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THE TAX LAWYER

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### IRS Approves First Church Of Cannabis. What's Next For Marijuana?

Welcome to the First Church of Cannabis Inc., approved by Indiana's Secretary of State under its controversial Religious Freedom Restoration Act. Even bigger than state law approval, the church has even been [granted tax-exempt status by the IRS](#). Tea Party conservatives evidently had a lot more trouble with their tax exemption applications. The stated intent of the upstart church is "to start a church based on love and understanding with compassion for all."

Bill Levin is the self-described "Minister of Love and Grand Poobah" of the Church. The first church service is set for July 1, 2015. It is no coincidence that July 1 is the day the Indiana Religious Freedom Restoration Act takes effect. The church has a [Facebook page](#) with clever notes like "The Deity Dozen," "Don't be an asshole" and "Do not be a 'troll' on the Internet."

The [Indianapolis Star](#) says [First Church of Cannabis could test](#) the new religious freedom law. And many are probably wondering if the Church of Cannabis is a *real* church. The State of Indiana and the IRS think so. For others, it may depend on how you define a church and how well this fits the pattern. There are some strange court cases that have looked at the question. For example, *U.S. v. Myers*, examined five factors to determine whether a “Church of Marijuana” was authentically religious: ultimate ideas, metaphysical beliefs, a moral system, comprehensiveness of beliefs, and the ‘accoutrements of religion,’ such as important writings, a priesthood, etc.

The Church says that “Cannabis, the ‘healing plant,’ is our sacrament.” Its founder plans to grow hemp. though the church will not buy or sell marijuana. But smoking in church will evidently be permitted. “If someone is smoking in our church, God bless them,” Levin said. “This is a church to show a proper way of life, a loving way to live life. We are called ‘cannataerians.’”

There are many tax advantages of church status and an IRS [determination letter](#). Even compared to other tax-exempt organizations, church status is the crème de la crème. Churches reap a vast array of tax advantages. They even include [special rules limiting IRS authority to audit a church](#). A “church” is not specifically defined in the tax code, but the IRS lays out buzzwords in its [tax guide for churches and religious organizations](#), including these characteristics:

1. Distinct legal existence;
2. Recognized creed and form of worship;
3. Definite and distinct ecclesiastical government;
4. Formal code of doctrine and discipline;
5. Distinct religious history;
6. Membership not associated with any other church or denomination;
7. Organization of ordained ministers;
8. Ordained ministers selected after completing prescribed study;
9. Literature of its own;
10. Established places of worship;
11. Regular congregations;
12. Regular religious services;
13. Sunday schools for religious instruction of the young; and
14. Schools for preparing its members.

The IRS considers all facts and circumstances in assessing whether an organization qualifies. But unlike other exempt organizations, a church need not actually [apply for tax exemption](#). Most

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churches do, but it is technically not required. [The Nonprofit Risk Management Center](#) reports that over one hundred 501(c)(3) organizations lose their tax-exempt status each year. The reasons vary, but the losses of tax-exempt status do suggest that the mere fact that the First Church of Cannabis obtained a tax exemption does not necessarily mean it will keep it forever.

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