

Prior to 1970 there were no special legislative restrictions on the Service's authority to examine churches. At the time the Tax Reform Act of 1969 was being drafted in Congress, concern was expressed by some legislators that the Service would over-react to the new application of the unrelated business income tax to churches by initiating probing and unnecessary examinations of churches. Accordingly, section 7605(c) was added to the Internal Revenue Code.

7(10)71.2 (8-20-79)

General Requirements

7(10)71.21 (1-26-81)

General

(1) Treasury Regulation 301.7605-1(c)(2) provides that no examination of the books of account of an organization which is or which claims to be a church or a convention or association of churches shall be made, except to the extent necessary:

(a) to determine the initial or continuing qualification of the organization under IRC 501(c)(3);

(b) to determine whether the organization qualifies as one, contributions to which are deductible under IRC 170, 545, 556, 642, 2055, 2106, or 2522;

(c) to obtain information for the purpose of ascertaining or verifying payments made by the organization to another person in determining the tax liability of the recipient, such as payments of salaries, wages, or other forms of compensation;

(d) to determine the amount of tax, if any, imposed by the Code upon such organization.

(2) Treas. Reg. 301.7605-1(c)(2) further provides that no examination of the books of account of an organization which is, or which claims to be, a church or a convention or association of churches shall be made unless the Regional Commissioner believes that such examination is necessary and so notifies the organization in writing at least 30 days in advance of

examination. The Regional Commissioner will conclude that such examination is necessary only after reasonable attempts (i.e., the sending of at least two pre-examination letters) have been made to obtain necessary information from the books of account by written request and the Regional Commissioner has determined that the information cannot be fully or satisfactorily obtained in that manner.

(3) Treas. Reg. 301.7605-1(c)(3) provides that no examination of the religious activities of an organization which claims to be a church or convention or association of churches shall be made, except:

(a) to the extent necessary to determine the initial or continuing qualification of the organization under IRC 501(c)(3);

(b) to determine whether the organization qualifies as one, contributions to which are deductible under IRC 170, 545, 556, 642, 2055, 2106 or 2522; or

(c) to determine whether the organization is a church or convention or association of churches.

(4) Although not required by the regulations, the pre-examination procedures described in IRM 7(10)71.3, below, will also be followed when examining the religious activities of an organization which is or which claims to be a church or a convention or association of churches. However, this requirement does not apply when the organization executes the Waiver of Pre-examination Procedure under IRC 7605(c). See Exhibit 7(10)70-10.

(5) The restrictions on examination of churches set out in IRC 7605(c) and Treas. Reg. 301.7605-1(c) are applicable to the Service examination of any school that is operated as an activity of a church or a convention or association of churches. The pre-examination procedures need not be followed when examining a separately organized or incorporated church-related school which does not claim to be a church or a convention or association of churches.

(6) The pre-examination procedures will be followed when examining the unrelated business activities (Form 990-T) of an organization which is or which claims to be a church or a convention or association of churches.

(7) The restrictions of IRC 7605(c) and Treas. Reg. 301.7605-1(c) must be complied with when an organization's claim to church status has more than an insignificant factual

MT 7(10)00-77

7(10)71.21

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foundation. Conversely, where it is determined that an organization has no significant factual foundation to support its claim to church status, the claim can be ignored, and the restrictions of IRC 7605(c) and the regulations thereunder would not apply to an examination of the organization. Any reasonable doubt about the possible presence of more than a clearly insignificant factual basis for claiming church status should be resolved in favor of any organization formally asserting such status.

(8) Under the First Amendment, the Service is precluded from considering the content or sources of a doctrine which is alleged to constitute a particular religion, and can make no attempt to evaluate the content of whatever doctrine a particular organization claims is religious. Examiners conducting pre-examination inquiries and examinations of organizations claiming church status must make no attempt to evaluate the content of any particular religious doctrine.

7(10)71.22 (1-29-81)

Church books of Account

(1) Church books of account are the accounting and bookkeeping records of the church kept in the regular course of business to provide a detailed financial history of business transactions of the church. They include all books of original entry.

(a) See Exhibit 7(10)70-5 for examples of records that are and are not books of accounts.

(b) If there is a question as to whether or not particular records constitute church books of account, District Counsel should be consulted.

(2) The pre-examination procedures need not be followed when examination is being made only of records that are not church books of account, such as records maintained by a bank.

7(10)71.3 (1-29-81)

Pre-examination Procedures

(1) The pre-examination procedures do not constitute an examination within the purview of the "only one inspection" provision of IRC

7(10)71.21

MT 7(10)00-77

7605(b). Therefore, the use of these procedures does not bar the conduct of any comprehensive examination that might thereafter be initiated in accordance with 30-day notice procedures provided for in IRM 7(10)71.41:(6), below, and Treas. Reg. 301.7605-1(c)(2).

(2) There is no hard and fast rule as to what specific information may be obtained under the pre-examination procedures. Generally, the Service may request any information relevant to the proper areas of Service inquiry. The information requested should be limited to that which the organization can reasonably compile and assemble, and which is necessary to resolve the area or areas of inquiry. The pre-examination procedures should not be conducted so as to take on the essential character of a comprehensive examination of the organization's books of account. If the issue or issues cannot be resolved through these pre-examination procedures, the examiner should consider the need for requesting the Regional Commissioner's approval of an examination under the procedures of IRM 7(10)71.41, below.

(3) The EP/EO key district office will commence the pre-examination inquiry by sending a written request to the organization consisting of a pre-examination cover letter, and specific questions, as appropriate, using Exhibit 7(10)70-2 as a guide.

(a) In preparing this pre-examination letter, the period of time permitted for response should represent a reasonable amount of time for the organization to gather and furnish the information requested. This period will generally not be less than 15 days, subject to variance on a case-by-case basis. In determining what a reasonable response time will be, examiners should give consideration to the size of the organization, the type of records requested, and the amount of information the organization is being asked to provide.

(b) The pre-examination letter will be issued by certified mail. When the district office prepares the pre-examination cover letter, the words "CERTIFIED MAIL" should be entered in capital letters above the salutation. The signed return receipt should be made a part of the file, as should a return receipt evidencing refusal to accept the letter.

(c) See Exhibit 7(10)70-1 for Pattern Letter P-645(5-79) Pre-Examination Cover Letter. Commerce Clearing House, Inc.

(d) See Exhibit 7(10)70-2 for a checksheet of suggested pre-examination letter questions. These questions should aid in developing cases to the fullest extent at the earliest stage, thus minimizing the need for additional correspondence with the organization. Pre-examination letters containing questions that deviate substantially from those set forth in Exhibit 7(10)70-2 should be approved by District Counsel.

(4) If the organization responds and satisfactorily furnishes the information requested, an appropriate acknowledgment will be made. If the information indicates that the organization meets or continues to meet the requirements for exemption from Federal income tax, the pre-examination inquiry will be closed in accordance with the procedures outlined in IRM 7(10)71.3(8), below.

(a) When an organization claiming church status responds to the initial pre-examination letter by indicating an affiliation with an organization that chartered it and directs the Service to go to the chartering organization for requested books, records or other information, consideration should be given to incorporating Pattern Paragraphs P-630 (5-79) into the second pre-examination letter. Pattern Paragraphs P-630 (5-79) are set forth in Exhibit 7(10)70-4.

(b) Treas. Reg. 301.7605-1(c)(2) does not apply when church books of account are provided to the Service without first being requested. When a church voluntarily offers to provide its books of account, the examiner should secure a written statement, signed and dated by an officer, director, trustee or other individual duly authorized to do so, that the organization's books of account have been voluntarily provided and have not been requested by the Service. The statement should be included in the workpapers. See Exhibit 7(10)70-10 for Pattern Paragraph P-730 (11-80), Waiver of Pre-examination Procedure under IRC 7605(c).

(5) If there is no response to the first pre-examination letter within the time provided, or if an inadequate or unsatisfactory response is received, the key district office should send a second pre-examination letter to the organization. If no response was received, this letter should simply restate the information requested in the initial pre-examination letter. If an inadequate or unsatisfactory response was received, only those portions of the initial letter which were inadequately or unsatisfactorily answered should be restated. The letter should also indicate in what manner the first response was inadequate or unsatisfactory. As with the first pre-examination letter, a reasonable response time, generally 15 days, should be provided. The second pre-examination letter

should also be sent by certified mail, and otherwise in accordance with the procedure discussed in IRM 7(10)71.3(3)(b), above.

(6) If the organization responds and satisfactorily furnishes the information requested by the second pre-examination letter, an appropriate acknowledgment will be made. If the information provided indicates that the organization meets the requirements for exemption from Federal income tax, the matter will be closed in accordance with the procedures outlined in IRM 7(10)71.3(8), below.

(7) If the second pre-examination letter fails to produce a timely response, or results in an inadequate or unsatisfactory response, the key district office should consider the need for an examination, or for an additional pre-examination letter or letters. If it is determined that an additional letter (or letters) is warranted, the instructions in IRM 7(10)71.3(5), above, should be followed. If it is determined that examination is warranted, the necessary approval should be requested, as outlined in IRM 7(10)71.41, below.

(8) When the information provided in response to either the first or second pre-examination letter indicates that the operations of the organization are such that it meets or continues to meet the requirements for exemption from Federal income tax under IRC 501(a), and that no further inquiry or examination is required, a letter advising the organization of this conclusion should be issued, specifying the time period considered.

(a) Exhibits 7(10)70-6 and 7(10)70-8 set forth two Pattern Letters, P-622 (Rev. 9-80) and P-624 (Rev. 9-80), for use in no-change pre-examination situations. The former letter is for use in situations where the organization has established its exemption with the Service; the latter letter addresses those situations where the organization has not been recognized as exempt by the Service.

(b) See, also, IRM 7(11)31.6(1).

7(10)71.4 (8-20-75)

Examination of Churches or Convention or Association of Churches

7(10)71.41 (8-20-79)

Procedures for Regional Commissioner's Approval of Church Examinations

(1) If adequate responses to the pre-examination letters discussed in IRM 7(10)71.3, above, are not received, and it is determined that examination is warranted, the EP/EO key

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7(10)71.41

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district office should draft a Regional Commissioner's Approval of Church Examination Letter for the Regional Commissioner's signature. See Exhibit 7(10)70-3 for Regional Commissioner's Approval of Church Examination Letter, Pattern Letter P-598 (5-79).

(2) The draft letter, administrative file, and a cover memorandum describing the pre-examination procedures followed, information developed to date, and intended purpose of the examination, should be forwarded to the Regional Commissioner through the Assistant Regional Commissioner (Examination). The ARC should recommend to the Regional Commissioner whether or not to approve the examination.

(3) The Regional Commissioner will determine whether the proposed examination is necessary for one or more of the purposes specified in Treas. Reg. 301.7605-1(c) and IRM 7(10)71.2, above.

(4) If approved by the Regional Commissioner, the letter approving examination will be issued by registered or certified mail from the Office of the ARC (Examination). The case file should then be returned to the initiating key district office.

(5) If the request for examination is not approved, the case file will be returned to the key district for closing. See IRM 7(10)71.3:(8), above, and the Pattern Letters referred to therein, for the issuance of appropriate letters in these circumstances.

(6) Examination of the organization's books, records and religious activities may not begin until at least 30 days after the issuance of the Regional Commissioner's letter approving examination. In the case of a letter that is refused by the organization, the thirty (30) days shall be deemed to commence from the date receipt of the written notice is first refused. The signed return receipt from the registered or certified letter should be made a permanent part of the case file, as should a return receipt evidencing refusal to accept the letter.

(a) A summons may be directed to the organization under examination or to a third party recordholder, if necessary, to obtain information if the organization refuses to respond to the Regional Commissioner's letter approving examination. All summonses proposed to be issued by EP/EO specialists will be submitted to District Counsel for pre-issuance approval.

(b) See IRM 7(10)22:(2) for special instructions applicable to the issuance of summonses

for the purpose described in Treas. Reg. 301.7605-1(c)(2)(iii), i.e., to obtain information for the purpose of ascertaining or verifying payments made by the organization to another person in determining the tax liability of the recipient, such as payments of salaries, wages, or other forms of compensation.

(c) IRM 4022.4, Rights and Privileges of Persons Summoned and Appearances Pursuant to Summons, sets forth guidelines for use when the summoned witness or his/her representative does not comply with summonses, either by testifying or producing books, etc., or both.

7(10)71.42 (8-20-79)

Report of Examination

(1) In all examination situations, the organization will be notified as to the results. The procedures for issuing no-change or no-liability notification letters in examined no-change cases are found in IRM 7(11)31. In changed cases, a report of examination should be prepared in accordance with the procedures outlined in IRM 7(10)60.

(2) Exhibits 7(10)70-7 and 7(10)70-9 set forth two Pattern Letters, P-623 (5-79) and P-625 (5-79), for use in no-change examination situations. The former letter is for use in situations where the organization has established its exemption with the Service; the latter letter addresses those situations where the organization has not been recognized as exempt by the Service. Other written no-change notification letters of the types described in IRM 7(11)31.1:(1) should be individually prepared on a case-by-case basis, and issued where appropriate.

7(10)71.5 (12-8-80)

Denial and Revocation of Recognition of Church Status

7(10)71.51 (12-8-80)

Introduction

(1) This text sets forth the instructions for determining the tax exempt status of a church that has not applied for recognition of exemption and for revoking the continuing exempt status of a church having a ruling or determination letter where, exhaustion of the preexamination procedures under IRC 7605(c). Each adverse action will be based on the organization's failure to establish that it is described in IRC 501(c)(3).

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(2) IRC 508(a) provides that an organization organized after October 9, 1969, shall not be treated as an organization described in section 501(c)(3) unless it gives notice to the Secretary that it is applying for recognition of such status. IRC 508(c)(1)(A) specifically excepts churches from this notice requirement.

(3) Treas. Reg. 1.508-1(a)(4) states that any organization excepted from the requirement of filing notice under IRC 508(a) will be exempt from taxation under IRC 501(c)(3) if it meets the requirements of that section, whether or not it files such notice. However, the IRS will not issue a ruling or determination letter recognizing the organization's exempt status unless the excepted organization files proof of its exemption in the manner prescribed in Treas. Reg. 1.501(a)-1.

(4) An organization that is a church, an integrated auxiliary of a church or a convention or association of churches is excepted from the annual return filing requirements by IRC 6033(a)(2).

(5) Treas. Reg. 1.6033-2(h)(2) provides in part, that every organization that is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of IRC 501 and the subsequent Code sections.

(6) The preexamination procedures for churches found in IRM 7(10)71.3 are designed to effect the basic purpose of securing more information from organizations on a more current basis, with the goal of assuring that the Service would have sufficient information to make an initial or continuing determination of exempt status.

(a) In the case of a church that has a ruling or determination letter recognizing it as tax exempt and that fails to produce books of account after exhaustion of the preexamination procedures under IRC 7605(c), the sanction of revocation of recognition of exempt status is permissible. In this manner, the Service withdraws its formal recognition of exemption for a taxable year or years.

(b) In the case of a church that does not have a ruling or determination letter recognizing it as exempt and that fails to produce books of account after exhaustion of the preexamination procedures under IRC 7605(c), the sanction of denial of recognition of exempt status is permissible. In this manner, the Service does not grant

formal recognition of exemption. This action may be taken without the church first filing for proof of exemption as prescribed in Treas. Reg. 1.501(a)-1.

(7) The instructions and procedures described in IRM 7(10)71.52 may be used in lieu of issuing and enforcing a summons for church books of account, subject to the limitations stated therein. This procedure may be useful in certain situations, essentially where the Service has no need to proceed to summons enforcement to resolve such questions as the deductibility of contributions, the assessment of employment taxes or the use of the church to reduce income tax liability. The facts and circumstances of each case will determine if this procedure is appropriate.

7(10)71.52 (12-8-80)
Instructions and Procedures

(1) The key districts will follow the preexamination procedures in IRM 7(10)71.3. The preexamination procedure includes issuing the Regional Commissioner's letter approving the examination of the organization's books of account.

(a) Generally, the Service may request any information relevant to the proper areas of Service inquiry. The information requested should be limited to that which the organization can reasonably compile and assemble and which is necessary to resolve the area or areas of inquiry. The requested information must be material to the initial or continuing determination of exempt status.

(b) To ensure that the information requested is relevant to the proper areas of Service inquiry, the preexamination letters should consist of the questions, as appropriate, using Exhibit 7(10)70-2 as a guide. Preexamination letters containing questions that deviate substantially from those in the Exhibit should be submitted for consideration to District Counsel.

(2) The organization must be given adequate opportunity to produce the information before proposing to deny or revoke recognition of exempt status. In preparing this preexamination letter, the period of time permitted for response should represent a reasonable amount of time for the organization to gather and furnish the information requested. This period will generally not be less than 15 days, subject to variance on a case-by-case basis. In determining what a

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reasonable response time will be, examiners should give consideration to the size of the organization, the type of records requested, and the amount of information the organization is being asked to provide.

(3) All preexamination letters and the Regional Commission's letter approving the examination must advise the organization of the consequences of the organization's refusal to provide the information. See Exhibit 7(10)70-1 for Pattern Letter P-645, Preexamination Cover Letter, and Exhibit 7(10)70-3 for Pattern Letter P-598, Regional Commissioner's Approval of Church Examination Letter.

(4) The sanctions of denial and revocation of recognition of exempt status with respect to churches will be used sparingly. It is critically important that the administrative record support the reasonableness of the Service's action in these cases. Therefore, the key districts will forward all case files and proposed adverse letters on churches to the Office of the ARC (Examination) for review prior to issuing the proposed revocation or denial letter. Upon concurrence from the region, the case file will be returned to the key district for issuance of the proposed revocation or denial letter.

(5) The grounds set forth in the proposed and final determination letters are to be limited to an explanation that the organization has not provided the information requested after repeated requests and, as forewarned, the organization will have failed to establish that it is described in section 501(c)(3). The following statement Pattern Letter 1426(P)(10-80), will be used in these letters: "Even though we have sent you several requests for the required information, we have not received the necessary information to support the claim that your organization is described in section 501(c)(3) of the Internal Revenue Code. As a result, we find that you have not established that your organization is of the kind described in Code section 501(c)(3)."

7(10)71.6 (12-6-80)
Referrals to State Attorneys
General

In accordance with the procedures outlined in IRC 6104(c) and Treas. Reg. 301.6104-3, the appropriate state officials, including a state Attorneys General, should be notified of any final decision that an organization which claims to be

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a church is not entitled to initial or continuing qualification as an organization described in IRC 501(c)(3).

7(10)72 (6-26-80)
Private School Examinations

7(10)72.1 (10-7-80)
Instructions and Procedures

(1) The following procedures, except for the procedures on Advance Approval of Examinations apply to all private schools:

(a) Family Educational Rights and Privacy Act of 1974. Private schools will not be required to release personally identifiable records or personal information contained therein except in accordance with the requirements of the "Family Educational Rights and Privacy Act of 1974," 20 U.S.C. 1232g (1974). (See Section 7.02 of Rev. Proc. 75-50.)

(b) Private school checksheet. Form 5788, (Private School Racial Nondiscrimination Checksheet) will be completed for each private school examination.

(c) Private School Examination Worksheet. Form 5529, (Private School Examination Results) will be completed for each private school examination. See Chapter (10)00 of IRM 7530, EP/EO Reports Handbook.

(d) Advance Approval of Examinations—
1 If the church-related private school is a separate legal entity, the pre-examination procedures and the advance approval and notification procedures of IRM 7(10)71 will apply only if the school actually claims to be a church.

2 In accordance with the pre-examination procedures of IRM 7(10)71 the school will be sent a letter requesting, at a minimum, the specific information listed in d below. The letter should also make reference to the following—

a Rev. Rul. 75-231, setting forth the Service's position that organizations, including churches, which operate schools must have a racially nondiscriminatory policy as to students to be recognized as exempt from Federal income tax.

b Rev. Proc. 75-50, providing guidelines and recordkeeping requirements for determining whether private schools have racially nondiscriminatory policies as to students.

c That the purpose of requesting the specified information is to ascertain whether an examination is necessary in order to determine compliance with Rev. Rul. 75-231 and Rev. Proc. 75-50.

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d That the information is being requested in accordance with the procedures specified in Income Tax Regulations 301.7605-1(c)(2). These procedures provide, in part, that before concluding an examination is necessary, the Service will attempt to obtain necessary information by written request to the organization.

3 At a minimum, the following specific information will be requested from the school—

a Does the school have a racially and ethnically nondiscriminatory policy as to students by statement in its charter, bylaws, resolution of its governing body, or other governing instrument? If "Yes," in what document is the statement made and what is the specific language of the statement. If "No," explain.

b Has the school publicized its racially and ethnically nondiscriminatory policy during the periods of solicitation for students or, in the absence of such a program, during registration periods in a manner that makes such policy known to all segments of the general community served by the school? If "Yes," describe. Also, if such policy has been publicized by one or more newspaper advertisements, furnish a copy of the most recent advertisement. If the school did not publicize its racially and ethnically nondiscriminatory policy, explain.

c Does the school include a statement of its racially and ethnically nondiscriminatory policy in all brochures and catalogues dealing with student admissions, programs, and scholarships, and include a reference to this policy in other written advertisements used to inform prospective students of its programs? If "Yes," submit all brochures, catalogues and other written advertisements used during the last academic year if the school is not currently in session, or for the present academic year if the school is currently in session. If "No," explain.

d If the school affiliated with, related to, or directly controlled or supervised by a church, or a convention or an association of churches? If "Yes," is the school separately incorporated?

e Does the school discriminate in any way on the basis of race or ethnic origin with respect to students' rights or privileges, admissions policies, employment of faculty or administrative staff, scholarships or other financial assistance, educational policies, use of facilities, athletic programs, or other extra-curricular activities? If "Yes," to any of the foregoing, explain. If "No" to any of the foregoing, de-

scribe the action, if any, that supports such conclusion.

f Does the school receive any financial aid or assistance from a governmental agency? Has the school's right to such aid ever been revoked or suspended? If "Yes" to either of the foregoing, explain.

g Does the school maintain records indicating the racial/ethnic composition of its student body, faculty, and administrative staff, records sufficient to document that scholarship and other financial assistance is awarded on a racially and ethnically nondiscriminatory basis; copies of all catalogues, brochures, and advertising dealing with student admissions, programs, and scholarships; and copies of all materials used by or on behalf of the school to solicit contributions. If "No" to any of the foregoing, explain.

h Submit representative copies of all materials used to solicit contributions during the last academic year if the school is not currently in session, or during the present academic year if the school is currently in session.

i Have any statements been made after November 6, 1975, purporting to be on behalf of the school, that are contrary to the school's publicity of a racially and ethnically nondiscriminatory policy as to students? If "Yes," has the school publicly disavowed or repudiated such statements, to the extent that the school or its principal officials were aware of such statements? Explain.

j Provide data showing the racial and ethnic composition of enrolled students, of faculty, and of administrative staff at the close of the last academic year, if the school is not currently in session, or for the start of the present academic year, if the school is currently in session. Also, provide data showing the racial and ethnic composition of enrolled students who have received scholarship and loan funds, and the amount of such scholarship and loan funds. (This data may be an estimate based on the best information readily available to the school, without requiring student applicants, students, faculty or administrative staff to submit information to the school that the school otherwise does not require. To the extent that any of these categories of information has been included in a report(s) filed with an agency or agencies of Federal, State or local Government, copies of such report(s) will be acceptable if current within one year.) Describe the

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method by which racial/ethnic composition is determined for the school records or Government report purposes.

4 Upon completion of the pre-examination procedures, the organization will be furnished an appropriate letter. If the organization has satisfactorily furnished the requested information and it is concluded that no examination is necessary, the organization will be furnished a letter report that the Service's inquiry has been concluded, that it appears the school has complied with Rev. Rul. 75-231 and Rev. Proc. 75-50 and, therefore, that no examination is necessary. If, however, it is concluded that an examination is necessary to determine compliance with Rev. Rul. 75-231 and Rev. Proc. 75-50, then the organization will be so advised, and the advance notification procedures of IRM 7(10)71 will be followed.

5 Reporting of Examination

a A report of examination described in IRM 7(10)64 will be prepared for all nonchurch-related school examinations, and for all church-related school examinations conducted beyond the pre-examination procedures.

b In the case of church-related schools that are not separate legal entities, the examination generally will be limited to determining whether the school's operations comply with the racially nondiscriminatory requirements. Therefore, the examination report should also be so limited. The report will be issued to the lowest church organizational unit which operates the school. If the examiner is unable to determine the lowest church organizational unit, or if other questions arise in connection with the issuance of the report, a memorandum should be prepared and sent to the National Office, Exempt Organizations Division, (Attention: E:EO:E) summarizing the facts and circumstances involved and requesting clarification as to who should receive the examination report.

7(10)72.2 (6-26-80)

Review of Private School Cases

EP/EO Division will review all private school examinations including those cases in which information obtained under the pre-examination procedures in IRM 7(10)71 constitutes the sole basis for determining that the school appears to comply with Rev. Rul. 75-231 and Rev. Proc. 75-50.

7(10)72.1

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7(10)72.3 (6-26-80)

No Change—Corrective Action Cases

(1) A school must comply with the requirements of Rev. Proc. 75-50 in order to demonstrate that it has a racially nondiscriminatory admissions policy. However, the Service's approach is, and has been, to avoid applying rules mechanically in an area that requires careful judgment of all facts and circumstances. Thus, where the history of a school and the surrounding facts and circumstances indicate that the school has a racially nondiscriminatory admissions policy, revocation of such school's exemption on the basis that a particular requirement of Rev. Proc. 75-50 has not been met may be inappropriate. Rather, the appropriate action may be to give the school an opportunity to take corrective action to conform to the particular requirement of Rev. Proc. 75-50. For example, if information obtained in a private school examination demonstrated that the school, by reason of its racial constituency or other facts, practices a racially nondiscriminatory admissions policy, and that the school has satisfied all the requirements of Rev. Proc. 75-50 except that its brochures do not contain a statement concerning its racially nondiscriminatory admission policy, the appropriate action would not be revocation, but rather to have the school revise the brochures to include the racially nondiscriminatory statement.

(2) EP/EO key districts will establish a file for ensuring control over timely follow-up on private school cases involving corrective action. These follow-up procedures are also applicable to pre-examination cases described in 7(10)72.1:(1)(d)3, where it is concluded that although no examination is required, certain corrective action is necessary.

(3) In all cases where a private school has agreed to take corrective action to conform to the private school compliance requirements of Rev. Proc. 75-50, the specialist will prepare a no-change letter which advises the organization of the nature of the corrective action that it has agreed to take. A copy of the no-change letter will be placed in the control file (referred to in (2) above) for follow-up action within the year following the year of the examination.

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(4) Follow-up action is mandatory on all cases involving corrective action. The follow-up action may be an examination, if warranted, or it may simply involve contacting the private school and soliciting certain information. For example, if the corrective action is similar to that described in (1) above where the private school has given assurances that future brochures will contain a statement concerning its racially nondiscriminatory admissions policy, contacting the private school and securing the brochures may be adequate.

(5) Time expended on follow-up activities not involving an examination will be charged to Activity Code 313100 (Classification). If the follow-up activity involves an examination, time expended should be charged to Activity Code 339100 (Private Schools).

(6) After the follow-up action has been completed, the specialist will make a note on the copy of the no-change letter indicating the nature of the follow-up action taken, the results of the follow-up action, and the date of the action was completed. The copy of the no-change letter will be maintained in the control file for three years after which it will be made a part of the administrative file.

(7) Follow-up action with respect to church-related schools will not constitute an examination for purposes of the church-related school examination program unless such follow-up action involves the scope of inquiry specified in 7(10)72.1:(1)(d)3.

(8) Follow-up action with respect to non-church schools will not constitute an examination for purposes of the nonchurch school examination program unless such follow-up action results in a full examination of the school's operations and activities.

(9) Section 4.08 of Rev. Proc. 75-50 provides that failure to comply with the guidelines will ordinarily result in proposed revocation of exemption. Therefore, where a school will not agree to take corrective action necessary to comply with the guidelines, proposed adverse action should be considered. However, where doubt exists as to what is the appropriate action, the specialist should request technical advice in accordance with the procedures described in Rev. Proc. 73-8, 1973-1 C.B. 754.

(10) The corrective action approach is not intended to be used where revocation action is appropriate. As indicated in (9) above, corrective action is applicable only where all the facts and circumstances indicate that the school practices a racially nondiscriminatory policy with respect to students, notwithstanding that a particular requirement of Rev. Proc. 75-50 may not have been met. However, where upon completion of the examination and all administrative appeal procedures, the facts and circumstances adequately show that a school has actually practiced racial discrimination, exemption should be revoked even though the school may agree to change its policy and practice in the future. For example, if it is found that a school has in fact rejected qualified applicants for admission solely on the basis of their racial or ethnic background, then exemption should be revoked for those years in which the violations occurred. This is true notwithstanding that the school agrees to take steps to change its racially discriminatory policy in the future. If the private school's exemption is revoked, it may of course reapply for recognition of exemption under the procedures outlined in Rev. Proc. 72-4, 1972-1 C.B. 706, after it has taken the necessary corrective action.

(11) The situation described in (10) above concerning rejection of applicants for racial or ethnic reasons would also appear to warrant initiating action to suspend advance assurance of deductibility of contributions in accordance with the procedures outlined in Revenue Procedure 72-39, 1972-2 C.B. 816. Such suspension action should be initiated as soon as the information is developed which raises serious doubt concerning the organization's continued qualification for exemption.

(12) The United States District Court for the District of Columbia has ordered specific guidelines and recordkeeping requirements for Mississippi private schools. *Green v. Connally*, 330 F. Supp. 1150, *aff'd sub nom. Colt v. Green*, 404 U.S. 997 (1971). The corrective action approach is not appropriate where a Mississippi private school is found not to meet the requirements of the Court's order. Where it is determined, after completion of the examination and all administrative appeal procedures, that the requirements of the Court's order have not been satisfied, the private school's exempt status should be revoked.

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7(10)72.3

(5) Specialists may examine lists containing names of purchasers of alleged church charters or individuals claiming ministerial status from alleged churches, third parties or other divisions of the Service. The list may be sought from a church in its capacity as a third-party witness. In situations where the tax liability of the alleged church is at issue, a list of the alleged church's charter purchasers may be requested in a pre-examination letter or during an examination provided that the list may be relevant to ascertaining the tax liability of the church under examination and that ascertaining the tax liability of the alleged church is a purpose for requesting the list; however, National Office authorization (E:EO:O:P) will be obtained in writing prior to seeking such a list.

(6) Any project undertaken to identify alleged churches and individuals involved in mail order ministries must be authorized in accordance with the procedures outlined in IRM 7900.

7(10)75.3 (8-20-79)

Claims to Church Status

(1) Under IRC 508(c), churches are not required to apply for recognition of exemption with the Service in order to be treated as being described in IRC 501(c)(3). If a church meets the requirements of IRC 501(c)(3), it is automatically exempt from Federal income tax.

(2) The filing of an incomplete Form 1023 or the filing of a Form 1023, Application for Recognition of Exemption, that fails to establish an organization's exemption under IRC 501(c)(3) does not affect the organization's entitlement to claim church status and the application of IRC 7605(c) concerning restrictions on the examination of churches.

(3) An individual may claim a charitable contribution deduction to a church that has not been recognized by the Service as tax exempt. Such deduction is not barred merely because the church has never applied for recognition of exempt status. Similarly, when an organization has applied but has not provided the Service with sufficient information upon which to make a favorable determination of exempt status, a charitable deduction is not automatically barred.

7(10)75.4 (8-20-79)

Coordinated Procedures Generally

7(10)75.41 (8-20-79)

Coordination of IRC 170(c) Deduction Cases

(1) If an IRC 170 deduction has been disallowed because the individual claiming the deduction made the contribution in the expectation of receiving benefits designed for his/her maintenance and comfort, it will generally not be necessary for the EP/EO Division to conduct a concurrent examination of the church. However, a referral using Form 5346, Examination Information Report, will be made by the Examination Division to the appropriate EP/EO Division concerning examination of the involved church or religious order. This is for information purposes only. The church will be examined only when, in the judgment of the EP/EO Division, such examination is necessary based on Service concerns. The amount of potential tax liability should not be a decisive consideration isolated from other concerns. If an examination of the church is conducted, it will not be necessary for Examination Division to suspend closing the case until the EP/EO Division has completed action on the referral. However, there should be close coordination to insure that the case is not litigated prematurely.

(2) In some instances an individual may claim that he/she is entitled to the parsonage allowance exclusion from income under IRC 107. In such cases, Examination Division will determine whether the individual has performed services that are ordinarily the duties of a minister of the gospel. If it is determined that the individual has not performed services that are ordinarily the duties of a minister of the gospel, it will not be necessary for EP/EO Division to examine the church. If it is necessary to determine whether services are performed in accordance with the tenets and practices of the church, a referral using Form 5346 will be made by Examination Division to the appropriate EP/EO Division for a concurrent examination.

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7(10)75.41

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(3) Where Examination Division proposes to disallow an IRC 170 deduction on the grounds that the donee organization is not described in IRC 170(c), a referral using Form 5346 will be made to the appropriate EP/EO Division. The donee organization should, if possible, be examined concurrently with the IRC 170 deduction. Cases currently in Examination or Appeals Offices that are in some state of appeal and that have not previously been coordinated with the appropriate EP/EO Division, will also be referred to EP/EO Divisions using Form 5346. EP/EO Division should immediately begin to examine these cases. Examination or Appeals offices will be suspending the closing of related cases until EP/EO Divisions have completed action on such referrals, except when closing action is required to protect the interests of the Government. Accordingly expeditious handling of such cases is required.

7(10)75.42 (8-20-79)

Coordination of Assignment of Income Cases

(1) Situations may arise in which an employee claims a "vow of poverty" and either assigns part or all of his/her earnings to a church that he/she has formed through the purchase of a church charter and ministerial certificate. In such case, the individual whose principal activity is that of an employee can have his/her income determined without an examination of the church when he/she is employed by a party other than the church. Under these circumstances, Examination Division may complete the case without a concurrent examination of the church by EP/EO Division. However, EP/EO Division will be notified of the church's existence for information purposes only.

(2) An individual may claim to have assigned income, donated services, or transferred business activity to an organization claiming to be a church. If Examination Division can determine the amount of the individual's income without resort to the church's books of account, they should continue with the examination. A referral using Form 5346. Examination Information Report will be made to the appropriate EP/EO Division concerning the involved church. This is for information purposes only. If it becomes necessary to examine the church's books of account a referral using Form 5346 will be made to the appropriate EP/EO Division for a concurrent examination. See IRM 7(10)71.21

and Exhibit 7(10)70-5 for a definition and examples of church 'books of account.'

7(10)75.43 (8-20-79)

Coordinated Service Procedures

(1) Regional and District representatives from EP/EO, Examination, Criminal Investigation, Collection, and District Counsel shall meet no less than quarterly to discuss developments in the program relating to examination of alleged churches and related individuals and to discuss problems that arise.

(2) Information from Collection and Criminal Investigation Divisions concerning tax abuse schemes of the general class described in this section should be carefully screened and assigned for examination by EP/EO Division where appropriate.

7(10)75.5 (1-25-81)

Procedures in 'Mail Order Ministries' Examinations

(1) The pre-examination procedures set forth in IRM 7(10)71, Churches or Convention or Association of Churches, will be followed when examining organizations of the general class described in this section (mail order ministries).

(2) Referrals on Form 5346 from Examination Divisions will be reviewed by the Chief, Technical Staff. When it is determined that examination is required, the case will be assigned and given priority consideration. Chief, EP/EO Division, will report to Chief, Examination Division, (or District Director in streamlined districts) quarterly on the status of the examination.

(3) When EP/EO Division decides, after review of Form 5346, or a request for collateral examination, that an examination should not be conducted or should be terminated prior to resolution of a related examination being conducted by another Division, the interested Division will be informed within 30 days of this decision. In the event the interested Division desires that the matter be reconsidered, the matter will be reviewed and resolved by the Division Chiefs, the District Director, the Assistant Regional Commissioners and the Regional Commissioners involved, in the order named. Every effort will be made to resolve the matter at the lowest possible level. Since a tax abuse scheme is involved, the amount of potential tax liability in controversy should not be a decisive consider-

MT 7(10)00-77

7(10)75.5
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ation isolated from other legitimate Service concerns.

(4) When examining an organization involved in the sale of church charters and ministerial certificates, the issue of whether the organization qualifies for tax exempt status under IRC 501(c)(3) should be considered. In addition, the issue of whether the sale of these items is in furtherance of religious purposes under IRC 501(c)(3) should be raised. Examining agents should look to such issues as whether the Organization is organized and operated exclusively for exempt purposes; whether it serves private rather than public purposes; and whether its net income inures to the benefit of any private shareholders or individuals. If the issue of exempt status is considered in a case involving a tax abuse scheme, technical advice procedures should be utilized, as described in Rev. Proc. 73-8, 1973-1 C.B. 754.

(5) In order to be recognized as a religious organization described in IRC 501(c)(3), an organization must establish that it is in fact "religious"; that it is organized and operated in conformity with the basic principles of charity law; and that it does not violate any of the specific prohibitions of IRC 501(c)(3) and the regulations thereunder. An organization will be considered "religious" only if its members have a sincere and meaningful belief in whatever doctrine is espoused, and this belief occupies in the lives of those members a place parallel to that filed by God in the lives of traditionally religious persons. Under the First Amendment, the Service is precluded from considering the content or sources of a doctrine which is alleged to constitute a particular religion, and can make no attempt to evaluate the content of whatever doctrine a particular organization claims is religious. However, a mere allegation that a specific doctrine is religious is not sufficient to warrant that doctrine's designation as a religion.

(6) When examining a church of the general type described in this section, examining agents should be alert for evidence that income assigned to the church or order by an individual has been set aside for, or used for, the benefit and enjoyment of the individual. Such evidence could indicate inurement of the organization's earnings, and would be relevant not only to the issue of exempt status under IRC 501(c)(3), but also to the deductibility of the assigned income under IRC 170 as well.

(7) Revenue Ruling 78-232, 1978-1 C.B. 69, provides that an individual who claims to be a minister, organizes a church, deposits salary checks for salary earned from outside employment in the church's bank account, and uses the funds of the account for lodging, food, clothing and other living expenses, is not entitled to a charitable deduction under IRC 170 for the amount of the salary checks. Under the circumstances described, allowance of a charitable deduction was precluded not only because the benefits which the donor reasonably expected to obtain by making the transfer were sufficiently substantial to provide a *quid pro quo* for it, but also because the donee "church" was not a qualified recipient under IRC 170(c)(2). The facts of the case indicated that the donee organization was operated for the private purposes of the taxpayer, rather than for exclusively exempt purposes, as required by the statute. Furthermore, since funds of the donee organization were used by or on behalf of the taxpayer, there was inurement of the type proscribed by the statute.

(8) Revenue Ruling 69-266, 1969-1 C.B. 151, similarly provides that an organization formed and operated by its creator essentially as an attempt to reduce his/her personal Federal income tax liability while still enjoying the benefits of his/her earnings, is not exempt under IRC 501(c)(3). Like the recipient church in Rev. Rul. 78-232, *supra*, the organization was operated for a private purpose, rather than for exclusively exempt purposes.

(9) A summons may be directed to the organization under examination or to a third party recordholder, if necessary, to obtain information from records of correspondence or financial records. All such summonses proposed to be issued by EO specialists should be submitted to District Counsel for pre-issuance review. See also IRM 7(10)71.41:(6)

7(10)75.6 (8-20-78) Illegal Tax Protester Program

7(10)75.61 (8-20-78) Background

(1) Under the Service's Illegal Tax Protester Program, certain uniform procedures and guidelines for detecting, processing, examining and investigating illegal tax protester-type documents and activities have been established. For purposes of this program, an "illegal tax protester" is a person who employs one or more illegal schemes that affect the payment of taxes.

7(10)75.5

MT 7(10)00-77

(2) The report is to cover only those organizations identified under this project.

(3) A negative report, if applicable, is required.

(4) Information on the operation of the Illegal Tax Protester Program, in narrative, which will assist in the monitoring and solution of potential problems. In addition, information should be provided relative to new schemes and/or new techniques and the spread of a promoter's scheme to other districts/regions. Any new delaying tactics, administrative and/or coordination problems, and other items of interest (accomplishments; set-backs; etc.).

(5) The report should be forwarded to the Director, Exempt Organizations Division (EEO) within 20 workdays from the end of each calendar quarter. Report symbol NO-CP:CI-62 controls this report.

7(10)75.7 (6-20-79)

Referrals to Criminal Investigation Division

(1) EO specialists should be alert to potential fraudulent schemes employed by mail order ministries. Some of the fraudulent devices used include the following:

- (a) Keeping a double set of books;
- (b) Giving of false information/documents to the examining specialist;
- (c) Concealing or destroying financial records;
- (d) Closing out checking and savings accounts at banks and thereafter conducting financial affairs in currency;
- (e) Disguising income from an unrelated trade or business as nontaxable income;
- (f) Controlling and using funds in the church bank accounts by the reputed minister for his/her own benefit;
- (g) Using funds claimed as contributions to the church for personal use of the reputed minister; and
- (h) Falsifying application forms which are signed under penalties of perjury.

(2) If, during an examination of a mail order ministry, an EO specialist discovers any firm indications of potential fraudulent schemes, the specialist will suspend his/her activities and prepare a Form 2797, Referral Report for Potential Fraud Cases, to the Criminal Investigation Division. Six copies of Form 2797 will be prepared. One copy of the report is retained

with the case file. The original and five copies are forwarded through the group manager to the Chief, EP/EO Division, for comments and signature. One copy is sent to the Examination Division. The original and three copies of the report will be transmitted to the Chief, Criminal Investigation Division, (or District Director in the streamlined districts) in the district in which the entity/taxpayer is located. The remaining copy is retained in the EP/EO Division's referral pending file. A separate Form 2797 will be prepared for each person or entity involved. See also IRM 7(10)85, Fraud Procedures.

(3) When a specialist is requested to participate with a special agent in an investigation, the Chief, EP/EO Division, will assign either the referring or another specialist. Any disagreement between the Criminal Investigation Division and the EP/EO Division, as to whether a specialist should be assigned to cooperate with a special agent in an investigation, will be resolved by the District Director of the district in which the entity is located.

(4) If the Criminal Investigation Division accepts the referral for investigation, the conduct of the investigation becomes the responsibility of the special agent, and the EO specialist will not take any action on the case without first consulting with the special agent who is assigned the investigation.

(5) If an EO specialist learns that an assigned case involves a taxpayer that is the subject of a criminal investigation, all activity on the case will be immediately suspended. The specialist's group manager will consult with the Criminal Investigation Division concerning the continuance of EP/EO activity on the case. If agreement to either continue the suspension or to resume EP/EO activity on the case cannot be reached at the group or division level, the issue will be decided by the District Director. Where more than one District is involved, the District Director having jurisdiction over the criminal investigation will resolve the question.

(6) In cases that are referred to the Criminal Investigation Division, the specialist will summarize the results of the examination and include this in the case file. It is especially important that statements made by the individual with whom the examination was conducted, be accurately documented in the case file.

7(10)75.63

MT 7(10)00-77

Internal Revenue Manual - Administration

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7(10)75.8 (8-20-79)

Application of Penalties

(1) Penalties should be considered by the examiner and assessed when appropriate. This determination will be made on a case-by-case basis. The facts and circumstances in each case will govern the imposition of a penalty.

(2) Guidelines to be used in the application of the negligence penalty imposed by IRC 6653(a) are found in IRM 4563.1.

(a) Examiners should not hesitate to recommend assertion of the negligence penalty in appropriate cases.

(b) The burden of proof in a negligence penalty case is the same for the taxpayer as in a straight deficiency or overassessment case.

(3) Criteria for assessing civil fraud penalties are found in IRM 7(10)86.2.

(4) Civil fraud penalties should not be recommended on cases which have not been referred to the Criminal Investigation Division.

(5) Civil penalties other than fraud may be applied (negligence, delinquency, etc.). However, it should be noted that when a 50% civil fraud penalty is applied, IRC section 6653(d) prohibits the application of the delinquency penalty with respect to the same underpayment.

(6) If applicable, the private foundation excise taxes under Chapter 42 and related Code provisions should be considered. See IRC 509(b) and section 1.509(b)-1 of the regulations.

7(10)75.9 (8-20-79)

Conspiracy

(1) Section 2, 18 U.S.C., Principals, provides:

"(a) Whoever commits an offense against the United States, or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal."

"(b) Whoever willfully causes an act to be done, which if directly performed by him or another would be an offense against the United States, is punishable as a principal."

(2) Section 371, 18 U.S.C., Conspiracy to Commit Offense or to Defraud United States, provides:

"If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner, or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall

be fined not more than \$10,000 or imprisoned not more than five years, or both.

"If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor."

(3) In the course of conducting examinations, EO specialists may encounter flagrant situations which appear to be in contravention of the Internal Revenue laws and fall within the purview of either Section 2 or 371 of Title 18, U.S.C. If deemed appropriate, the procedures in IRM 7(10)75.7, Referrals to Criminal Investigation Division, supra, should be followed with respect to these cases.

7(10)75.10 (8-20-79)

Disclosure Provisions

(1) Investigative disclosures may be made as authorized by regulations approved under Section 6103(k)(6) of the Code.

(2) Certain rulings, determination letters and technical advice memorandums requested after October 31, 1976, are subject to public disclosure under either IRC 6104 or 6110. Procedures concerning these matters are contained in 26 CFR 501.105(b)(5) or 26 CFR 301.6110-1.

(3) Local Public Affairs and Disclosure offices should be advised of significant developments relating to mail order ministries, such as revocations and court decisions.

7(10)76 (2-15-80)

Prohibition of Discrimination by Social Clubs—IRC 501(i)

7(10)76.1 (2-15-80)

Introduction

IRC 501(i), which was added by Public Law 94-568, provides that an organization which is described in IRC 501(c)(7) shall not be exempt from taxation for any taxable year if, at any time during such taxable year, the charter, bylaws, or other governing instrument of such organization or any written policy statement of such organization contains a provision which provides for discrimination against any person on the basis of race, color, or religion. It is effective for all years beginning after October 20, 1976.

MT 7(10)00-56

7(10)76.1

Commerce Clearing House, Inc.

7(10)76.2 (2-15-80)**Instructions and Guidelines**

(1) IRC 501(i) should be interpreted and applied literally. That is the Code requirement has been met if an organization's charter, bylaws, or other governing instrument or any written policy statement does not contain a provision which provides for discrimination against any person on the basis of their race, color, or religion. It is not necessary to consider the actual operations of the organization.

(2) An organization is not required to have a provision for nondiscrimination in its charter, bylaws, or other governing instrument or in any policy statement.

(3) If an organization's charter, bylaws, or other governing instrument or any written policy statement contains a provision limiting membership to persons of a particular race, color, or religion or precluding membership for persons of any particular race, color or religion, it does not qualify for exemption from Federal income tax.

(4) Since IRC 501(i) is not applicable to taxable years beginning before October 21, 1976, a discrimination provision in an organization's governing instrument or any written policy statement for those years would not be a basis for revocation. However, where such discrimination provision is found and the return for the

subsequent year has not been filed, the organization should be advised in writing (in examination or no change letter report issued to the organization) of the nondiscrimination requirement of IRC 501(i). Also, the key district should take necessary action to identify these organizations for future examination to determine compliance with IRC 501(i). The return for the subsequent year should be picked up for examination when it has been filed.

(5) A notice incorporating the portion of the news release issued on January 11, 1977, announcing the provision of IRC 501(i) was mailed to all social clubs exempt from Federal income tax under 501(c)(7) in October 1977. With respect to examination of years beginning after October 20, 1976, revocation should be proposed where the organization has a discriminatory provision in its governing instrument or any written policy statement.

(6) Technical advice should be requested in examination cases (involving years beginning after October 20, 1976) when an organization's charter, bylaws, or other governing instrument or any written policy statement limits membership to individuals of a particular national origin or ethnic group, but does not otherwise present a clear case of discrimination on the basis of race, color, or religion.

[The next page is 22,479-19.]

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Exhibit 7(10)70-1

22,479-19

Pattern Letter P-645 ◇

(To be individually typed on appropriate letterhead)
 Pattern Letter P-645 (Rev. 9-80)

PRE-EXAMINATION COVER LETTER

Person to Contact:

Contact Telephone Number:

CERTIFIED MAIL

{Salutation}

In passing section 7605(c) of the Internal Revenue Code, Congress intended to require that the Internal Revenue Service try to resolve questions about the tax-exempt status of churches and organizations claiming to be churches through written requests.

The procedures in section 301.7605-1(c) of the Procedure and Administration Regulations provide, in part, that before deciding whether an examination of an organization claiming to be a church is necessary, the Service will attempt to obtain the necessary information by written requests to the organization.

In accordance with these procedures, we ask that you reply within 15 days to the attached questions. Please answer completely and in clear, concise, specific terms to avoid misunderstanding or later correspondence.

If you do not provide the requested information in a timely manner, we will issue an adverse determination letter, proposing to (revoke) (deny) your exemption from Federal income tax. The Internal Revenue Service will consider that you have not taken all reasonable steps to maintain your exempt status.

Under Code section 7428(b)(2), if you do not take all reasonable steps in a timely manner to maintain your qualifications for exemption, this may be considered as a failure to exhaust the administrative remedies available to you within the Service. Therefore, you may lose your rights to a declaratory judgment under Code section 7428. In that event, as required by Code section 6104(c), we will notify the appropriate State officials that, based on the information we have, we cannot recognize you as an organization of the kind described in Code section 501(c)(3). As a result, the Service will treat your organization as a taxable entity.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

{Space for Signature}

District Director

Enclosure:
 Questions

P-645 (Rev. 9-80)

MT 7(10)00-75

Internal Revenue Manual - Administration

22,479-20 Part VII - Employee Plans/Exempt Orgs. 88 1-81
Exhibit 7(10)70-2

Suggested Pre-Examination Letter Questions

- A. Where circumstances warrant, the following questions should be considered:
1. Does the organization issue church charters or ministerial certificates? If so, furnish all information surrounding these transactions (e.g., copies of agreements between issuer and recipient, specific criteria used in determining recipients, consideration received for the charters or certificates, copies of advertisements or other literature related to these areas, copies of charters/certificates, etc.).
 - a. Are any chartered organizations in turn authorized to issue church charters or ministerial certificates, or to use the organization's EIN?
 2. Was the organization chartered by another church or religious order? If so, indicate the name and address of the chartering organization, the relationship to it, and the circumstances surrounding the chartering.
 3. Give a narrative description of the activities presently carried on by the organization, and those that will be carried on. If the organization is not fully operational, explain what stage of development its activities have reached, what further steps remain for the organization to become fully operational, and when such further steps will take place. This narrative should specifically identify the services performed or to be performed by the organization. (Do not state the purposes of the organization in general terms or repeat the language of the organizational documents.)
 4. In what state was the organization incorporated?
 5. In what year was the organization incorporated?
 6. Furnish a conformed copy of the organization's Certificate of Incorporation, Constitution, Articles of Association, Trust Indenture or other governing instrument, as well as a copy of its by-laws or other, similar code of rules or regulations.
 7. Is the organization associated with any profit/nonprofit organization(s)? Give the name(s) and address(es) of such organizations.

88 1-81 Examination Procedures
Exhibit 7(10)70-3

22,479-21

Pattern Letter P-598 ◊

(To be individually typed on appropriate letterhead)
 Pattern Letter P-598 (Rev. 9-80)

REGIONAL COMMISSIONER'S APPROVAL OF CHURCH EXAMINATION LETTER

Person to Contact:

Contact Telephone Number:

[Salutation]

In letters to you dated (Enter Date) and (Enter Date), the District Director, (Enter District) District, attempted to obtain information necessary to administer the provisions of the Internal Revenue Code which provide for exemption from Federal income tax.

(However, we have no record of receiving a reply to these inquiries.)

(However, the information supplied does not sufficiently answer the inquiries.)

Therefore, in accordance with the procedures in section 301.7605 of the Procedure and Administration Regulations, I believe it is necessary to examine your books of account and your religious activities.

Accordingly, I have authorized the (Enter District) District to examine your books and religious activities under the provisions of sections 7602 and 7605(c) of the Internal Revenue Code. It may also be necessary to examine other records and documents in your possession or control that may be relevant to determining your compliance with any requirements imposed on you by the Code, including any filing requirements.

For the examination, it will be necessary for you to have available all books, records, papers, or other information including, but not limited to: your books of account, bank records, minutes of your meetings, correspondence files, and names and addresses of substantial contributors.

If you do not provide the requested information in a timely manner, we will issue an adverse determination letter, proposing to (revoke) (deny) your exemption from Federal income tax. The Internal Revenue Service will consider that you have not taken all reasonable steps to maintain your exempt status.

Under Code section 7428(b)(2), if you do not take all reasonable steps in a timely manner to maintain your qualifications for exemption, this may be considered as a failure to exhaust the administrative remedies available to you within the Service. Therefore, you may lose your rights to a declaratory judgment under Code section 7428. In that event, as required by Code section 6104(c), we will notify the appropriate State officials that, based on the information we have, we cannot recognize you as an organization of the kind described in Code section 501(c)(3). As a result, the Service will treat your organization as a taxable entity.

An exempt organizations specialist from the (Enter District) District Office will contact you to make an appointment. The initial appointment will not be scheduled before 30 days from the date of this letter.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

[Space for Signature]

Regional Commissioner

P-598 (Rev. 9-80)

 MT 7(10)00-75

Internal Revenue Manual - Administration

22,479-22 Part VII - Employee Plans/Exempt Orgs. 88 1-81
Exhibit 7(10)70-3 Cont.

Pattern Letter P-598

An exempt organizations specialist from the (Enter District) District Office will contact you to make an appointment. The initial appointment will not be scheduled before 30 days from the date of this letter.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

[Space for Signature]

Regional Commissioner

P-598 (Rev. 5-79)

65 6-80 Examination Procedures
Exhibit 7(10)70-4

22,479-23

Pattern Paragraphs P-630

Pattern Paragraphs P-630 (Rev. 5-79)

CHURCHES CLAIMING AFFILIATION WITH ISSUER OF THEIR CHURCH CHARTER

You have refused to respond to our letter dated _____, sent in accordance with section 301.7605 of the Procedure and Administration Regulations, on the basis that you are part of the (enter name of church) and that all books and records are in (enter name of city and state).

If you fail to respond to this written request for the necessary information, we may determine that a direct examination of your books of account and other financial information is necessary under section 7602 of the Internal Revenue Code. If so, regardless of where your books and records may be located, your legal possession, custody, or care of them will control your duty to produce them for our examination.

(Inclusion of the following paragraph would also be appropriate in situations in which the charter-issuing organization has been recognized as exempt by the Service.)

Our ruling of _____, issued to _____, covers that church only and not any of its subordinate units.

P-630 (Rev. 5-79)

 MT 7(10)00-58

Internal Revenue Manual - Administration

22,479-24 Part VII - Employee Plans/Exempt Orgs. 65 6-80
Exhibit 7(10)70-5

Examples of Records That Are And Are Not Books Of Account

This list, which is not intended to be exclusive, distinguishes between documents that are books of account and those that are not books of account. Note that books of account include all books of original entry.

Books of Account

General ledger
 General journal
 Accounts receivable ledgers
 Accounts payable ledgers
 Cash disbursements book
 Cash receipts book
 All subsidiary ledgers
 Voucher register
 Check register
 Purchases journal
 Sales journal
 Check books
 Savings account books
 All specialized journals

Not Books of Account

Certificate of Incorporation
 By laws
 Charter
 Checking account information
 held by financial institution
 Minutes of meetings
 Articles of Incorporation
 Publications
 Correspondence
 Tax returns
 Exemption letters
 Records filed with municipal
 and state offices

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Exhibit 7(10)70-6

22,479-25

Pattern Letter P-622

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(To be individually typed on appropriate letterhead)

Pattern Letter P-622 (Rev. 9-80)

No-Change Notification Letter/Pre-Examination Situation: Organization Recognized as Exempt

Person to Contact:

Contact Telephone Number:

In Reply Refer to:

(Salutation)

[The following paragraph should be used in all cases.]

Thank you for replying to our recent request (requests), under section 7605(c) of the Internal Revenue Code, for information about your organization's activities during the period _____.

[The following paragraph should be used when closing a pre-examination inquiry of Form 990-T related to a church.]

We used the information you sent to determine your liability for unrelated business income tax under Code sections 511 through 514. We determine from our review that your Form 990-T, Exempt Organization Business Income Tax Return, correctly reflects your tax liability, and it is therefore accepted as filed.

[The following paragraph should be used if the organization's exempt status was reviewed and not changed.]

We (also) used the information you sent to determine whether you were continuing to meet the requirements for exemption from Federal income tax. We determined from our review that you do continue to qualify as an organization exempt from Federal income tax under Code section 501(c)(3).

[The following paragraph should be used when a written no-change advisory notification is appropriate. This paragraph should be used in addition to the preceding paragraph.]

Although your exempt status under Code section 501(c)(3) remains unchanged, the following activities or operations, if enlarged, may jeopardize your exemption:

[Specify activities.]

[The following paragraphs should be used in all cases.]

If you have any questions, please contact the person whose name and telephone number are shown above.

Thank you for your cooperation.

Sincerely yours,

(Space for Signature)

District Director

P-622 (Rev. 9-80)

MT 7(10)00-77

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22,479-26 Part VII - Employee Plans/Exempt Orgs. 92 2-81
Exhibit 7(10)70-7

Pattern Letter P-623

Pattern Letter P-623

(To be individually typed on appropriate letterhead)

Pattern Letter P-623 (Rev. 5-79)

NO-CHANGE NOTIFICATION LETTER — EXAMINATION SITUATION; ORGANIZATION
 RECOGNIZED AS EXEMPT

Person to Contact:

Contact Telephone Number:

In Reply Refer to:

[Salutation]

We recently examined your books and records for the period
 _____, as authorized by section 7605(c) of the Internal
 Revenue Code.

We determined from our examination that your activities continue to
 meet the requirements of section 501(c)(3) of the Code and that you
 continue to qualify as an organization exempt from Federal income tax
 under that section.

[The following paragraph should be used when a written "no-change
 advisory" notification is appropriate. This paragraph should be used
 in addition to the preceding paragraph.]

Although your exempt status under section 501(c)(3) of the Code
 remains unchanged, the following activities or operations, if enlarged
 may jeopardize your exemption:

If you have any questions, please contact the person whose name and
 telephone number are shown above.

Thank you for your cooperation.

Sincerely yours,

[Space for Signature]

District Director

P-623 (Rev. 5-79)

[The next page is 22,479-29.]

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92 2-81 Examination Procedures
Exhibit 7(10)70-8

22,479-29

Pattern Letter P-624

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(To be individually typed on appropriate letterhead)

Pattern Letter P-624 (Rev. 9-80)

No-Change Notification Letter/Pre-Examination Situation: Organization Not Recognized as Exempt

Person to Contact:

Contact Telephone Number:

In Reply Refer to:

(Salutation)

[The following paragraph should be used in all cases.]

Thank you for replying to our recent request (requests) under section 7605(c) of the Internal Revenue Code, for information about your organization's activities during the period _____.

[The following paragraph should be used when closing a pre-examination inquiry of Form 990-T related to a church.]

We used the information you sent to determine your liability for unrelated business income tax under Code sections 511 through 514. We determined from our review that your Form 990-T, Exempt Organization: Business Income Tax Returns, correctly reflects your tax liability, and it is therefore accepted as filed.

[The following paragraph should be used if the organization's qualification under section 501(c)(3) was considered.]

On reviewing the information you sent, we found that your activities for the period were such that you were not subject to Federal income tax. As you know, churches are not required to file for exemption from Federal income taxes. However, if you want to provide advance assurance of deductibility for your contributors, you may file a Form 1023, Application for Recognition of Exemption. You can get this form from any Internal Revenue Service office.

[The following paragraphs should be used in all cases.]

If you have any questions, please contact the person whose name and telephone number are shown above.

Thank you for your cooperation.

Sincerely yours,

(Place for signature)

District Director

P-624 (Rev. 9-80)

22,479-30 Part VII - Employee Plans/Exempt Orgs. 92 2-81
Exhibit 7(10)70-9

Pattern Letter P-625

Pattern Letter P-625

(To be individually typed on appropriate letterhead)

Pattern Letter P-625 (Rev. 5-79)

**NO-CHANGE NOTIFICATION LETTER — EXAMINATION SITUATION; ORGANIZATION NOT
 RECOGNIZED AS EXEMPT**

Person to Contact:

Contact Telephone Number:

In Reply Refer to:

[Salutation]

We recently examined your books and records for the period
 _____, as authorized by section 7605(c) of the Internal
 Revenue Code.

We determined from our examination that your activities for the
 period were such that you were not subject to Federal income tax. As
 you know, churches are not required to file for exemption from Federal
 income taxes. However, if you want to provide advance assurance of
 deductibility for your contributors, you may file a Form 1023, Application
 for Recognition of Exemption. You can get this form from any Internal
 Revenue Service office.

If you have any questions, please contact the person whose name and
 telephone number are shown above.

Thank you for your cooperation.

Sincerely yours,

[Place for Signature]

District Director

P-625 (Rev. 5-79)

92 2-81 Examination Procedures
Exhibit 7(10)70-10

22,479-31

Pattern Paragraphs P-730

0

Waiver of Pre-examination
Procedure Under I.R.C. 7605(c)

District Director, _____
(District)

Internal Revenue Service

(City) (State)

We _____
(Name of organization)

understand that I.R.C. § 7605(c), section 301.7605-1(c)(2) of the Procedure and Administrative Regulations, and the procedures of the Internal Revenue Service provide, in part, that before deciding whether an examination of the books of account and religious activities of an organization claiming to be a church is necessary, the Internal Revenue Service will attempt to obtain the necessary information by written requests to the organization. The Regional Commissioner, _____ Region, if he/she determines that the information cannot be fully or satisfactorily obtained in that manner, will approve a proposed examination of our books of account and religious activities.

We are fully aware of the pre-examination procedures set forth in I.R.C. § 7605(c), section 301.7605-1(c)(2) of the Procedure and Administrative Regulations, and the procedures of the Internal Revenue Service. We waive these pre-examination procedures and consent to an examination of our books of account and religious activities without prejudice to any other defenses which may arise.

We understand that we may revoke this waiver by notifying the District Director of _____ District in a letter sent by certified mail.

(Name of organization)

By: _____
(Authorized Signature)

(Title) (Date)

[IRM 7(10)80 begins on page 22,479-33.]

The Morningside Baptist Church of Graham, Texas was founded April 4, 1943. Pastor Buford Stockard celebrated his 25th year as pastor of the church in January 1980. They started a Christian school ministry four years ago that now includes all twelve grades.

At no time during its thirty-seven years of existence has anyone questioned whether this church was a church. During these years no government agency has ever interfered with, or expressed any interest in, or concern about, the church or its ministries.

On April 28, 1980, the Internal Revenue Service shattered that record with a certified letter to the church stating that it must produce records to the IRS to *certify its status as a church*. The letter and questionnaire the church received are as follows:

Gentlemen:

In our letter of March 27, 1980 we requested that you reply to a list of questions attached to that letter. [Pastor Stockard says no such letter was received.] We again request that you reply to these questions within 15 days. In passing section 7605(c) of the Internal Revenue Code, Congress intended to require that the Internal Revenue Service try to resolve questions about the tax exempt status of churches and organizations claiming to be churches through written request.

The procedures in section 301.7605(c) of the Procedure and Administration Regulations provide, in part, that before deciding whether an examination of an organization claiming to be a church is necessary, the Service will attempt to obtain the necessary information by written requests to the organization.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

(Signed) A.W. McCanless

The Questionnaire

1. Describe the records maintained by the Church which account for contributions.
2. Does the Church deposit all of its receipts into bank accounts? If so, please list those bank accounts used by the Church.
3. List all contributors to the Church for the years 1977 and 1978 who contributed amounts in excess of \$2,000.00.
4. List all individuals who received compensation or allowances from the Church in excess of \$1,000.00 during the calendar years 1977 and 1978.
5. List all bank accounts, savings accounts, certificate of deposits, or other accounts containing Church funds and the balances thereof as of December 31, 1977. This list should contain the institution, balance, account number and the name of the account.
6. List those individuals authorized to receive contributions for the Church and give statements in the name of the Church confirming the contributions?
7. List the names and addresses of the Church officers and employees. Give the amount of contributions made by these individuals during the calendar year 1977.
8. How many members did the Morningside Baptist Church have as of December 31, 1977?
9. Provide a statement of receipts and expenditures for the calendar year 1977. The statement should be detailed enough to show sources of income and nature of expenditures.
10. List all real property owned by the Church as of December 31, 1977.
11. Does the Morningside Baptist Church of Graham sell or have any association with the sale or distribution of Family Trust literature and/or plans? If so, please provide copies of the literature distributed by the Church.

I.R.S. QUESTIONS TO CHRISTIAN LIBERTY CHURCH

1. All records pertaining to cash receipts and disbursements, including but not limited to, bank accounts, deposit slips, cancelled checks, records of contributions by the above named organization, sales of merchandise, payroll records, and records related to the payment of employment or social security taxes for the period beginning January 1, 1975 through the year ended December 31, 1978.
2. All balance sheets and other statements of financial condition covering the period from January 1, 1975 through the year ended December 31, 1978, including but not limited to those showing the assets and liabilities of the above- named organization.
3. All documents related to the organizational structure of the above-named organization since the original Articles of Incorporation, charter, by-laws were issued, including any amendments made thereto.
4. All correspondence files for the period January 1, 1975 through the year ended December 31, 1978.
5. All records of the names and addresses of persons who are or have been officers, directors, trustees, or ministers of the above-named organization at any time during the period January 1, 1975 through the year ended December 31, 1978.
6. All minutes of any meetings held by the above officers, directors, trustees, or ministers of the above-named organization during the period January 1, 1975 through the year ended December 31, 1978.
7. One sample of each brochure, pamphlet, handout, program or other literature pertaining to the above-named organization.
8. All records reflecting the names of any employees, associates or ministers of the above-named organization, particularly any records reflecting the names of the individuals who have been presented credentials of ministry, certificates of ordination, diplomas, or similar statements of recognition by the above-named organization.
9. All records reflecting the names of any other organizations that have been chartered as churches by the above-named organization or that have been affiliated with the above-named organization at any time during the period January 1, 1975 through the year ended December 31, 1978.
10. Documents reflecting any sacerdotal functions performed by any person representing the above-named organization.
11. All documents reflecting the principles, creeds, precepts, doctrines, practices, and disciplines espoused by the above-named organization.
12. All documents reflecting any prerequisites or actions necessary for membership in or ordination by the above-named organization.

Christian Libery Church

Page Two

13. All documents reflecting any vows of poverty that have been submitted to the above-named organization by any person during the period January 1, 1975 through the year ended December 31, 1978.
14. All documents reflecting any assignment of income to the above-named organization by any person during the period January 1, 1975 through the year ended December 31, 1978.

I.R.S. QUESTIONS TO CALVARY TEMPLE

1. Give the full name of your organization and your Employer Identification Number.
2. Give full address of your organization.
3. Furnish the name, address and telephone numbers of the person to be contacted for information concerning your organization.
4. Give the date that your organization was incorporated or formed. Is it formed under the non-profit corporation act of the State of Georgia?
5. Have you ever filed an application for recognition of exemption with the Internal Revenue Service? If so, please furnish a copy of the application.
6. Submit a conformed copy of your organization's creating instruments, i.e., Articles of Incorporation, Constitution, Articles of Association.
7. Submit a conformed copy of your organization's By-Laws or other rules for its operation.
8. Does your organization file annual information returns (Form 990)?
9. Does your organization file Form 941 to report Federal Insurance Contributions Act (FICA) taxes and income tax withholdings on employees?
10. Does your organization file Form 990T, Exempt Organizations Business Income Tax Return?
11. Does your organization control or is it controlled by any other organization? If so, please give the name of the related organization(s) and explain the relationship.
12. Is your organization financially accountable to any other organization? If so, please explain and identify the other organization(s).
13. Does your organization have a recognized creed and form of worship? If so, please explain in detail.
14. Does your organization impose a formal code of doctrine upon its members? If so, please explain in detail.
15. Does your organization require renunciation of any or all former religious beliefs on the part of your members?
16. Does your organization have a definite and distinct ecclesiastical government? If so, please explain in detail.
17. Does your organization have a distinct religious history? If so, please explain in detail.

Calvary Temple
Page Two

18. Does your organization have a complete organization of ordained ministers (or your equivalent to ministers) ministering to the needs of their congregations? If so, are these ministers (or their equivalents) ordained following prescribed courses of study? In addition, please explain, in detail, education and experience requirements necessary to become one of your ministers and provide a copy of the Certificates of Ordination that have been issued to them.
19. Does your organization have a regular congregation or regular religious services? If so, please give frequency and average attendance. Also, state where these services are held, i.e., a church, a residence, other.
20. Please state how many members your church has to date. Further, have any applicants for membership been rejected and if so, why? Describe membership requirements and attach a current schedule of membership fees and dues.
21. Describe fully the sacerdotal functions your ministers perform and indicate whether they are licensed by the State of Georgia to perform Marriages and other ministerial functions.
22. Does your organization have any Sunday Schools for the religious instruction of the young?
23. Provide a complete list of your officers and directors including a brief resume of their backgrounds, and indicate their functions and responsibilities in your organization.
24. Are meetings held by your governing body? If so, please give frequency. Also, if meetings are held, are minutes kept?
25. Describe fully whether you pay compensation or make any other payments to or for individuals who perform services for your organization. If so, provide a schedule of the persons compensated with the amounts paid each for your most recent accounting year.
26. Please submit sample copies of any pamphlets, brochures, newspaper articles or other publications concerning your organization.
27. Provide copies of all agreements or contracts concerning the sale, use, or purchase of property by your organization.
28. Are any of your organization's properties recognized by your county tax commissioner as being exempt from local property taxes?
29. Provide a list of property owned, rented, or otherwise utilized by your organization and the purpose for which such property is used.
30. Identify those contributors who have given \$500 or more during the most recent accounting year.

Calvary Temple
Page Three

31. Submit a schedule of receipts and expenditures for your most recent accounting year. This schedule should clearly classify your sources of financial support and describe in detail the nature and purpose of your expenditures.

District Director

724-2113

P.O. Box 35045, Jacksonville, Fla 32202

Dunnell - Hallihan's supervisor

Gulf Coast Fellowship
Post Office Box 2271
Pascagoula, Mississippi 39567

724-2173

Person to Contact:
S. Hallihan
Telephone Number
~~(904) 391-2636~~

Wm. Hallihan TRC

354-1760

Refer Reply to:
720-2

(500) 392-8300

Date
March 30, 1979

741-2965

Dunnell
724-2113

CERTIFIED MAIL

Ladies and Gentlemen:

The Internal Revenue Service is charged with the responsibility of administering the laws governing Tax Exempt Organizations.

In order to determine that you meet the organizational and operational requirements for exemption from Federal Income Tax as an organization described in section 501(c)(3) of the Internal Revenue Code, we request that you answer the questions and furnish the information on the attached questionnaire.

This information is being requested in accordance with the procedures specified in Income Tax Regulations 301.7605-1(c)(2). Submission of information in response to this letter does not constitute an examination of your books and records.

Please submit the requested information within thirty days from the date of this letter.

Should you have any questions or desire additional information, please contact the person referred to above.

Your cooperation in this matter will be appreciated.

Sincerely yours,

Charles O. DeWitt
District Director

Enclosure

1. Please furnish the name, address and telephone number of the person to be contacted for information concerning your organization.
2. List the names, addresses, social security numbers, occupations and duties of your officers, directors, trustees, etc.
3. Are meetings held by your governing body? Give frequency.
4. Are minutes kept by your governing body?
5. Please describe the organization's membership requirements and attach a schedule of membership fees and dues.
6. What is the number of members in your organization? Must they renounce membership of all other denominations before they become a member of your organization?
7. Do you keep membership lists?
8. Do you hold religious services? If so, please describe, and furnish a copy of the bulletin if available. Please include the frequency and average attendance. *Count of weekly religious services*
9. Where are these services held, i.e., a regular church building, private residence or other structure?
10. Please submit a detailed description of your present, past and proposed activities.
11. Submit copies of any pamphlets, brochures, newspaper articles or other publications concerning your organization.
12. What are your sources of financial support? List in order of magnitude. Please submit representative copies of solicitations for financial support.
13. Describe the organization's fund-raising program and explain to what extent it has been put into effect. Include details of fund raising activities such as selective mailings, formation of fund-raising committees, use of professional fund raisers, etc.
14. Submit a copy of all leases or contracts to which the organization is a party.
15. Submit a list showing the name of and the amount contributed by each donor who, for the last four years, contributed more than 2% of your total receipts for the period.

16. Please list the names of the five highest paid employees and the amounts paid each.
job requirements + qualifications
17. Do you ordain ministers? If so, please describe all requirements for ordination, and any fees charged. How many individuals have you ordained?
18. Are any of the contributions to your organization earmarked for specific individuals and/or causes? If any, please explain in detail. What records are kept?
19. Please furnish descriptions of all real property belonging to the organization. What use is made of this property? Do any officers/members of the Board of Directors reside on the property? If so, do they pay rent? How much?
20. Please describe all other assets owned by the organization and describe how they are used in connection with the organization's activities.

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 35045, Jacksonville, Fla 32202

Gulf Coast Fellowship Inc.
Post Office Box Z
Mobile, Alabama 36616

Person to Contact:

S. Hallihan
Telephone Number:
(904) 791-2636

Refer Reply to:

720-2

Date:

JUN 05 1979

CERTIFIED MAIL

Ladies and Gentlemen:

On March 30, 1979 you were mailed the enclosed letter and
questionnaire by certified mail. Your correspondence dated
April 30, 1979 did not adequately respond to the questionnaire.
Accordingly, we are enclosing a second questionnaire.

Please submit the requested information to this office by
June 30, 1979.

Should you have any questions or desire additional information, please
contact the person referred to above.

Your cooperation in this matter will be appreciated.

Sincerely yours,



Charles O. DeWitt
District Director

Enclosure
Questionnaire
cc: J. Jephtha Hill
E. Watson Smith

You indicated in your response of April 30, 1979 that each "cell" holds a weekly meeting for Bible study. Do the cells actually hold religious services? If so, how frequently? Please provide copies of church bulletins. *answered 1st time*

2. Please describe in detail any specific requirements for ordination, such as courses of study, degree from a seminary, etc. If you provide your own course(s) of study, please provide a detailed description of the curriculum and materials covered. What length of time is involved?
- ✓3. Are you related to any organizations (other than those covered by the group ruling) -- both not-for-profit and for-profit organizations? If yes, please describe these relationship(s) in detail.
- ✓4. Regarding the tapes and books sold, who holds title to the copyrights on these items - the organization or the individuals? Do you sell these items? Is Integrity Publications a separate organization? Who operates it? Where is it located? Does it operate a regular store? To whom does it sell merchandise? Is it staffed by employees? How are the prices of items sold determined?
- ✓5. Regarding New Wine magazine, is it a separate entity? Is it sold? If so, what is the price and how was it determined? Does it contain any advertising? Please furnish a copy, if available. Regarding the loan to New Wine magazine, what were the terms of the loan?
6. What is the NIV Bible referred to in your response?
7. Are Vernon and Charles Simpson related? If so, what is their relationship? Are any other of the elders related? If so, please elaborate.
- ✓8. Please explain in detail your activity of "pastoral oversight" -- what it entails, etc. What is entailed in the "adjudication of problems" referred to in your response? What control(s) are exercised by the pastors?
9. You did not elaborate on any fundraising and/or solicitation methods employed, as requested in our previous questionnaire. Please furnish copies of any solicitation materials used, brochures, leaflets, etc. If you have none, please so state. *answered 1st time*
10. Regarding the financial statement that you voluntarily furnished, please elaborate on the following:
 - a) You list a category under disbursements of "Properties and Construction" of \$72,734, and a category under administrative expenses of "Designated Properties" of \$37,270. Yet, in your response of April 30, 1979 you

state that you have no assets. If you have no assets, what is this expense for? Please explain. If you do have assets, please describe them and explain what they are used for.

- b) Regarding the disbursement of \$15,296 for "Travel and Miscellaneous", please elaborate on the nature of these expenses.
- c) Please elaborate on the terms of the loans to other ministries.
- d) Please elaborate on the nature of the "Benevolence Offerings" of \$11,196. What was this from? Were these (or any other funds) earmarked for any particular pastors or individuals? *answered 1st time about 2 months ago*
- e) You indicated in your response to our questionnaire that you have no assets. However, on the financial statement you furnished you indicated that you received interest income. What was the source of the interest?
- f) What do you do with your net income (over \$75,000 in 1978)?

Internal Revenue Service

Department of the Treasury

Regional
Commissioner

Southeast Region

P. O. Box 926, Atlanta, Ga. 30301

Gulf Coast Fellowship, Inc.
J. Jephtha Hill and E. Watson Smith
Post Office Box 1988
Mobile, Alabama 36601

Person to Contact:
J. Shaw
Telephone Number:
(205) 254-1131
Refer Reply to:
720-5
Date:
NOV 20 1979

REGISTERED MAIL

Ladies and Gentlemen:

In letters to you dated March 30, 1979, and June 5, 1979, the District Director, Jacksonville District attempted to obtain information necessary to an examination of your organization.

However, the information supplied does not sufficiently answer the inquiries.

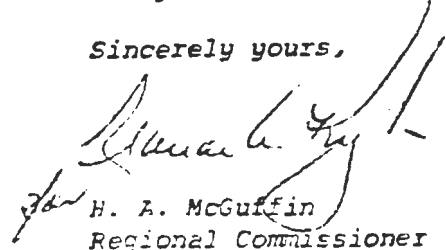
Therefore, in accordance with the procedures set forth in Treasury Regulation 301.7605, I believe it is necessary to examine your books of account and other financial information as well as examine your religious activities. Accordingly, I have authorized the Jacksonville District to make an examination of your books and your religious activities under the provisions of section 7602 and 7605(c) of the Internal Revenue Code. It may also be necessary to examine other records and documents in your possession or control that may be relevant to the inquiries described above, and also determine your compliance with any filing requirements imposed on you by the Code.

For the examination, it will be necessary for you to have available all books, records, papers or other information including, but not limited to: your books of account, bank records, minutes of your meetings, correspondence files and lists of substantial contributors.

An Exempt Organizations Specialist from the Jacksonville District Office will contact you to make an appointment. The initial appointment will not be scheduled before 30 days from the date of this letter.

If you should have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,


H. A. McGuffin
Regional Commissioner

THE WHITE HOUSE

WASHINGTON

January 30, 1981

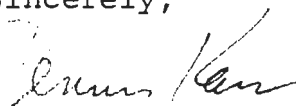
Dear Mr. Coleman:

Thank you for your letter dated January 23, 1981.

I was surprised and concerned to learn of the nature and scope of audit procedures utilized by the IRS in relation to churches. I have forwarded your letter and attached memoranda to the Office of the Secretary of the Department of Treasury. You can be assured that the issues you raised will receive careful consideration.

Thank you for bringing this matter to my attention. Please do not hesitate to call or write if new information becomes available which you believe we should review.

Sincerely,



Dennis M. Kass
Senior Policy Adviser
Office of Policy Development

Mr. P. Michael Coleman
6558 Huntcliff Ct.
Mobile, AL 36608

cc: David Chew
Executive Assistant to the Secretary
Department of Treasury

Assistant Commissioner
(Employee Plans and
Exempt Organizations)

Washington, DC 20224

MAR 17 1981

Mr. P. Michael Coleman
6558 Huntcliff Court
Mobile, AL 36608

Dear Mr. Coleman:

Mr. Dennis Kass of the White House Office of Policy Development has asked me to respond to your letter of January 23, 1981. In your letter you expressed your views concerning the Service's authority to examine churches.

I would like in this letter to discuss the Service's current examination program and some of the problems that we are seeing with organizations that claim to be churches so that you can better understand the need for the Service's efforts in this area.

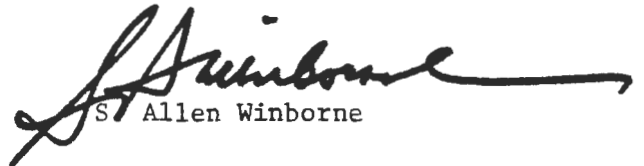
The Service, of course, has a responsibility to determine whether individuals or organizations owe tax and to collect it. Where exempt organizations (including churches) are involved, tax questions are often indicated when substantial assets have been transferred between the organization and its members. Also, in recent years, a number of individuals, some of whom have been affiliated with established churches, have taken advantage of the church format to evade the payment of income taxes. I am sure that you are familiar with a number of these situations since they have received widespread publicity in the media.

Section 7605(c) of the Internal Revenue Code was enacted because the Congress realized that there was a need for the Service to examine churches. At the same time, however, the Congress appreciated the necessity of limiting the Service's involvement in church affairs. For this reason, section 7605(c) requires a Regional Commissioner's approval before the Service can inspect the books of an organization claiming to be a church. In addition, the regulations under 7605(c) require the Service to make written inquiries before asking for the Regional Commissioner's approval. These measures are designed to limit the Service's involvement in church affairs to the minimum necessary to enforce the tax laws.

P. Michael Coleman

I hope that this brief discussion will indicate to you that while the Service is reluctant to examine churches, we have a responsibility to do so where it appears necessary. Further, our actions are restricted by the Congress' requirement of high level review.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "S. Allen Winborne", with a long horizontal flourish extending to the right.

S Allen Winborne

United States Senate

WASHINGTON, D.C. 20510
February 20, 1981

Mr. Mike Coleman
Church Administrator
Gulf Coast Covenant Church, Inc.
P.O. Box Z
Mobile, Alabama 36616


Dear Mr. Coleman:

As per our phone conversation, I have enclosed copies of Senator Denton's letters to Senator Grassley and Senator Dole, Chairman of the Subcommittee on Oversight of the Internal Revenue Service and the Finance Committee, respectively. I believe they are self-explanatory.

If you have any questions, feel free to contact me. My direct phone number is 202/224-6516.

With best regards,

Sincerely yours,


Elaine Wiggins
Legislative Assistant to
Senator Jeremiah Denton

Enclosures

United States Senate

WASHINGTON, D.C. 20510

February 15, 1981

The Honorable Robert J. Dole
Chairman, Committee on Finance
Washington, D.C. 20510

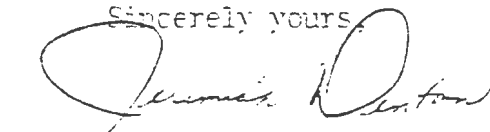
Dear Mr. Chairman:

The purpose of this letter is to request oversight hearings concerning the Internal Revenue Service's policy toward churches. This policy has caused serious concern throughout the United States.

In my state, for example as the enclosed documents will show, the Gulf Coast Covenant Church, Incorporated, of Mobile, Alabama is one case in point. The members of this church have been appalled with the management of their audit by the Internal Revenue Service. It has been suggested that the conduct of the IRS toward the Gulf Coast Covenant Church violated the policy norms set by the Service. I believe this is not an isolated incident, but one that occurs all over the country. Therefore, it is my opinion that this merits further investigation. The possibility of the IRS violating its own regulations, as well as, exceeding the Congressional limit of its powers in this realm of tax-exempt law with regard to churches is not warranted by the American people.

I hope that you will be able to arrange hearings on this serious situation. If you have questions, or need any assistance, please do not hesitate to call.

Sincerely yours,



Jeremiah Denton
U.S.S.

JAD:ew

Enclosures

United States Senate

WASHINGTON, D.C. 20510

February 13, 1981

The Honorable Charles E. Grassley
Chairman, Subcommittee on Oversight of the
Internal Revenue Service
Committee on Finance
Washington, D.C. 20510

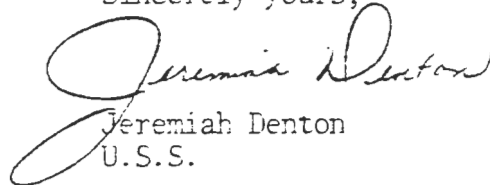
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I hope that you will be able to arrange hearings on this serious situation. If you have questions, or need any assistance, please do not hesitate to call.

Sincerely yours,


Jeremiah Denton
U.S.S.

JAD:ew

Enclosures