



IRS examined Scientology dollars, not dogma

■ When the IRS granted tax exemptions to the church, it did so mainly on the basis of what Scientology did with its money.

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WASHINGTON — It might be easier for a camel to walk through the eye of a needle than for the IRS to judge the merits of a religion. So when it comes to considering tax exemptions, the agency sticks to what it knows: money.

For the Church of Scientology, which won a series of tax exemptions earlier this month, that meant proving no one was pocketing the millions of dollars in donations the organization collects for

religious services.

It also had to assure the Internal Revenue Service that the church operates "exclusively for religious or charitable purposes." And, as part of its deal with the IRS, the Scientologists agreed to drop a group of nettlesome lawsuits against the tax agency.

Those were the main issues that led the IRS to reverse decades of decisions against the Scientologists and grant exemptions to 153 Scientology churches, missions and corporations earlier this month, according to the IRS, documents in the case and private tax attorneys.

Despite the explanations, though, some taxpayers and tax lawyers remain puzzled.

The Church of Scientology is, after all, an organization that bugged IRS offices, saw 11 of its members sent to prison and was found to be financing founder L. Ron Hubbard's lifestyle aboard a yacht.

"Either Scientology changed very basically or the IRS changed. Or maybe

both," former IRS commissioner Donald Alexander said of the settlement.

"I hope that the IRS did not give in to intimidation," Alexander went on, alluding to the years in the 1970s when his agency battled the church. "By intimidation, I mean 2 o'clock in the morning telephone calls."

To sum up, Alexander said, "I have great reservations, based on the public record and published stories, about this organization's activities and whether this was, is, or remains a money-making cult."

Sheldon Cohen, commissioner when the IRS first revoked a Scientology tax exemption in 1967, is surprised with the reversal, too, though he said IRS officials believe no one is profiting financially.

"They made the case that they are no longer sharing with the Hubbard family, and they are otherwise deserving of the exemption," said Cohen, a tax lawyer in Washington, D.C.

The question of private enrichment — called "inurement" in legal jargon — is at the center of most tax-exemption disputes, lawyers say. In 1984, the U.S. Tax Court ruled that Scientology founder Hubbard was profiting from the Church of Scientology of California, and therefore blocked an exemption for what was then the organization's "mother church."

"It has made a business out of selling religion," the court wrote.

"It has diverted millions of dollars through a bogus trust fund and a sham corporation to key Scientology officials; and it has conspired for almost a decade to defraud the U.S. government by impeding the IRS from determining and collecting taxes from it and affiliated churches."



Founder L. Ron Hubbard died in 1986.

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"Were we to sustain the petitioner's exemption," the court wrote, "we would in effect be sanctioning petitioner's right to conspire to thwart the IRS at taxpayer's expense."

A lot has happened in the years since.

Hubbard died in 1986. The Scientologists insist they have kicked out the people who were involved in the Church's notorious dirty-tricks operation. In another step toward legitimacy, the church hired former U.S. government tax lawyers who filed extensive responses to IRS inquiries about Scientology's inner workings.

IRS spokesman Frank Keith said that based on the information the Church provided on its organizational and financial structure, the agency was able to determine there were no "issues of inurement" in the Scientology cases.

He said federal privacy laws prohibited him from providing a more detailed explanation of the tax exemption. He would not even say, for example, whether IRS Commissioner Margaret Richardson — an appointee of President Clinton — approved the agreement.

Records in the case indicate John Burke, the IRS' assistant commissioner for employee plans and exempt organizations, invited the latest round of negotiations with the Scientologists in 1991, during the Bush administration. Burke, a career IRS employee, retired last month and could not be reached for comment.

As for Scientology's opinion on why the IRS relented, spokesman Marty Rathbun said his church has "always been legitimate, and nothing's changed."

"The fact of the matter is they put us through more scrutiny than any other tax-exempt organization, including the Poynter Institute, which owns the *St. Petersburg Times*," Rathbun said.

(The Poynter Institute for Media Studies, a school for journalists, is a tax-exempt organization. However, the newspaper pays taxes on its profits and contributes to the institute.)

There is no doubt the Church of Scientology underwent scrutiny. The IRS released nine boxes of material from the case that includes the questions that examiners asked and the lengthy responses from the Church of Scientology.

The documents do not make clear the total amount of money Scientology takes in through its numerous corporate entities. Records from 12 Scientology affiliates, all but one for 1992, list \$275-million in assets.

Among the numerous questions from the IRS were inquiries about the cash flow of the church's affiliates, the compensation the church's top officials received, living expenses of church staff and the organization's checkered past.

For the most part, the church lawyers' written answers were direct. At other times, the responses blasted the government, or proselytized about Scientology.

"It is time to end this shameful IRS involvement in trying to destroy Scientology," the Scientology legal papers said. "Why must the Service follow in the footsteps of the Nazis, who spread black propaganda about the Jews so that the German people would be inured to the massacre of millions?"

"Many such dogmas have borne the imprimatur of government — the indestructibility of the Roman Empire, the supremacy of the Aryan race, the inevitable triumph of communism over capitalism, the legal segregation of the races," the brief said. "History, however, always has proven otherwise: Rome fell, the Nazis were defeated, communism collapsed and apartheid was unmasked for the evil it is. History is on our side today."

In its filings, Scientology complained the IRS was applying what it called a "double standard" to the self-styled religion. As an example, church lawyers pointed out that the IRS extends a tax exemption to the Catholic Church despite accusations that some Catholic priests have molested children.

The IRS has, however, refused other church's tax-exemption requests. For example, it rejected a request by a group called "Church by Mail," run by two reverends who mailed printed sermons to several million households. The two collected excessive salaries from the advertising agency that printed and mailed their sermons, according to court records.

That was proof of "inurement" and was enough to reject the exemption for the Church by Mail. And the recently released documents show that the IRS was similarly interested in the biggest money-makers in Scientology.

The IRS wanted to know the compensation of the highest-ranking official, David Miscavige, and his family. The Scientology lawyers responded that in 1991, Miscavige was paid \$62,683, his wife made \$94,042 and other family members were paid \$11,082.



The Church of Scientology Flag Building: The church is spending millions on advertising and renovations of facilities in Clearwater and elsewhere.

Times files

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It turns out, though, that the highest-paid Scientologists are recruiters and fund-raisers who the lawyers say aren't on the staff of the church. The recruiters and fund-raisers earn a commission of money they collect from new Scientologists and donors, according to the records.

"This practice defrays the cost of proselytization and obtains new members for a church. It extends the influence of the church into society by encouraging individual proselytization," the Scientology lawyers explained.

The biggest 1991 salary: Ken Pirak earned \$407,052 through fund-raising commissions, according to the documents.

If that sounds like a lot of money, the organizations themselves are collecting millions by charging Scientologists for a religious service called "auditing." The process is essentially an ascending series of personal-evaluation sessions that, according to church doctrine, clear a person of bad thoughts. Each step of auditing intensifies and costs more.

Paying for religious services sounds non-traditional, but tax lawyer Cohen reasons that other places of worship have similar setups.

"For example, various denominations charge for seats" in a church, Cohen said. "I've seen (pews) in Episcopal churches with a family name on it: If you're there, you get that seat."

In his own case, Cohen says he receives a bill for dues from his synagogue. His name is on a seat in his synagogue as well.

Nonetheless, the Scientologists seemed sensitive to the question and, in their filings with the IRS, sought to assure that the church didn't charge for absolutely everything.

"The amount of free religious services that Churches of Scientology provide is extensive," the church wrote. Ever ready with numbers, the lawyers provided a statistical study of three church affiliates: "They found that they minister an average of 27 to 33 percent of their religious services without charge."

In their inquiry, IRS examiners learned that the Scientologists are spending \$114-million to archive L. Ron Hubbard's writings and protect them in an underground storage vault. They're spending millions more on advertising and renovations of Scientology facilities in Clearwater and elsewhere.

Cohen, the tax lawyer, noted that spending on such costly vaults is not a big issue in determining a church's tax exemption.

"A church is a church. Some churches have very plain buildings, and a very meager house for their minister, and some have very elaborate buildings. . . . That's a judgment," Cohen said.

As for the underground vaults, he said, "If that makes them feel better, God bless 'em. You start judging that, and you're in the religion business."

Yet another area the IRS probed was the Church of Scientology's troubled past.

The "Guardian Office," set up to harass the government, has been shut down, the Church of Scientology says. "Any individuals who were found at that time to be on staff were dismissed and informed never to apply for re-employment," the Scientology lawyers wrote.

New hires are checked against a list of former Guardian Office criminals, the lawyers wrote.

The Scientologists also have been busy in civil court, in both suing and getting sued, and the IRS was curious about that, too. The Scientology attorneys listed the lawsuits, including those from former members seeking donations, with this explanation: "Our consistent view has been that the civil litigants are solely motivated by greed."

As for the lawsuits it files, the church attorneys wrote, "We have to litigate seriously because we have been subjected to great persecution."

The Scientologists filed as many as 100 lawsuits against the IRS that apparently strained the agency's resources, according to published reports.

One tax lawyer said IRS officials had groused privately about the time spent on the lawsuits. "It's consumed a fair amount of resources in the exempt organizations (division) over there to deal with them year after year after year," said the lawyer, who declined to be quoted by name. "I can see the motivation on the part of the service to work things out."

Scientology spokesman Rathbun says the lawsuits were all settled as part of the agreement. IRS spokesman Keith would only say that "a variety of outstanding tax and litigation issues" were resolved.