

Can the IRS Audit a Church?

Special Rules Limiting IRS Authority to Audit a Church

Tax Inquiries and Examinations of Churches

Congress has imposed special limitations on how and when the IRS may conduct civil tax inquiries and examinations of churches. The IRS may only initiate a church tax inquiry if a high-ranking IRS official has a “reasonable belief,” based on a written statement of the facts and circumstances, that the organization: (a) may not qualify for the exemption; or (b) may not be paying tax on unrelated business or other taxable activity.

Church Audits – “Reasonable Belief” Requirement

This reasonable belief must be based on facts and circumstances recorded in writing. The IRS can obtain the information supporting a reasonable belief from many sources, including but not limited to:

- * Newspaper or magazine articles or ads,
- * Television and radio reports,
- * Internet web pages,
- * Voters guides created and/or distributed by the church,
- * Documents on file with the IRS (e.g. a Form 990-T filed by the church), and
- * Records concerning the church in the possession of third parties or informants.

The IRS must derive the facts and circumstances forming the basis for a reasonable belief from information lawfully obtained. If this information is obtained from informants, it must not be known to be unreliable. Failure of the church to respond to repeated IRS routine requests for information is a factor in determining if there is reasonable cause for commencing a church tax inquiry.

Restrictions on Church Inquiries and Examinations

Restrictions on church inquiries and examinations apply only to churches (including organizations claiming to be churches if such status has not been recognized by the IRS) and conventions or associations of churches. They do not apply to related persons or organizations. Thus, for example, the rules do not apply to schools that, although operated by a church, are organized as separate legal entities. Similarly, the rules do not apply to integrated auxiliaries of a church.

Restrictions on church inquiries and examinations do not apply to all church inquiries by the IRS. Please see below for situations in which church audit procedures do not apply for more information.

The procedures of [Internal Revenue Code section 7611](#) will be used in initiating and

conducting any inquiry or examination into whether an excess benefit transaction (as that term is used in Code section 4958) has incurred between a church and an insider. (Please the blog on our next e-mail newsletter re Excess Benefit Transactions.)

Situations in Which Church Audit Procedures Do Not Apply

The church examination procedures do not apply to the following:

- * Routine requests for information or inquiries on matters that do not primarily concern the organization's tax status or liability,
- * Criminal investigations,
- * Termination assessments under Internal Revenue Code section 6851 or jeopardy assessments under section 6861,
- * Any case involving the church's knowing failure to file a return or willful attempt to defeat or evade tax (including failure to withhold or pay social security or other employment or income tax required to be withheld from wages), or
- * Any inquiry or examination relating to the tax status or liability of persons or organizations other than the church (including contributors).

Additional information

Routine requests for information excepted from church audit procedures

The term church tax inquiry does not include routine requests for information or inquiries on matters that do not primarily concern the organization's tax status or liability. For example, routine requests do not include requests for information about:

Filing, or failing to file, any tax return or information return,

Compliance with income or FICA (social security) tax withholding responsibilities,

Supplemental information needed to process an incomplete or incorrect return,

Information needed to process an application for exempt status or ruling request,

Information needed to process and update registration for tax-free transactions (excise tax) elections for exemption from windfall profits tax, or employment tax exemption requests,

Information identifying a church to update Exempt Organizations Select Check (Pub 78 database), or

Confirmation that a specific business is, or is not, owned and operated by a church.