

PRIVATE RULING 8833001; 1988 PRL LEXIS 1594

PRIVATE RULING 8833001

INTERNAL REVENUE SERVICE NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

"This document may not be used or cited as precedent. Section 6110(j)(3) of the Internal Revenue Code."

SECTION 0501

Exemption From Tax on Corporations, Certain Trusts, etc.

-- Religious, Charitable, etc., Institutions and Community Chest

-- Religious Organizations

0501-0320

PRIVATE RULING 8833001; 1988 PRL LEXIS 1594

DATE: May 2, 1988

Issues

1. Whether the applicant qualifies as a **church** within the meaning of [section 170\(b\)\(1\)\(A\)\(i\) of the Internal Revenue Code](#).

2. Whether the applicant qualifies for recognition of exemption under section 501(c)(3) as a **church**, religious organization, educational organization or on any other basis.

Facts

This organization filed Form 1023 within 15-months after incorporation as required by [section 508\(a\) of the Internal Revenue Code](#), seeking recognition of exemption as a **church** under section 501(c)(3) and 170(b)(1)(A)(i).

The organization's purpose as stated in its articles of incorporation as require dby [section 508\(a\) of the Internal Revenue Code](#), seeking recognition of exemption as a **church** under sections 501(c)(3) and 170(b)(1)(A)(i).

The organization's purpose as stated in its articles of incorporation and its bylaws is to "establish an ecumenical **church** to help people learn to pay attention, wake up, and discover what both Christ and Buddha referred to as one's true self." The organization was established to develop an ecumenical form of religious practice, place greater significance on the modes of religious expression that would uify western and eastern [modes of religious practice, place greater significance on the mystical or interior eexperience of religious truth than that of most western church denominations, and be more spiritually satisfying to members than other existing church organizations](#).

The organization asssets that while it is a **church**, it teaches a way of life rather than a religion. It defines religion as a belief system or a set of ideas about reality, whereas a way of life is how one lives from moment to moment.

The organization began in 1984 with between eight and twenty people meeting informally in private homes to meditate and to discuss religious issues. In June, 1986, the organization's current Director, who also owns a local construction company, completed a new office building in which he included an "attention room" for use as a **church** facility. From June, 1986 to September, 1986, the group held weekly Sunday afternoon meetings in the attention room during which members participated in attention practice, followed by religious discussion and a social hour.

In September, 1986, the group decided to organize itself formally as a **church**. The present Director agreed to incorporate the organization and to apply for recognition as an organization **exempt** from federal income tax. The Director then developed the group's literature and established a format for the meditation/worship services. He became a qualified teacher in a Zen Buddhist organization. He expanded the mailing list for the organization's newsletter, made plans for several books on the practice of paying attention, and worked toward developing a training program for Attention Teachers.

By April, 1987, Sudnay meetings were following a specified "Form," with between eight and twenty participants weekly. The organization puts out a weekly newsletter, which is regularly sent to about 50 families. There are presently 26 participating and sustaining members of the **church**, and 1 practicing member who acts as the **church** director. No member is asked to renunciate a religious affiliation with any other **church**; in fact, the organization's meetings are held late on

Sunday afternoon so as not to conflict with religious services held elsewhere earlier in the day.

The organization's Sunday meetings are planned around "The Form," a term that describes the format of formal periods of attention practice. A meeting normally consists of a spontaneous sermon by a qualified attention teacher, followed by a question and answer period, and then attention practice. After these exercises, members recite the organization's four primary vows.

There are three classes of membership. Participating members join in the organization's activities or make donations. Participating members have no voting rights. There are 20 participating members. Sustaining members have contributed monthly dues for six consecutive months or have contributed a lump sum equivalent to six months of dues, but have not taken any precepts. Currently, dues are \$3 a month. Sustaining members have voting rights and must be notified of all meetings. Presently, there are 6 sustaining members. Practicing members have met the requirements of sustaining membership and have taken the ten precepts and made a commitment to the practice of paying attention. The Director is currently the only practicing member.

Regardless of the category of membership, no member is asked to renunciate affiliations or memberships in other **churches** or religious orders. Some current members of the organization are members of other **churches**, and some are members only of the subject organization.

The organization has developed a set of ten precepts that serve as the initial set of vows qualifying an individual as a practicing member of the **church**. They are:

- 1) I vow to respect and hold in reverence all forms of life and to abstain from taking life;
- 2) I vow not to take the possessions of others not given;
- 3) I vow to abstain from misconduct done in lust;
- 4) I vow to abstain from lying;
- 5) I vow to abstain from the heedless use of alcohol, drugs or other intoxicants which cloud the mind and which might prevent me from paying attention or remaining fully conscious of my actions;
- 6) I vow to make a daily effort to pay attention;
- 7) I vow to abstain from gossip and idle chatter;
- 8) I vow to abstain from judgmentalness which separates me from Reality and especially from my fellow human beings;
- 9) I vow to forgive all those who wrong me -- understanding that they do so through ignorance;
- 10) I vow to help all beings who are suffering or in need.

The organization has begun to hold Sunday school sessions for the children of members and non-members. The organization provides written teaching materials for these classes. The Sunday school lessons are held in the rooms of a small, nonprofit, private school adjacent to the organization's meeting room. Attendance varies from six to twelve children, but greater participation is expected soon. The lessons are given by the organization's Director, but it is expected that in the future other members and even non-members will teach the children.

As of March 31, 1987, the organization had received only \$189 from members' contributions, and

\$729 in loans from the Director. The loans are expected to be converted to donations upon the organization's recognition as a tax **exempt** group.
Applicable Law

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 509(a)(1) of the Code provides that the term "private foundation" means a domestic or foreign organization described in section 501(c)(3) other than an organization described in section 170(b)(1)(A) [other than in clauses (vii) and (viii)].

Section 170(b)(1)(A)(i) of the Code describes a **church** or convention or association of **churches**.

In [American Guidance Foundation, Inc. v. Unites States, 490 F. Supp. 304 \(D.D.C. 1980\)](#), the court recognized the Service's 14-part test in determining whether a religious organization was a **church**. The 14 criteria are:

- 1) a distinct legal existence;
- 2) a recognized creed and form of worship;
- 3) a definite and distinct ecclesiastical government;
- 4) a formal code of doctrine and discipline;
- 5) a distinct religious history;
- 6) a membership not associated with any other **church** or denomination;
- 7) an organization of ordained ministers;
- 8) ordained ministers selected after completing prescribed studies;
- 9) a 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;
- 14) schools for the preparation of its ministers.

In [Chapman v. Commissioner, 48 T.C. 358 \(1967\)](#), an interdenominational organization performed dental work for missionaries and helped to promote the evangelization of the world. The court held that this was not a **church**.

[United States v. Seeger, 380 U.S. 163, 176 \(1965\)](#) provides that in order for an organization to be considered religious in nature, its members must have a sincere and meaning ful belief in its doctrine, occupying a place in members' lives parallel to that filled by God in the lives of

traditionally religious persons.

In [De La Salle Institute v. United States, 195 F. Supp. 891](#) (N.D. Cal, 1961), the court determined that an incorporated religious teaching order which performed no sacerdotal functions was not a **church**.

In [Foundation of Human Understanding v. Commissioner, 88 T.C. 1341 \(1987\)](#), the court found that an **exempt** organization that operated a radio ministry for the purpose of improving spiritual health and self-awareness could be a **church**.

Rationale

The threshold question in determining whether an organization is a **church** described in section 170(b)(1)(A)(i) is whether the organization qualifies as a religious organization described in section 501(c)(3). If the doctrine of the organization does not rise to being religious in nature it cannot be described in section 170(b)(1)(A)(i).

An organization must therefore establish certain criteria in order to be classified as a section 501(c)(3) religious organization: 1) that it is "religious" under the test established in *United States v. Seeger*, 2) that it is organized and operated in conformity with the basic principles of charity law, and 3) that it does not violate the Code's prohibitions against political activity.

The second and third criteria are not at issue with respect to this organization. There is no indication that the organization is involved in activities not in conformity with the basic principles of charity law. Nor is there any evidence that the organization has in the past, or will in the future, violate the prohibition on political activities.

Therefore, our consideration hinges on the first criterion as set out in *Seeger*, requiring that members have a sincere and meaningful belief in the doctrine espoused, and that the belief occupies a place in the lives of the members parallel to that filled by God in the lives of traditionally religious persons. In this case, the organization's members appear to be fully sincere in their beliefs. Its members have documented the organization's growth and development from a group of people meeting informally in private homes to an incorporated entity with formal weekly meetings and newsletters, a Sunday school, and extensive writings and articles by the Director. The fact that people were participants in the organization's activities for several years before it was incorporated and filed for exemption is a further indication that their beliefs are sincere and not motivated by a nonreligious purpose.

Having determined that this organization is a religious organization, we must next determine whether it falls into the narrower category of a "**church**." On this question, *American Guidance Foundation* is helpful. "Although it is settled that Congress intended a more limited concept for '**church**' than for the previously identified 'religious organization,' Congress has offered virtually no guidance as to precisely what is meant." [490 F. Supp. 304 at 306](#). Because of the lack of specificity in the Code and in the regulations, we must look to the case law.

The organization meets most of the 14 criteria in *American Guidance Foundation*. It is fully incorporated and has a fully distinct legal existence. It has a creed and form of worship recognized by its members. Although it is still in a developing stage, it has a definite and distinct ecclesiastical government in that the director is as yet the only recognized Attention Teacher. It has a formal code of doctrine and discipline as evidenced by the ten precepts, and the Form and the Director's writings. While it has a history of only a few years because it is a relatively new organization, its members have documented its growth and major changes. It has what could be called an organization of ordained ministers -- it states that its Director is part of a growing ministering hierarchy. This Director/minister was selected because he had completed his studies in Zen Buddhism and had had certain relevant personal experiences. Other members are also expected to eventually attain that teaching/ministering level.

Due mostly to its many newsletters and articles, along with more traditional religious and philosophical texts, the organization has a literature of its own. It has an established place of worship, specifically the "attention room" located in the Director's office building. The organization has a regular congregation of between eight and twenty people. It has regular religious services, held every Sunday afternoon, including Sunday school for the religious instruction of the young. While it does not have formal schools for the preparation of its ministers, it has plans to develop a training program.

The organization does not, however, have a membership not associated with any other **church** or denomination. Its members are in no way required or requested to renounce their religious ties to other **churches** or religious organizations. While this is an important item in the list of 14 criteria, a failure to meet this **guideline** alone may be overcome by the presence of the other 13 and by considering all of the facts and circumstances. In criteria, and because the facts and circumstances show that there is no abusive intent, the organization qualifies as a **church** under section 170(b)(1)(A)(i) of the Code.

A consideration of the facts and circumstances demands a determination of whether abuse or potential non-religious motivation is present. It should be noted that this organization is distinguishable from those "religions" which involve inurement or private benefit prohibited by section 501(c)(3) of the Code. Here there is no indication of any private inurement or benefit; members pay monthly dues of only \$3. The Director has made a relatively substantial loan to the organization, but the financial data provided shows that the money has been spent on legitimate organization expenses such as postage, stationery, and worship supplies. The Director has also provided the meeting room free of charge. There are apparently no paid employees although there have been small reimbursements for travel and training expenses.

Therefore, because the majority of the American Guidance Foundation criteria are present, and because the facts and circumstances show that the organization was created and is operated for other than tax-avoidance reasons, the organization qualifies as a **church** within the meaning of section 170(b)(1)(A)(i). Because we find that it qualifies as a **church** under section 501(c)(3), it is unnecessary to consider the question of whether it qualifies as an educational or charitable organization under that section.

Conclusions

1. The applicant qualifies as a **church** within the meaning of section 170(b)(1)(A)(i) of the Code.
2. Because the applicant qualifies for recognition of exemption under section 501(c)(3) of the Code as a **church**, we find it necessary to consider whether it would qualify as another category of **exempt** organization.

A copy of the technical advice memorandum is to be given to the organization. [Section 6110\(j\) of the Internal Revenue Code](#) provides that it may not be used or cited as precedent.

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