

C. STANDARDS FOR DETERMINING TAX-EXEMPTION AS  
APPLIED TO SCIENTOLOGY

There are two primary issues confronting the City of Clearwater in deciding whether the property and the operations of Scientology within the City are properly taxable. The first issue relates to defining the respective power or authority of the State, County and Municipal government to impose and collect the various types of taxes that may be applicable to Scientology. The second issue is whether Scientology has conducted its affairs within the City in breach of the standards discussed in Section III - C of this Report as to warrant the conclusion that Scientology has not operated exclusively for religious purposes as required by said standards. This latter issue appears to be more easily resolved in favor of the power of the State, County or City to impose and collect taxes from Scientology. The former issue is less capable of clear resolution and the financial considerations involved warrant the conclusion that the City should conduct public hearings with respect to the proposed ordinances; and provide the results of those hearings to the State and County taxing authorities for purposes of collecting appropriate taxes.

Except in very limited areas of taxation, such as an occupational tax, the general power to levy and collect taxes lies within State and County jurisdiction. Taxation by a municipality must be expressly authorized by either the State Constitution or by legislature grant. City of Tampa v. Bridsong Motors, Inc., 261 So. 2d 1 (1971). The City may, however, petition the State or County through a writ of memorandums to compel collection of a tax. See, Opa Locka v. Metropolitan Dade County, 247 So. 2d 755 (1971). Oftentimes, a City joins with the County seeking collection of taxes. See Winter Park, et al v. Presbyterian Homes, etc., 242 So. 2d 133 (1971).

In view of the traditional approach of the Florida appellate courts to vest taxing authority within the County and the State, the most rational and appropriate course for the City of Clearwater is to investigate and collect information regarding Scientology practices within the City and turn over such evidence to the State and County agencies. The hearings proposed in connection with the solicitation of funds ordinance and the consumer protection ordinance should provide the City a strong basis upon which to initiate State and County collection proceedings. These proceedings should include assessment and collection of sales, use, personal property, real property, meals and other taxes. In the event that the State and County taxing authorities resist collection, the City may petition the Court via a writ of mandamus to compel collection.

The activities of Scientology within the City of Clearwater conclusively warrant the position that Scientology has carried on within the City such commercial activities of such magnitude, and for such profit making purposes, and of such non-tax exempt character, that the Corporation was not operated exclusively for religious or other tax exempt purposes. A large part of the earnings of the Church of Scientology within Clearwater have inured to the benefit of Hubbard as a private individual. The money and money's worth of benefits traceable to Hubbard include: a) salaries, b) royalties, c) large sums of cash, d) unrestricted control (amounting to ownership), over large amounts of funds in a corporate bank account, Savings and Trust accounts, e) free room and board at the corporation's expense, and unlimited access to, and use of castles, mansions, villas, seagoing vessels, automobiles, motorcycles, and other facilities owned or supported by Scientology throughout the world, f) a large retinue of servants, valets, messengers, secretaries, couriers,

cooks, and other personal attendants, furnished and compensated by Scientology, g) the receipt, generally in disguised form, of a substantial percentage of Scientology's earnings, and h) the diversion of large sums from Scientology to Hubbard to sham entities which are completely controlled and dominated by Hubbard.

Also, the policies and activities of Scientology, some of which have been previously discussed in this Report, vitiate Scientology's entitlement to exemption, because the policies amount to substantial recurring violations of clearly defined public policy including:

- a) Conspiracy to impede and obstruct the I.R.S.;
- b) Wrongful and malicious divulgence of personal and intimate information confided to Scientology by its members during auditing sessions, in reliance upon Scientology's deliberately false representation that such information would be strictly confidential;
- c) Pervasive violations of the individual rights of human dignity by subjecting members to "amend projects", and "R.P.F.", which enforced performance of humiliating and degrading acts;
- d) The infliction of serious, deleterious, mental and psychic damages that are a direct result of Scientology's dangerous techniques;
- e) Depriving individuals of their own self-determination and ability to perform their own moral judgements through the use of brainwashing techniques;
- f) Recurrent and pervasive use of blackmail, intimidation, and other egregiously anti-social acts by way of implementing Scientology's "Fair Game" policy;
- g) Scientology's "Disconnect Policy", resulting in enforced dissolution of marriages and other close family relationships;
- h) Insistence upon and use of non-voluntary lie detector (E-Meter) and security checks as a condition of employment in direct violation of state laws;

- i) Involuntary detention (equivalent to false imprisonment);
- j) Drastic punishment of members and employees; and
- k) The use of telex devices for the purpose of carrying on illegal covert activities in violation of the Federal Communications Act, together with a conspiracy to further such purpose.

The commercial activities of Scientology permeate its entire operation. They include things such as extensive advertising and solicitation of business; the payment of commissions to persons who can produce customers, the granting of discounts; an ever-increasing accumulation of earnings; granting first priority to customers who make the largest cash payment, rather than the one who is in the greatest need of Scientology services; the use of drastic, arm-bending and emotionally crippling procedures for the collection of delinquent accounts; the use of enforcement policies which are designed to extort from a customer his avenues of legal redress by threats of disclosure of confidential auditing information, and finally a markup factor of as much as 789% on the sale of its goods.

The flagrantly commercial, profit motivated activities of Scientology are in violation of F.S.A. § 196. 195(4) which requires that all religious organizations maintain a non-profit character. Although the following examples intend to be typical illustrations of Scientology commercialism, and hardly exhaustive, such examples constitute compelling evidence of a profit motivated scheme.

- 1) Advertising vacation packages to an oceanside resort in Clearwater, The Fort Harrison and Sand Castle (Scientology properties). The advertisement is totally devoid of any religious suggestion and clearly demonstrates the organization's profit oriented motives.
- 2) Advertising and rental of rooms at the Fort Harrison Hotel and Sand Castle at exorbitant rates. For example:

a) VIP Apartment	.....	\$75.00 per day
b) Grand Suite	.....	100.00 per day
c) Dukes Chambers	.....	50.00 per day
d) Jade Palace Suite	.....	60.00 per day
e) Lotus Suite	.....	60.00 per day
f) Moon Garden Suite	.....	60.00 per day
g) Opal Suite	.....	60.00 per day

3) The sale of courses at astronomical rates which bear no relation to the service rendered. For example:

a) New Era Dianetics for OT Rundowns (50 Hours).....		\$19,547.19
b) Section OT III .....		9,021.78
c) OT I to OT VIII Package .....		26,614.42
d) New Vitality Rundown (25 Hours) .....		12,780.86
e) Full Org Exec Course (8 Volumes) .....		12,029.04
f) Flag Effective Public Relations Course (includes apprentice- ship) .....		10,525.41

- 4) The operation of a corporate entity, WISE, an acronym for World Institute of Scientology Enterprises, which is bereft of any religious purposes. The sole purpose of WISE is commercial not religious.
- 5) The commercial transactions (purchase of course and hotel room rentals) are encouraged by Scientology's acceptance of Master Charge and American Express.
- 6) Scientology now offers rebates and "package reductions" to stimulate cash purchases.
- 7) The inurement to L. Ron Hubbard of 10% - 50% of all funds collected in Clearwater, Florida.
- 8) Freeloader Debt - a concept designed by the Scientology corporation to extract monies from an individual who severs association with the Church, The debt is allegedly

incurred for services rendered. However, the debt bears no relation to any service and is imposed only when an individual seeks to terminate association with the Church. The Scientology organization threatens litigation to collect the "debt" thereby adding additional funds to Church coffers. Alternatively, threatened legal action prevents a dissatisfied individual from leaving the organization.

Each of the acts designated above constitute violations of the statutory criteria for non-profit religious organizations. Specifically, the cash purchases of courses and the hotel room rentals constitute violations of F.S.A. § 196.195(e), regulating a non-profit corporation's charge for services. This statute states that the taxing authority may examine,

- e) the reasonableness of charges made by the applicant for any services rendered by it in relation to the value of those services.

Again, all religious organizations are required to remain non-profit and must comply with the statutory criteria for non-profit organizations. F.S.A. § 196.195(1)-(4). The mercenary motives of the Scientology organization, illustrated by the unreasonable cost of services (supra), constitutes a per se violation of F.S.A. § 196.195(4) and should invalidate the religious exemption.

Likewise, Scientology's use of Clearwater as a central communications link for its incredible world-wide pattern of criminal activity including Operations "Goldmine", "Snowwhite", "Freakout", "Project Owl", and hundreds of other such operations, all carried on through the use of tax exempt funds, clearly demonstrates the non tax-exempt purpose. The recommended public hearings will provide the City Commission a solid basis to enact the proposed ordinances as well as create a documented record of Scientology's breach of the standards applied to

determine tax-exempt status as set forth in Section III - C of this Report.

The City's right to know whether Scientology is keeping adequate tax records, and whether it is using its funds exclusively for religious purposes is a compelling governmental interest. The recommended hearing and ordinances will provide a legitimate basis to secure this information. If Scientology fails to provide it, or if the documentary evidence acquired as a result of enforcement of the proposed ordinances indicates use of money for non-exempt purposes, the City may provide that evidence to the appropriate taxing authority.

The recommended hearings, possibly in conjunction with other proposed legislation, to examine the nature and extent of Scientology's activities in the City, would demonstrate the fraudulent, commercial and criminal activities carried on by Scientology in Clearwater, all of which are devoid of religious content. This evidence would demonstrate Scientology's failure to comply with the following tax regulating statutes:

- a) Failure to use property for exempt purposes as defined by F.S.A. 196.012 (1) (2);
- b) Failure to meet criteria for exemption based on non-profit status as defined in F.S.A. 196.195;
- c) Failure to meet criteria for exemption based on religious status as defined in F.S.A. 196.196.

The City could then present written findings together with exhibits to the County property appraiser with the recommendation of the City Commissioners and also to the State Sales and Use tax authorities, that Scientology properties be taxed, and that the organization present accurate and detailed records of its financial activities for each year it seeks qualification for exemption.

It is important to note that the long and detailed English inquiry (covering 182 printed pages) into Scientology ended with the following recommendations:

"Two further matters deserve mention. First, I am struck by the ease with which "non-profit making" companies or associations are able to escape the payment of taxes, even if they are not charities. An ordinary business pays tax on the whole of its income, after deducting only those expenses incurred "wholly and exclusively" for the purpose of the business, and the Inland Revenue authorities not unnaturally subject these expenses to close scrutiny. But in the case of an organization which renders paid services only to its members, the system is different: a principle of "mutuality" is applied, with the result that the full income from the members (in the form of fees) escapes taxation at that point, and so do donations from non-members. Moreover, if the organization then distributes its surplus by way of donations to associated companies, or even to individuals, these payments are still not assessable to tax because they are "voluntary" payments. If the services were sold to the general public who are not "members", such an organization would have to pay taxes like everyone else, and only legitimate business expenses would be deductible; but considering the case with which one can enroll "members", the distinction strikes me as artificial. This aspect of our tax system is in my opinion ripe for review.

Payments such as those shown in the Scientology Companies' accounts as being made to other Scientology organizations, or to Mr. or Mrs. Hubbard, who are not residents of the sterling area, of course require the consent of the Bank of England under the Exchange Control Act.

The other matter which deserves attention is the failure of a number of the Scientology companies to file accounts and annual returns within the time prescribed by the law, without apparently incurring any sanction at the hands of the Registrar of Companies. These sanctions seem to me pointless if they are not enforced."

These recommendations should not go unheeded by the residents and officials of Clearwater.