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Tea Party Groups--And Others-- Can Beat IRS By Self-Declaring Tax Exemption

To be recognized as tax-exempt, you **ask** the IRS, right? Many [Tea Party groups](#)—and perhaps pro-Israel groups too—were singled them out for extra scrutiny. The whole scandal would never have happened if there wasn't an IRS application process. You apply, face the IRS gauntlet, and hope for the best.



But **must** you apply for a coveted IRS Determination Letter saying your group is tax-exempt? It seems downright heretical to go rogue without an IRS ruling. But, in some cases you **can** be exempt in operation **without** asking.

You can emulate Dorothy in the Wizard of Oz. She always had the power to go back to Kansas. She just clicked her ruby slippers three times saying, “there’s no place like home.” Tax exemption can follow Dorothy’s lead.

Rather than applying to the IRS you just **operate** as exempt. If you are audited, be prepared to prove it. It sounds offbeat, but is looking more attractive these days in some cases.

The bad news? This “self-declaration” isn’t for everyone and is risky. No organization (budding or old) should try it without talking to a tax lawyer with exempt organization experience.

The IRS knows that organizations are doing this, and the IRS is asking questions. As explained in a [Self-Declarers Questionnaire](#), the IRS is looking into organizations claiming tax-exempt status **without** being recognized by the IRS. The IRS has asked over 1,000 self-declared Section (c)(4), (c)(5) and (c)(6) organizations to participate. See [IRS checking 1300 ‘self-declared’ tax-exempt groups](#).

The Tea Party fracas was over 501(c)(4) organizations, but there are many types of exemptions. The “best” are public charities exempt under 501(c)(3). See [IRS Requirements for Exemption](#). That includes churches. Comparing the tax perks of exempt organizations, church status is the crème de la crème.

But do you need a coveted IRS determination letter for a church? All the major religions have them and many small ones too. See [Christian Crusade For Tax Benefits](#). Historically, some of the toughest ruling fights have involved churches. For example, the IRS denied that Scientology was a church for decades.

Then in 1993, the IRS abruptly reversed course and ruled that Scientology is a church after all, settling litigation. [The New York Times](#) cried foul. Now, 20 years later, some claim the IRS should examine Scientology anew. See [IRS vs. Scientology: Here We Go Again](#).

So is self-declaring viable? It depends on the type of organization and on circumstances, but sometimes yes. Still, most organizations are best advised to seek a ruling. The IRS maintains a list of charities. To check particular organizations, use the IRS [Exempt Organizations Select Check](#) online search tool.

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.