



Robert W. Wood

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Sex As A Religion? Ask The IRS

For generations, churches have been exempt from income taxes. What's more, all 50 states and the District of Columbia give them a pass on property taxes. Ever since our founding fathers, it's hands-off for federal income taxes, property taxes and more.

And despite the separation of church and state, the IRS is involved in determining what's a legitimate religion. If you've been following the IRS problems over the last year, you might think the beleaguered tax agency isn't always objective. The norm is for a putative church to ask the IRS for a ruling that it qualifies.

But unlike **other** exempt organizations, a church need not apply for an IRS ruling. See [FAQs About Applying For Tax Exemption](#). A blessed [tax exemption](#) is worth a lot. And it occasionally leads to controversy. For example, the IRS refused to recognize [Scientology](#) as a church for decades.

Then, after multiple years of litigation and administrative harangues, in 1993, the IRS abruptly [ruled](#) Scientology was a church after all. [The New York Times](#) claimed the IRS reversed 30 years of precedent to grant Scientology [Section 501\(c\)\(3\)](#) status. Although the [IRS eventually relented](#) about Scientology, some believe the IRS gave up too easily and



(Photo credit: Wikipedia)

should never have recognized the organization.

Sometimes, though, self-declared churches are hard to take too seriously. Take a spin on religion offered by a group promoting orgies as religious fulfillment. There was established liturgy and dogma—something the IRS likes to see—and it appeared to be written seriously enough.

The organization’s “clergy” hoped it would lead to an IRS ruling that they qualified as a church. From what I could tell though (based solely on **reading** the material), all they did during “services” was engage in wild sex. The dogma said it was supposed to energize their religious “icon” at the center of the room church.

Perhaps it did. Wisely, though, this group decided not to ask the IRS for a ruling. In tax law as in life, don’t ask the question if you can’t stand the answer. Yet the tax treatment of churches is serious business.

People are encouraged to tithe and donate with tax deductions. That encourages churches to grow bigger and wealthier. In debt-ridden and cash-strapped Europe, the Catholic Church is a treasure trove arguably ripe for the tax collector. There has even been talk of taxing such sacred institutions, at least for property taxes.

Much of the discussion leads back to what constitutes a legitimate church. Churches reap a vast array of tax advantages. Among them are special limits on IRS audit powers. See [Special Rules Limiting IRS Authority to Audit a Church](#). With church status being so desirable, how does the IRS police it?

The term “church” is not defined in the tax code. See [IRS Publication 1828, Tax Guide for Churches and Religious Organizations](#). Yet the IRS looks for:

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 generally considers all facts and circumstances in assessing whether an organization qualifies. See [Tax Basics For Exempt Organizations](#). But looking beyond definitions, including re-examining fundamentals like the tax exemption afforded churches, can be liberating. We may have a hard time deciding what is a legitimate church or religion. But if we taxed them, it might be a whole lot less important.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.