

# LEGAL ISSUES AND THE CHURCH

TAX AND POLICY ISSUES UNDER CONSIDERATION BY THE  
US COMMISSION ON ACCOUNTABILITY AND POLICY FOR  
RELIGIOUS ORGANIZATIONS

# BACKGROUND

- IN 2007 SENATOR CHARLES GRASSLEY (R-IA) CONDUCTED AN INVESTIGATION ON SIX TELEVANGELISTS SUSPECTED OF OPULENT SPENDING AND POSSIBLE ABUSE OF THEIR NONPROFIT STATUS, THE GROUP WAS KNOWN AS THE GRASSLEY 6
- THE INVESTIGATION DID NOT YIELD ANY INFORMATION AND INSTEAD LEFT MORE QUESTIONS
- AT THE REQUEST OF SENATOR CHARLES GRASSLEY, ECFA (EVANGELICAL COUNCIL FOR FINANCIAL ACCOUNTABILITY), A NATIONAL ACCREDITATION ORGANIZATION FOR CHURCHES AND OTHER RELIGIOUS ORGANIZATIONS, IS LEADING AN INDEPENDENT, NATIONAL EFFORT TO REVIEW AND PROVIDE INPUT ON MAJOR ACCOUNTABILITY AND POLICY ISSUES AFFECTING SUCH ORGANIZATIONS.

# CHURCH & RELIGIOUS ORGANIZATION ISSUES FOR CONSIDERATION ISSUE 1

*Is an advisory committee needed?*

- RECOMMENDATION THAT THE IRS SPONSOR AN ADVISORY COMMITTEE COMPRISED OF REPRESENTATIVES OF CHURCHES AND RELIGIOUS ORGANIZATIONS THAT WOULD ONLY CONSIDER ISSUES RELATED TO CHURCHES AND RELIGIOUS ORGANIZATIONS
- HELPFUL IN FACILITATING AN ONGOING DIALOGUE BETWEEN CHURCHES, RELIGIOUS ORGANIZATIONS AND THE IRS

# *ISSUE 1 CONT'D IS AN ADVISORY COMMITTEE NEEDED?*

- GOAL OF COMMITTEE:
- THE COMMITTEE WILL RESULT IN A PROACTIVE AND COLLABORATIVE APPROACH TO COMPLIANCE WITH FEDERAL LAWS, WITH A FOCUS ON EDUCATION AND OUTREACH AS OPPOSED TO A REACTIVE, ENFORCEMENT-ORIENTED APPROACH

## Issue 2

- SHOULD THE PARSONAGE ALLOWANCE BE LIMITED TO A SINGLE PRIMARY RESIDENCE OR TO A SPECIFIC DOLLAR AMOUNT?
- SHOULD THE EXCLUSION BE EXPANDED TO WITHSTAND A CONSTITUTIONAL CHALLENGE?
- SHOULD THE EXCLUSION BE LIMITED TO A NARROWER GROUP OF INDIVIDUALS

# CHURCH & RELIGIOUS ORGANIZATION ISSUES FOR CONSIDERATION ISSUE 3 NEW CHURCHES

- SHOULD NEW ENTITIES THAT CLAIM TO BE CHURCHES BE REQUIRED TO NOTIFY THE IRS OF INTENT TO CLAIM CHURCH STATUS?
  - ONLY IF THEY INTEND TO SOLICIT CONTRIBUTIONS FROM THE PUBLIC?

# CHURCH & RELIGIOUS ORGANIZATION ISSUES FOR CONSIDERATION ISSUE 4 CHURCHES AND FORM 990

- SHOULD CHURCHES BE REQUIRED TO FILE FORM 990 UNLESS THEY MEET SPECIAL CRITERIA?
  - WOULD SUCH FILING EXCEPTIONS BE FEASIBLE WITHOUT VIOLATING CONSTITUTIONAL PRINCIPLES?
  - SHOULD CHURCHES BE REQUIRED TO FILE AN “E-POSTCARD” OR SIMILAR DOCUMENT WITH THE IRS ANNUALLY?

# CHURCH & RELIGIOUS ORGANIZATION ISSUES FOR CONSIDERATION ISSUE 5

## CHURCH EXAMINATIONS AND OVERSIGHT

- WHAT ROLE COULD THE PROPOSED ADVISORY COMMITTEE SERVE IN ASSISTING THE IRS WITH EXAMINATION SELECTION CRITERIA AND EDUCATION/ OUTREACH EFFORTS?
- COULD THE IRS CONSIDER DENOMINATIONA OR THIRD-PARTY OVERSIGHT WHEN DETERMINING CRITERIA FOR SELECTING CHURCHES FOR AUDIT?

# CHURCH & RELIGIOUS ORGANIZATION ISSUES FOR CONSIDERATION

## ISSUE 6

### AUDIT PROTECTION FOR CHURCH LEADERS

- SHOULD AUDIT PRODUCTION BE REMOVED FOR A CHURCH LEADER'S PENALTY TAX ARISING FROM EXCESS BENEFITS PROVIDED BY A CHURCH?

# CHURCH & RELIGIOUS ORGANIZATION ISSUES FOR CONSIDERATION ISSUE 7 LOVE OFFERINGS

- SHOULD “LOVE OFFERINGS” OR SIMILAR DONATIONS BE TAXABLE?
- SHOULD THE TAX TREATMENT VARY BASED ON WHETHER OR NOT THE RECIPIENT IS A “DISQUALIFIED PERSON” (ORGANIZATIONAL LEADER)?

# CHURCH & RELIGIOUS ORGANIZATION ISSUES FOR CONSIDERATION

## ISSUE 8

### Favorable Tax Treatment

- SHOULD CHURCHES HAVE THE SAME FAVORABLE TAX TREATMENT SCHOOLS ENJOY WITH RESPECT TO DEBT-FINANCED INCOME

# CHURCH & RELIGIOUS ORGANIZATION ISSUES FOR CONSIDERATION

## Issue 9 - 11

- ISSUE 9 SHOULD THE IRS BE PROHIBITED BY LAW FROM DISCLOSING INFORMATION IN AN ORGANIZATION'S FORM 990 ABOUT FOREIGN ACTIVITIES WHERE DISCLOSURE COULD PUT PEOPLE IN HARM'S WAY?
- ISSUE 10 SHOULD THE TAX BENEFITS ASSOCIATED WITH THE CHARITABLE CONTRIBUTION DEDUCTION BE PRESERVED?
- ISSUE 11 COULD ECFA'S MODEL BE REPLICATED FOR CHURCHES, RELIGIOUS ORGANIZATIONS AND OTHER NONPROFITS?

# CHURCH & RELIGIOUS ORGANIZATION ISSUES FOR CONSIDERATION

## ISSUE 12

### EXEMPT STATUS REQUIREMENT

- SHOULD THE LAW BE AMENDED TO REQUIRE THE GOVERNING DOCUMENTS OF AN ORGANIZATION TO PROHIBIT EXCESS BENEFIT TRANSACTIONS AS A CONDITION OF EXEMPT STATUS?

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PENALTIES ON ORGANIZATION  
MANAGERS

- SHOULD ORGANIZATION MANAGERS BE SUBJECT TO PERSONAL PENALTIES FOR APPROVING AN EXCESS BENEFIT TRANSACTION WHEN THEY HAD “REASON TO KNOW” AS OPPOSED TO ACTUAL KNOWLEDGE?

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PENALTIES ON THE ORGANIZATION  
ITSELF

- SHOULD AN ORGANIZATION THAT ENGAGES IN AN EXCESS BENEFIT TRANSACTION BE SUBJECT TO PENALTY TAXES IN ADDITION TO THE PENALTY TAXES ASSESSED ON THE INDIVIDUAL RECEIVING THE BENEFIT?

# CHURCH & RELIGIOUS ORGANIZATION ISSUES FOR CONSIDERATION

## ISSUE 15

### THE “REBUTTABLE PRESUMPTION” PROTECTION

- SHOULD THE “REBUTTABLE PRESUMPTION” PROTECTION FOR DECISIONS REGARDING COMPENSATION AND RELATED-PARTY TRANSACTIONS BE ELIMINATED?
- SHOULD IT BE REPLACED WITH A PROVISION STATING THE STEPS INVOLVED IN ESTABLISHING THE PRESUMPTION CONSTITUTE “MINIMUM STANDARDS FOR DUE DILIGENCE?”

# CHURCH & RELIGIOUS ORGANIZATION ISSUES FOR CONSIDERATION ISSUE 16 COMPENSATION STUDIES

- SHOULD GUIDELINES BE DEVELOPED FOR COMPENSATION STUDIES, INCLUDING WHEN A COMPARISON TO FOR-PROFIT ORGANIZATIONS IS APPROPRIATE?
- SHOULD PUBLIC DISCLOSURE BE REQUIRED OF THE STUDIES AND DATA USED BY AN ORGANIZATION?

# CHURCH & RELIGIOUS ORGANIZATION ISSUES FOR CONSIDERATION

## ISSUE 17

### POLITICAL SPEECH/FREEDOM OF SPEECH AND RELIGION

- SHOULD THE CURRENT PROHIBITION OF POLITICAL CAMPAIGN INTERVENTION BY 501(C)(3) ORGANIZATIONS BE RELAXED OR MODIFIED IN SOME WAY TO PERMIT LIMITED SPEECH IN SUPPORT OF OR OPPOSITION TO POLITICAL CANDIDATES?

# More Information

- <https://religiouspolicycommission.org/PublicInput.aspx>
- Slides can be downloaded from <https://www.unitedchurchjc.org>