

# We Have Only One (true) Church

## What is a Church?

A church is not necessarily a building nor even a congregation. A church is simply a religious establishment consisting of two or more individuals.<sup>1</sup> It can be an artificial entity or what might be called a legal fiction, which anyone, including you, may create or establish. The Church may or may not have buildings, ceremonies, a creed, robes or vestments, there may or may not be original sin, Karma, or anything in particular. You do NOT have to reveal to anyone anything regarding the sum total or substance of the religion, or church which you establish; in effect the only thing you are actually required to “reveal” is the fact that it’s a Church.

How do we know this? We know this because not only does the Living God reveal this to us through diligent study and prayer, but even man’s authorities like the US Supreme Court and other laws tell us so. In this paper we will find that even the US Tax Code, which many would think would be the *last* place one would look, absolutely supports our studies.

In the U.S. Supreme Court decision considering the case of **Everson vs. Board of Education**, 330 US 203, 91 LEd 2nd 711, the Court held that:

*“The ‘establishment of religion’ of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can it pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can it force or influence a person to go to or to remain away from a church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs for church attendance or nonattendance.”*

In Title 26 of the United States Code (which is the US Tax Code) and the Income Tax Regulations, in the June 26, 1977 Edition, published by Commerce Clearing

House, in Section 1.511-2 (ii) vol. 1 page 33, 471-42; and in *The Law of Tax Exempt Organizations* by Bruce Hopkins — published by Lerner Law Book Co. 1977 (p. 107) state the following:

The term “church” includes a religious order to a religious organization if such order or organization (a) is an integral part of a church, and (b) is engaged in carrying out the functions of a church, whether as a civil law corporation or otherwise.

(Note the “or **otherwise**;” right there we find that one does **NOT** have to incorporate and thus become a creature of the State.) However, the option does remain, for the Church to incorporate, but as you continue to read this paper, it will likely become clear to you that incorporating has some serious drawbacks; it is, in the opinion of this writer that by incorporating a church, you are telling the I.R.S. and the Federal government that it is **NOT** a church! However there are advantages and disadvantages to both sides of this question.

One item of interest is the position taken by the State<sup>2</sup> on the rights of incorporated entities. The Official I.R.S. Audit Guide in section 242.31, addressing corporation books and records states: *The privilege<sup>3</sup> against self incrimination under the Fifth Amendment does not apply to corporations.* The theory for this is that the State, having created the corporation has reserved the power to inquire into its activities. Now, if we truly subscribe to the doctrine of “Separation of Church and State”, we should sincerely give this matter our full attention. If we incorporate, we give up a Right and become controlled, at least to a degree by the state. If we remain unincorporated, we retain all of our rights under the Bill of Rights (i.e. the first ten amendments to the Constitution for the united States of America). The final resolution of this matter should be taken up jointly with competent legal advisors. We, the authors, elect to remain unincorporated.

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<sup>1</sup> For where two or three are gathered together in my name, there am I in the midst of them. – Matt 18:20 (KJV)

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<sup>2</sup> The word “state” is often used as a generic term for government at one or more levels including the national level.

<sup>3</sup> “privilege” is their word, not mine.

In summary, under the above tax code regulation (1.511-2 (ii)), a “church” is an organization, the “duties” of which include the ministrations of sacerdotal, (i.e. priestly) functions and the conduct of religious worship.

The existence of these elements depends on the “tenets” and practices of a particular religious body. A church may also include a religious order or other organization which is an “integral part” of a church and is engaged in carrying out the functions of a church.

In the 9th US District Court decision in consideration of **The Universal Life Church, Inc. vs. United States** 372 F. Supp, 770, 776 (E.D. Cal 1974) the court held that:

*“Neither this Court, nor any branch of this Government, will consider the merits or fallacies of a religion, nor will the Court compare the beliefs, dogmas, and practices of a newly organized religion with those of an older, more established religion, nor will the Court praise or condemn a religion, however excellent or fanatical or preposterous it may seem. Were the Court to do so, it would impinge upon the guarantee of the First Amendment.”* (See “Law of Tax Exempt Organizations” by Bruce Hopkins - Published by Lerner Book Co. 1988 pg. 110, in your local law library.)

From the above, we can at least say this: “Under the Constitution for The united States of America, we as Citizens enjoy the right of freedom **from** religion, that is, state defined religion.” (See **Abington School District vs. Schempp** 374 U.S. 203 1963).

From these court rulings we may rightfully conclude that any claim to church status cannot be subjected to ANY evaluative criteria or government standards, as such action would tend to prescribe the form and content of religious beliefs and practices. Also, whatever rights, privileges and exemptions or immunities are granted to ANY church, or religion, are also and must be, on the same basis and to the same extent, granted to ALL Churches or religions. If the state is granted the right to regulate or control an organization, say a Church you establish, by force of law, it would seem evident that the government would then be directly involved in the management and control and establishment of religion and religious criteria – in direct conflict with the SUPREME LAW OF THE LAND.

Since we know that government involvement in such activities is forbidden by the Constitution and by standing Supreme Court case law, it would seem to be prima facie evident that an “INCORPORATED CHURCH” is in fact, not a church at all. For by the very act of requesting incorporated status from the government, you have declared the entity to be something other than a church!

## **Religious Freedom - A Natural Right**

The first article of the Bill of Rights reads as follows:

“Congress shall make **NO LAW** respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievance.”

The fourteenth amendment to the Constitution for the united States of America reads as follows:

“All persons born or naturalized in the United states, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

We do not seek protection under the fourteenth amendment: we demand that the states conform to federal law and the US Constitution by way of the fourteenth amendment. We have, as stated above, the **natural right** to freedom, “from” religion. No law **FOR, AGAINST** or **OTHERWISE** can ever be made with regard to the Church, as it exists under the Supreme Law of the land, that is to say: within a LEGAL NULL.

There is **NO LAW AT ALL** respecting an establishment of religion or the free exercise thereof. The rights spoken of here in the first amendment and in the following nine amendments (i.e. the Bill of Rights) are personal rights granted to us by our Creator and secured to us by the blood, sweat, tears and fortunes of our founding fathers and the sacrifice of human life – our ancestors. These rights, however, **ARE NOT GIVEN**

TO US BY THE CONSTITUTION; they are not there for the benefit of government; they are not there for the courts to argue about the extent of, or the granting of, or the restraining thereof. These are rights which are ours **INHERENTLY**, they are our **BIRTHRIGHT** as Americans!

From the Declaration of Independence we see:

**"We hold these truths to be self evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights..."**

The Constitution after all, is only a written commandment to government that We The People have our unalienable rights and that government must never ever tread upon them. This is the law. This is the law of our land, our one nation and the 50 sovereign nations (states) and as the Supreme Court for the United States has repeated held: **THE CONSTITUTION IS THE SUPREME LAW** of the land.

The Supreme Court, in this binding ruling, holds the following opinion:

*"Any law opposed to the constitution of the United States is as if it were NO LAW AT ALL!"*

This doctrine is so important that we have reprinted below the fullness of the text from 16 American Jurisprudence (AmJur) 2nd, page 177 which states:

*"The general rule is...that an unconstitutional statute, though having the form and name of law, is in reality NO LAW, but is wholly void, and ineffective for any purpose, since unconstitutionality dates from the time of its enactment and not merely from the date of the decision so branding it an unconstitutional law. In legal contemplation, it is as inoperative as if it had never been passed. Since an unconstitutional law is void, the general principle follows that it imposes no duties, confers no rights, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it. A contract which rests on an unconstitutional statute creates no obligation to be impaired by subsequent legislation. A void act cannot be legally inconsistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law. Indeed, insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby. Since an unconstitutional statute cannot repeal or in any way affect an existing one, if a*

*repealing statute is unconstitutional, the statute which it attempts to repeal remains in full force and effect. The general principles stated above apply to the constitution as well as the laws of the several states insofar as they are repugnant to the Constitution and the Laws of the United States. Moreover, a constitutional law will nullify an unconstitutional one as effectually as if it had, in express terms been enacted in direct conflict therein."*

In every state constitution we have examined we find where the people of that land made an absolute, irrevocable, completely and total **reservation of sovereignty**. For example here in Oregon at Article 1 Section 1 of our Constitution we find the following words, words which have never been altered, modified, repealed or amended:

*"Natural rights inherent in people. We declare that all men, when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper."*

**ALL POWER** is inherent in the people.... and that have **AT ALL TIMES** the **RIGHT** to **alter, reform or abolish the government** in such manner as they may think proper!!

Check you state's Constitution, we believe that you will find similar words there too. These words constitute a 100 percent reservation of sovereignty, and the people had that right because their sovereignty comes from Our Heavenly Father who is the only true sovereign in the universe and what he has given to us, man cannot take away, and furthermore, man, *even sovereign man* CANNOT GIVE AWAY. What has once been dedicated to God's purposes can never be discarded, traded, sold, or in any other way diminished. So we see that when We The People commissioned those articles such as the First Article of the Bill of Rights and declared that CONGRESS SHALL MAKE NO LAW, we really meant it.

It is established by the Supreme Law of the land, that NO LAW for, because of, against, or otherwise, is possible regarding religion. **No Law Is No Law at All!** No law does not mean, "If you sign here, we will grant you tax exempt status." No law does not mean that, "If you follow our rules you won't have to pay income tax." No law does not mean that, "If you preach on political

issues we will shut you down.” No law does not mean that if you fail to file an information return, we will shut you down.

No law means NO LAW AT ALL! The Church exists in a legal null, provided for and protected by the Supreme law of the land, the Constitution **FOR** the United States of America.

Are you beginning to see why we make the statement that an incorporated “church” may not be a church after all? For if a church, a real church can exist under the governmental authority of section 501(c)(3), the government could not attempt to control or regulate its activities, but since they do, they must have reason to believe that a 501(c)(3) “exempt organization” is not a church. Lets explore this concept.

## **Exempt Organizations vs True Churches**

There is an ancient maxim of law which is so old that its origins are literally lost in antiquity. But expressed in modern English it goes like this:

**It does not matter what you call a thing; it is the use to which it is put which determines its status at law.**

This “law” has been expressed in a thousand different ways over the centuries. Even philosophers and poets have had their go at it; Shakespeare once penned, “That which we call a rose, By any other name would smell as sweet.” This was his way of expressing the same universal truth: that it really does not matter what something is called. What matters is what you do with it (the use to which it is put).

And the same is true for something “called” a Church. Simply because the word “church” appears in the official title, does that make it a Church? From what we’ve learned so far, we’d have to say no it doesn’t. And regardless of whether the men and women who worship there or preach there do God’s good works, man’s law has a place and time for application, even with a Church, or a “church.” [Remember therefore, to render unto Caesar the things which are Caesar’s and unto God the things that are God’s]. Good works by

themselves will not overcome a failure to understand and conform to the law, be it God’s or man’s.

For an example, we can look at the legendary Robin Hood of Sherwood Forest. He did good works for the poor by robbing the rich and stealing from the government thieves. Problem is, he was still a highwayman and thief. Sure, legend dresses up the deeds in the cloak of righteousness, but theft is theft and even ignorance of the law is no excuse, regardless of whether your judge is the Almighty or someone in a black-robe seated at a bench.

Now, if we were to find that a real Church, a true Church, was really exempt from taxation and that Congress had actually obeyed the Constitution and had failed to write a law about Churches, (which would be in perfect harmony with the First Amendment which says that Congress shall write no law) – if we were to find that there really was no law, but that we had acted to the government as if there was a law; would our actions speak louder than the words in the name our of “church?”

You bet: there are always consequences to your actions, even those taken in ignorance of the law. Let’s continue our study.

The first question is:

### **Is the Church an organization which is listed as tax exempt in Title 26 of the United States Codes (26 U.S.C.)? <sup>4</sup>**

Title 26 is the LAW which Congress has passed so it is primary insofar as statutory law is concerned, however the Constitution for the united States of America is still **the SUPREME LAW OF THE LAND**<sup>5</sup>. The regulations expound what the I.R.S. has held concerning

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<sup>4</sup> Title 26 U.S.C. is the “tax code” or the Internal Revenue Code (I.R.C.).

<sup>5</sup> **Supremacy Clause:** Article VI, Clause 2, Constitution for the united States of America. *“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding”.*

the Code taking into consideration court cases, rulings, etc.

26 U.S.C. Section [“section” hereinafter shown by the symbol “§”, ed.] 501(c)(3) – List of exempt organizations, foundations and established organizations, organized and operated exclusively for religious purposes [the church, ed]. RESTRICTIONS – No part of the net earnings of which issues to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in and political campaign on behalf of any candidate for public office (including the publishing or distributing of statements).

REGULATION: 26 C.F.R. 1.501(a)-1: Exemption from taxation section 501(a) provides an exemption from income taxes for organization which are described in section 501(c) of the code.

We see from the above information that the church exists as an exempt organization under the laws of the United States of America. It is the CHURCH, and not the person or individuals who establish it which are exempt.

But wait, this is a law, and pursuant to the Constitution, Congress is forbidden to make a law defining churches and religion. So under the **NO LAW** concept of the First Amendment of the Constitution for the united States of America, is Congress legislating for the One True Church, or is it some other entity which just conveniently happens to be called a “church?” In other words, is there any requirement by law for our true church to make application for recognition of Exempt status? And if not, can we find this concept express outside of the NO LAW restriction placed on government by our Constitution?

IR Code section (**26 U.S.C. §508**) gives us the answer. §508(a) says that new organizations must notify the Secretary that they are applying for recognition of §501(c)(3) status **EXCEPT** as provided in subsection (c). §508(c)(1)(A) states: Exceptions - mandatory exceptions - ***subsection (a) shall not apply to: (A) Churches, their integrated auxiliaries, and conventions or associations of churches....***

aahhh... Did you catch the key phrase there; “**mandatory exceptions**,” go look up the code for yourself now that you know where to look and see just

how the government has tricked the “churches” in this land into giving up their rights as “exempt organizations.” Think about the word “mandatory” for a minute and then ask yourself what you think Congress meant when they wrote the law which says, “**Exceptions – mandatory exceptions....**”

So far we have learned that under the **NO LAW** precept of the Constitution’s First Amendment that the Church is exempt by right and does not have to petition any government agency for recognition of exempt status. In addition, as stated in the above law, churches are ***mandatorily*** exempt from the need to apply for “status” and in the regulation which enforces that section of the law, **26 C.F.R. 1.508-1(a)(4)** we see that the church is exempt whether it files said notice or not. Of course a question arises and that is whether the Church must file a return or not. Another question is, if a “church” did apply for tax exempt status in spite of the command to not do so, is it still a Church, or has its status at law been determined by what it has done; i.e., applied for status as a “tax exempt corporation?”

First, regarding the requirement to file: Section 6033 of the IR Code at subsection (a) states that exempt religious organizations need not file returns of any kind. **26 U.S.C. §6033(a)(2)(A)** Mandatory Exception - Paragraph (1) shall not apply to (I) ***CHURCHES!*** **26 U.S.C. §6033(a)(2)(A)(I)** provides for mandatory exceptions to filing requirements for religious organizations and states that filing requirements shall not apply to “churches”, their integrated auxiliaries, and conventions or associations of churches. **26 U.S.C. §6033(a)(2)(A)(iii)** exempts as well, “***the exclusive religious activities of any religious order***”.

Again, the code has specifically used the phrase “mandatory exceptions” when referring to churches and religious organizations. And it is worth while pointing out, that the phrase “mandatory exception” is only ever used in the entirety of the tax code and its regulations with regards to Churches. No other form of gathering of people for a purpose is **MANDATORILY EXEMPT** except for our one true Church.

## **THE LAW OF UNINTENDED CONSEQUENCES**

Often times, even when we want to do right, our ignorance of the operation of the law (again, either

God's or man's) causes something bad to happen to us. This natural law is known as the law of unintended consequences – and the bad hurts just as bad as if we set out to do wrong from the beginning. This is also the origin of the maxim of law which we all know: “Ignorance of the law is no excuse.” You see there are ALWAYS consequences for our actions, and even our inactions. Knowledge of the law is the only way by which we can even attempt to judge what those consequences might be, or how severe their impact might be on our lives. I would venture to say that this is one of the primary reasons why we should study the Bible: it is our first, last and foremost book of law.

### **So what about the organization which happens to file a request for §501(c)(3) “exempt organization” status?**

**When you file for tax exempt status, you are, by your voluntary actions declaring your “church” to be an entity other than one which is mandatorily exempted: A TRUE CHURCH! You may not like this statement, but there is no way out of the clear and unambiguous language of the law: If you are really a Church, you cannot file for tax exempt status (mandatorily exempt), and you cannot file a tax return, (again, mandatorily exempt). By simple logic then, if you do file, you are telling the government that you are going to use the identifier “church” but that you are not Our One True Church, but are instead just another one of thousands of tax exempt corporations.**

Therefore, if you do file for exempt status under section 501(c)(3) of the tax code, you have told the government to obey the law, both the ancient maxim of law and their current code, and to disregard the word Church in your organization's name, because you are not a true Church, but just another one of thousands and thousands of tax exempt corporations like the Boy Scouts, Goodwill, The Ford Foundation, and Gay Rights.

What the law reveals clearly is that under section 6033 of the IR Code, your church or religious order has complete immunity to disclosure. It is not necessary for it to maintain records of any kind except for its own purpose and reasons, and if it does keep records it is not obligated to divulge the contents thereof to anyone.

It is proper to note here that the United States Supreme Court has ruled many times that agencies, including the

Internal Revenue Service must write regulations for the individual laws (sections) which Congress enacts; that without such regulations, the law (or section) has no effect. This is because the law is often general in nature and the agency must find the method and write down the methodology by which the general nature of the law is brought into specific effect for a specific taxpayer or tax event. With that said we note the following regulations:

**26 C.F.R. 1.6033-1(g)(1)(I)**<sup>6</sup> - Annual returns are not required to be filed by an organization described in section §501(c)(3), which has established its right to exemption from taxation under §501(a) and which is additionally described as being exempt from the reporting or even the recognition requirements existing in §501(c)(3) [*remember: every organization described in §501(c)(3) is also in §501(a), ed.*].

The foregoing portion of the regulation is legalese for Churches must NOT file a return – because the organization which is “additionally described as being exempt fro the reporting or even the recognition requirements” is YOUR CHURCH. Is that clear enough?

Once again we see that Congress knows the meaning and power of the First Article in the Bill of Rights appended to the Constitution for the united States. And congress continues to remain true to it. The First Article says, “*Congress shall make no law respecting the establishment of a religion.*”... and they have **NO LAW** whatsoever. We are sure that you can now see how you can establish your church and operate your organization without any liability owing to any agency (as far as establishment of recognition of exempt status is concerned) as well as how you are also legally exempted for filing any tax return with any government agency for any reason.

### **NO LAW MEANS JUST THAT: NO LAW!**

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<sup>6</sup> (g) Organizations not required to file annual returns. (1) (I) Annual returns on Form 990-A or Form 990-A (SF) are not required to be filed by an organization described in section §501(c)(3) which has established its right to exemption from taxation under section §501(a) and which is: (a) Organized and operated exclusively for religious purposes;...

Without going into detail we feel it important to mention that should you establish a church or participate in one, and at a later date, for any reason you wish to dissolve the church or your relationship with it, it is absolutely **not** required for you to notify the government of this change in status.

The I.R.S. has a form for the purpose of liquidation, dissolution termination or substantial contraction of an organization exempt or formerly exempt under section §501(a). The Church is in 501(c)(3) and every organization in (c) is also in (a). The number of this form is 966-E and you will find in the instructions for this form that the Church, its integrated auxiliaries and or conventions or associations of churches are exempt from filing this form too.

We have now learned the true import of filing a form which the government and the I.R.S. has specifically told you that you don't have to file – and doing so does not bode well for a Church! Generally speaking it means that you are indirectly informing the government that it is your belief that you **ARE REQUIRED** to file and therefore are NOT the exempt organization you thought you were. In footnotes below,<sup>7</sup> you will find a

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<sup>7</sup> **Unity School of Christianity**, 4 B.T.A. 61, 70 (1926). “Religion is not confined to a sect or a ritual. The symbols of a religion to one are an anathema to another. What one may regard as charity another may scorn as foolish waste. And even education is today not free from divergence of view as to its validity.”

**Universal Life Church, Inc. vs United States**, 372 F. Supp. 770, 776 (E.D. Cal 1974). Judge Brattin for the Eastern District of California states: “Neither this court nor any branch of this government will consider the merits or fallacies of a religion. Nor will the court compare the beliefs, dogmas, and practices of a newly organized religion with those of an older, more established religion. Nor will the court praise or condemn a religion, however excellent or fanatical or preposterous it may seem. Were the court to do so, it would impinge upon the guarantee of the First Amendment.”

In **United States vs Seeger**, 380 U.S. 163 (Supreme Court 1965) we find the court addressing the concept of God and religion and holding that the test of belief in God (they used the words supreme being) is whether a given belief that is sincere and meaningfully occupies a place in the life of its possessor, parallel to that filled by the orthodox belief in God of one who is clearly religious. Assuming the holding of the  
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few court cases cited which are pertinent to this discussion and which will show you that what we are saying herein is completely upheld by the courts, and that the courts have looked at the issues of what is religion, what ordained means, and so-forth in some considerable detail. The result of these decisions is to clearly uphold the **NO LAW** concept we have been discussing. Hold in mind that these are only a FEW of the court cases applicable to this issue.

As you can see, ordinary people like you and I can read, clearly comprehend and discuss the law and rulings that apply to us; it doesn't take an attorney to do this. The

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<sup>7</sup> (...continued)

court is valid in the above cases, then it necessarily follows that any lawful means of formally observing the tenets of faith of any religious body is “worship” within the meaning of the tax exemption provisions.

In the case of **Fellowship of Humanity vs. Alameda County**, 153 Cal. A. 2nd 673, 315 p. 2nd 394 (1957), the court held that: “The terms ‘religion’ or ‘religious’ in tax exemption laws should not include any reference to whether the beliefs involved are theistic or non theistic. Religion simply includes (1) a belief, not necessarily referring to supernatural powers; (2) a cult, involving a gregarious association openly expressing the belief; (3) a system of moral practice directly resulting from an adherence to the belief; and (4) an organization within the cult designed to observe the tenets of belief. The content of the belief is of no moment.”

In **Kibbe vs. Antram**, 4 Conn. 134, 139, we see that to “ordain” is to vest with authority - ministerial function - sacerdotal power. Also from this case it is established that “the ordination” of a clergyman remains even after his separation from a church of which he once had charge, and his spiritual authority continues, although he is not settled over a particular congregation.

In **Buttecali vs. U.S.C.A.**, Texas, 130 F.2nd 172, 174, the following rationale is stated: “Generally a duly ‘ordained minister’ is one who has followed a prescribed course of study of religious principles, has been consecrated to the service of living and teaching that religion through an ordination ceremony under the auspices of an established church, has been commissioned by that church as its minister in the service of GOD and generally is subject to control or discipline by a council of the church.”

In **Ruggles vs. Kimball**, 12 Mass, 337, 338 it states: “The minister may be installed over some particular society, either incorporated or unincorporated.”

“trick” is to know where to look to find these legal gems.

From our study of the law and what we inherently know about our rights as creations of our God, we can see, and understand, and KNOW that what is defined as “religious,” and what is defined as “religion” depends upon a person’s personal belief system, and not upon any organized or official stand. An individual’s concept of the “Supreme Being” cannot be subjected to evaluative criteria, as long as it is sincere, meaningful and occupies a place in your life equal to that concept of God which a person of an orthodox persuasion might hold. If you are going to be a minister it would be well for you to learn and become competent. *“Study, to show yourself approved unto God, a workman that needeth not be ashamed,”* (II Timothy 2:15).

Also from our study of the law it is abundantly clear that an ordination is only a recognition by some religious society, such as your congregation which publicly proclaims that the said individual to be vested with spiritual authority, ***a right which that individual had prior to public proclamation.*** If, after once having been ordained, a minister leaves his church and congregation, his ministerial authority does NOT cease, even though he is no longer physically tied to that initial religious body (church). Generally, most ministers have studied and are under the authority of some governing body.

Whether the church is incorporated or unincorporated, the state has no authority whatsoever in the internal affairs of the church. And finally, the form of the ordination and the ceremony thereof means very little when we take into consideration all the other religious organizations in the United States – the rights of one religious body are considered just as credible as any other religious body.

The law requires every taxpayer to maintain records that will enable him to complete an accurate and complete return (see I.R.S. publication 334, 552 and 583). However, the church is a tax exempt organization by right and is not considered to be a taxpayer even though it operates as a separate legal entity which can buy, sell, rent, own real property, do any and all kinds of business as well as sue and be sued just like a natural man or woman. The church operates generally on an exempt basis. This means exempt for property tax (some states have a qualifying procedure, so you must check with

your local county tax assessor), this means exempt from state sales tax and state income tax in most cases.

You should check with your individual state taxing authority, as this also varies from state to state. The church is exempt for Federal Withholding, FICA and FUTA taxes for its ministers (see I.R.S. Publication 15 Circular E), it is exempt from Retail Federal Excise Tax and finally, it is exempt from Federal Income Tax on its exempt purposes (see I.R.S. publication 598).

In Title **26 U.S.C. §6033** and specifically at §6033(a)(2)(A)(I) we find that the “church” is mandatorily excepted from filing an annual Federal Tax return (that is form 990-A), which **ALL OTHER** §501(c)(3) organizations are required to file. This does not, however, apply to the “unrelated trade or business” of a church (see the IR Regulation for section 6033 of the code: 1.6033-1 specifically at 1.6033-1(I)(1).)

Ok, so where does all this lead? In simple words, where are we?

From the foregoing we may conclude the following:

1. That churches **may or may not** keep permanent books and records, the choice is their’s, and is not mandated by statute (government).
2. These records may included records and inventories sufficient to show specifically the items of (A) **Income**, or (B) **Receipts** (Contributions, gifts, etc.), (C) **Disbursements** (expenses). If the church is involved in unrelated (to church activities) business or trade, it must keep permanent books and records relating specifically to the unrelated trade or business.
3. A church is not required to file, but it could file a tax return, but if it does, it is not the True Church, but becomes a mere tax exempt corporation.
4. A church is mandatorily exempt from seeking §501(c)(3) status and that means that IT MUST NOT!
5. That if Church does seek §501(c)(3) status, it will be publicly declaring itself to NOT BE A CHURCH.

Section 6033 of the IR Code specifically exempts religious organizations from the need for filing returns of any kind. At 6033(a)(2)(A)(I) the law provides for mandatory exceptions to filing requirements for religious organizations, and states that **filing**



**requirements shall not apply to “churches, their integrated auxiliaries, and conventions, or associations of churches.”** Section 6033(a)(2)(A)(iii) continues the exemption further: “the exclusively religious activities of any religious order.”

What this means in plain language is that Section 6033 of the IR Code provides you with complete immunity to disclosure. It is not necessary for you to maintain records of any kind except for your own purposes and reasons, and these records are not subject to examination by the I.R.S.

This meaning is crucial to your activities – so spend a bit of time right now thinking about this and understanding it. It is your absolute defense against any allegation that you failed to keep records.

Section 107 of the code tells us that in the case of a minister of the gospel, **gross income does NOT include:** 1) the rental value of a home furnished to him as part of his compensation: or 2) the rental allowance paid to him as part of his compensation, to the **extent used by him to rent or provide a home.** This means that in order to qualify for the exclusion, the home or rental allowance must be provided as remuneration for services which are ordinarily the duties of a minister of the gospel. The rental allowance may be used for the rent of a home, the purchase of a home, **and for expenses directly related to providing a home.** Expenses for food and servants are not considered for this purpose to be directly related to providing a home.

Remember, in this paper, we are only addressing the tax exempt status of the Church, and not whether individuals have a tax status or filing requirements.

Section 3401(a)(9) of the IR Code provides that the **definition of the term “wages” for tax withholding purposes does not include remuneration paid** for “services performed by a duly ordained commissioned or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; etc.” For all statutes to be enforceable by the I.R.S. they must have written and properly promulgated a corresponding regulation.

The regulation for this statute is 31.3401 and at subsection (a)(9)-1 it states: “Service performed by a member of a religious order in the exercise of duties

required by such order includes all duties required of the member by the order. The nature or extent of such service is **IMMATERIAL**<sup>8</sup> so long as it is a service that the minister is directed or required to perform by the ecclesia.<sup>9</sup>

Be sure you understand the word “immaterial”. A member of a religious order could be required to be a legal advisor to the poor and downtrodden, a bank president, an advisor to some politician, a judge, a pilot, or whatever: the nature or extent of such service is immaterial!

Section 1402 of the IR Code at subsection (c)(4) provides that “the performance of a service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a “religious order” in the exercise of duties required by such order”, **is not considered a “trade or business” when used with reference to self-employment or net earnings from self-employment.**

This clearly means then that an auto mechanic, gardener or medial doctor may be self-employed. If the religious order of which one is a minister **directs one** to undertake studies in one’s field of training or expertise as a “self-employed” person, then **any income received is not taxable as income from a “trade or business.”** I.R.S. Publication 15 “CIRCULAR E – EMPLOYER’S TAX GUIDE” states that “Members of religious orders who have taken a vow of poverty **performing duties required by the order**” are exempt from “income tax withholding” and from “social security.”

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<sup>8</sup> **Immaterial:** Not material, essential, or necessary; not important or pertinent; not decisive; of no substantial consequence; without weight. *Black’s Law Dictionary, 6th edition, pg 749*

<sup>9</sup> **Ecclesia:** The term, *ecclesia*, is defined in Black’s Law Dictionary, 5th edition, page 459, as: “An assembly. A Christian assembly; a church. A place of religious worship. In the law, generally, the word is used to denote a place of religious worship, and sometimes a parsonage.” However, the word “church” more correctly refers to the assembly of worshipers who have been “called out,” see STRONG’S number 1577 (Greek) for Church. Thus *ecclesia* means the assembly, the place, and the property that is involved in the worship of God.

Section 1402(e) of the code **exempts** “a member of a religious order who has taken a vow of poverty as a member of such order” from taxes under the Federal Insurance Contributions (sic) Act i.e. FICA or social security. **There is no requirement that you file for this exemption from social security tax.** The exemption is automatic when you are a member of a religious order, who has taken a vow of poverty as a member of your order.

**UNDER THE FUNDAMENTAL LAW of the LAND,** rights, privileges or immunities granted any church or religious order must be, on the same basis and to the same extent, granted to all churches or religious orders. If members of your church or religious order are being discriminated against or are being **denied their rights under the U.S. Constitution then you have just cause for prosecution.**<sup>10</sup>

The keys to being successful, be it at golf, work, the law or tax planning, is practice and knowledge. Establishing a church as an Unincorporated religious society headed by a corporation sole which is NOT a state creation will take some study and effort. But the results are really worth it for those whose religious convictions and faith take them in this direction. For those relatively rare individuals who set out to establish a corporation sole as the head of their church, will have achieved one of the most truly awesome asset protection devices ever created: because it is founded on the rock under the direct authority of God.

A trust is also very powerful in this regard, and so is a limited partnership, but a corporation sole is even better; after all, in a trust, other men hold title in trust of the property, but in a corporation sole, Our Heavenly Father, through his blessings on your church holds title: what government or creditor is going to be able to successfully challenge Him!

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<sup>10</sup> For prosecuting violations and deprivations of rights secured by the Constitution for the united States of America, contact **RealLegal**, or other organizations dedicated to providing legal educational materials.