**Should We Become a 501(c)(3)**

I received the following e-mail from a brother in our fellowship, and then wrote this letter as a response. I hope this helps everyone to see why we do not want to become a legal entity or try to seek out any tax deductions for gifts that we give to one another.

Hi Mike, Mitch and David,

I find myself hung up or maybe confused on the issue of taxes and obeying the laws of the land. I talked to Mike in person this week. I asked Mike a day later on the phone if he thought maybe Mitch could explain from a spiritual business man’s perspective this issue. He said it would sure be okay to ask He thought. This is my question Mitch and David and Mike from the sum of God’s word.

Why would we not want to obey the tax code of the land to a tee and take any advantages that are there?

ybiC, ______

I'll be happy to answer your question thank you for asking.

First of all, we certainly want to obey any requirements place on us by the US government, because it is the Lord himself who as set up these laws through our leaders. Obviously we will not obey if it contradicts the scriptures.

**Rom 13:1**  Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God.  
**Rom 13:2**  Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation.  
**Rom 13:3**  For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same:

To my knowledge, there is no law that requires us to form a 501(c)(3). We are simply a group of people giving gifts to one another, which is handled on each person’s personal tax return. Do you think we are disobeying the tax laws by not forming a 501(c)(3)? If so, can you give me IRS tax code that makes this clear?
While we want to obey the government, we do not want to unnecessarily entangle ourselves in the affairs of this world, or invite any additional level of scrutiny into our activities.

(2Ti 2:4 KJV) No man that warreth entangleth himself with the affairs of this life; that he may please him who hath chosen him to be a soldier.

When you file to be tax exempt you go through an application process and have to form a legal entity, such as a trust, corporation, or association. Here is a quote from the IRS website:

http://www.irs.gov/Charities-&-Non-Profits/Application-Process

**First Things First. Does The Organization Have an Appropriate Legal Form?**
For the Internal Revenue Service (the IRS) to recognize an organization's exemption, the organization must be organized as a trust, a corporation, or an association. Is the organization a trust, corporation, or association?

You can read in greater detail what is required on the above mentioned link to see what is required for each of these entities. I read some of the requirements and in my judgment, this is unnecessarily entangling ourselves in the affairs of the government.

If we do form a 501(c)(3), we are subjecting ourselves to additional levels of control and scrutiny by the government. Here is an example of how a 501(c)(3) is controlled by the government.

In Bob Jones University v. United States (461 U.S. 574), the U.S. Supreme Court noted the following about the government’s intended purpose for the 501c3. These quotes are from JUSTICE POWELL.

"I join the Court's judgment, along with Part III of its opinion, holding that the denial of tax exemptions to petitioners does not violate the First Amendment. **I write separately because I am troubled by the broader implications of the Court's opinion with respect to the authority of the Internal Revenue Service (IRS) and its construction of §§ 170(c) and 501(c)(3) of the Internal Revenue Code.**"

He then quotes the court's rulings before he comments on them.

The Court states:
Charitable exemptions are justified on the basis that the exempt entity confers a public benefit -- a benefit which the society or the community may not itself choose or be able to provide, or which supplements and advances the work of public institutions already supported by tax revenues. History buttresses logic to make clear that, to warrant exemption under § 501(c)(3), an institution must fall within a category specified in that section, and must demonstrably serve and be in harmony with the public interest. The institution's purpose must not be so at odds with the common community conscience as to undermine any public benefit that might otherwise be conferred.

Ante at 591-592 (footnotes omitted). Applying this test to petitioners, the Court concludes that

[c]learly an educational institution engaging in practices affirmatively at odds with [the] declared position of the whole Government cannot be seen as exercising a "beneficial and stabilizing influenc[e] in community life," . . . and is not "charitable," within the meaning of § 170 and § 501(c)(3).

Here are his comments on these rulings:

Even more troubling to me is the element of conformity that appears to inform the Court's analysis. The Court asserts that an exempt organization must "demonstrably serve and be in harmony with the public interest," must have a purpose that comports with "the common community conscience," and must not act in a manner "affirmatively at odds with [the] declared position of the whole Government." Taken together, these passages suggest that the primary function of a tax-exempt organization is to act on behalf of the Government in carrying out governmentally approved policies. In my opinion, such a view of § 501(c)(3) ignores the important role played by tax exemptions in encouraging diverse, indeed often sharply conflicting, activities and viewpoints.

http://infousa.state.gov/government/branches/bobjones.html

Here we have a supreme court justice pointing out why a 501 (c)(3) exists, to promote the interests of government. As soon as we do not benefit them, the status is removed. This particular case was about private schools and racial discrimination.
"I therefore concur in the Court's judgment that tax-exempt status under §§ 170(c) and 501(c)(3) is **not available to private schools that concededly are racially discriminatory.**"

What happens if the government finds out that we do not allow homosexuality in our fellowship? They could say that we are not acting in accordance with the "common community conscience" and revoke our status. We most certainly teach things that are against the position of the whole government. We teach that we should love our enemies, and the government says we should go to war. They can institute a draft for war and we will teach people that they should not go to war regardless of the legal consequences. The day may come when to government will discover what we teach and try to stop it, just as many governments have persecuted Christians throughout history. We will be left alone only as long as it is convenient for them. The persecution will come, so we need not speed it up by divulging additional information when it is not required.

There is a law that automatically makes churches tax exempt without filing any paperwork or being required to do any ongoing reporting. However, the catch is how you define a church.

http://www.christian-attorney.net/church_irrs_501c3_tax_exempt.html

According to IRS Publication 1828 (Tax Guide for Churches and Religious Organizations), “churches that meet the requirements of IRC Section 501(c)(3) are **automatically considered exempt and are not required to apply for and obtain recognition of tax-exempt status from the IRS.**”

However, “[a]lthough there is no requirement to do so, many churches seek recognition of exempt status from the IRS because such recognition assures church leaders, members and contributors that the church is recognized as exempt and qualifies for related tax benefits.”

**Further, if a church wrongly assumed it was a “church,” and the IRS determines otherwise, then the IRS could take the position that:**

1. **Donations made to the entity were and are not tax deductible to the donors and are subject to income tax,**
2. The entity does not qualify for special mailing rates,
3. The organization is not exempt from unemployment insurance; and
4. The entity is generally subject to ERISA related to employee benefit plans.

Here is the definition of a church as determined by the government.

http://www.t-tlaw.com/cf-14.htm
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.

This is a document that deals with the issue in much greater detail: [http://www.irs.gov/pub/irs-tege/eotopica94.pdf](http://www.irs.gov/pub/irs-tege/eotopica94.pdf)

What I gather from all of this is that the definition of "church" is subjective. Even the tax court and the IRS are not in complete agreement.

**The Tax Court, which is apparently unconstrained by the IRS administrative criteria, has adopted its own view, consisting of most of the same criteria compacted into 7 or 8 points.** See, e.g., Pusch v. Commissioner, 39 T.C.M. 838 (1980) or Chapman v. Commissioner 48 T.C. 358 (1967). In any event, not all of the 14 criteria must be met by every individual church, since only a substantial denomination will meet all of the criteria, and the IRS must allow for the existence of independent churches. Thus, there is substantial "wiggle room."


The only way that we can be sure that we qualify for tax exempt status is to apply for a 501(c)(3). This then takes us back to filing a legal entity and jumping through all of those hoops, including additional reporting to the IRS. I just don't want to worry about all of this, it will distract me from doing the work of the Lord.

Will give to Caesar when he asks for it, and until then we shouldn't volunteer anything.
And Jesus answering said unto them, **Render to Caesar the things that are Caesar's, and to God the things that are God's.** And they marvelled at him.

The government has dangled a carrot in front of us of being tax exempt if we jump through all of their hoops. They can change the rules on us at any time, and audit us at any time if we subject ourselves to that.

We should pray that the government will let us lead quiet lives in peace. I just pray they leave us alone.

**1Ti 2:1** I exhort therefore, that, first of all, supplications, prayers, intercessions, and giving of thanks, be made for all men; **1Ti 2:2** For kings, and for all that are in authority; **that we may lead a quiet and peaceable life** in all godliness and honesty.

I hope this helps you understand why we do not want to be a 501(c)(3). If you can show me IRS code that requires us to become a legal entity then we can discuss how to handle that.

Currently we just give gifts to one another and abide by the IRS regulations which can be found here at the following links:


http://fairmark.com/general-taxation/tax-rules-for-gifts

Let me know if you’d like to discuss this on the phone for further clarification.

Your Brother in Christ,

Mitch Kuhn