Declaratory Judgments and Charitable Borders*

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Introduction

Law is all about boundaries, but many boundaries are fuzzy. Legal concepts have a defining idea that is clear enough at its core, but increasingly uncertain as the facts approach the border separating that concept from its negation. As the border nears, cases become—to use a word almost exclusively employed by lawyers—arguable.

Well-crafted rules tend to minimize these arguable border areas. If the legal concept is conceived of as roughly circular, a well-crafted rule will have border areas that evoke a bicycle tire rather than a doughnut. But it is not merely a matter of craft; some legal concepts lend themselves to greater definitional crispness than others.

The boundary of greatest interest in the field of federal nonprofit law is the one that defines a charitable organization for purposes of section 501(c)(3). It has several dimensions: Is the organization's purpose within the statutory definition of charitable? Are its operations consistent with public policy? Are the operations of the organization free (enough) of private inurement or benefit, lobbying, campaign participation and commerciality?

Unfortunately, as anyone who has taught or practiced the law in this area knows, charity is not a crisp legal concept. Each of its dimensions is more like a doughnut than a bicycle tire, offering robust opportunities for dispute. Indeed, were it not the case that the majority of fledgling, would-be charitable organizations have only limited resources to see their disputes through to their conclusions, one imagines that the courts would be flooded

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with cases that seek to elaborate on the precise location of the boundaries along each dimension of charitable.

Even so, there are many litigated disputes. This paper is constructed primarily around a sample of the disputes about exempt status that have been decided pursuant to IRC section 7428, which offers organizations an opportunity to seek a declaratory judgment to the effect that, notwithstanding IRS views to the contrary, they merit section 501(c)(3) status. Because cases brought under section 7428 are easily searchable, a reasonably comprehensive collection of such cases is available for systematic study. Other cases, as well as rulings, examples in the Treasury Regulations, and other materials are also available, and are referred to below when useful.

Following a brief summary of the history and operation of section 7428, this paper looks at what the cases decided under that section reveal about the locations of the several boundaries surrounding the concepts that collectively define the nature of charity for federal tax purposes. After a review of the cases, some observations are offered about the administrative process implications of cases that do not produce litigated disputes. A very brief concluding section summarizes the findings regarding the locations of the boundaries discussed herein.

Declaratory Judgments in Charitable Status Disputes.

1. History—Until section 7428 was added to the Internal Revenue Code ("IRC") by the Tax Reform Act of 1976, nonprofit organizations whose application for recognition of exempt status had been denied by the Internal Revenue Service ("IRS"), or whose exempt status had been revoked by that agency, could obtain court review of those agency determinations only by a cumbersome and time-consuming process. The organization would need first to arrange to pay some federal tax. For individuals and for-profit corporations, this requires no very complicated maneuvers, since paying taxes would be done in the ordinary course of earning a livelihood or conducting a business. But for a nonprofit organization, there might be in many years—probably most years—nothing that

looked very much like net taxable income.[2] Without income, there is no income tax owed, and if the organization were to pay an income tax anyway, the IRS would presumably refund it when the organization filed a claim, mooting any question of the organization's exempt status.

Other taxes were generally more promising. Prior to 1984, charitable organizations were eligible for exemption from FICA taxes,[3] provided, of course, that they qualified under section 501(c)(3); churches continue to be eligible for such an exemption.[4] Recognized charities can also elect not to pay taxes pursuant to the federal unemployment tax act, opting instead for something of a pay-as-you-go method of covering unemployment benefits.[5] Because these exemptions are conditioned on recognition of charitable status, the denial or withdrawal of that status creates a tax liability, which the organization can then pay. This creates jurisdiction for a suit seeking a refund of those taxes in a federal district court or the Court of Federal Claims. Or at least it does if the exemption hadn't been previously waived by the organization, which has been possible for the taxes mentioned at various times, and is still possible in the case of FICA taxes with respect to church employees, and FUTA taxes with respect to employees of section 501(c)(3) organizations generally.

A final option would have been to enlist what the Supreme Court once referred to as a "friendly donor"[6]—a facially odd formulation, since one would suppose most donors to be friendly to the organizations to which they donate. But the point is that they must

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[2] Nonprofit organizations more frequently experience an excess of total revenue over total expense, as the old Form 990 formerly put it. (The new form simply labels this line "revenue less expenses." See line 22, IRS Form 990, part 1. But an excess of revenue over expense does not mean that the organization would have income in that amount, as "income" is generally understood. In particular, because voluntary transfers to charitable organizations are ordinarily an important element of revenue, and are also ordinarily not taxable because they are gifts (if given to an individual) or contributions to capital (if given to a corporation), it is likely that most organizations in most years would not show any net income under normal income-tax accounting rules. *See generally* Boris I. Bittker & George K. Rahdert, *The Exemption of Nonprofit Organizations from Federal Income Taxation*, 85 YALE L.J. 299 (1976), for a full development of this view.

[3] This option was closed effective January 1, 1984. Social Security Amendments of 1983, Pub. L. No. 98-21, § 102, 97 Stat. 65,70.

[4] IRC §§ 3121(b)(8); 3121(w) (West 2011).

[5] *Id.* § 3306(c)(9).

[6] Bob Jones University v. Simon, 416 U.S. 725, 730 (1974).

be friendly enough not merely to donate, but to litigate the challenge of the deductions that they claim for contributions to an organization whose exempt status has been denied or revoked.[7] Since litigation of the donor's claim will turn on the exempt status of the organization receiving the donation, determination on that question would be available, and presumably considered binding on the IRS as to the organization as well as to the contributing taxpayer.

These paths to the courthouse were unappealing to some organizations, and at least a pair of such organizations decided in the early 1970s to pursue a more direct path of seeking an injunction against the IRS prohibiting it from revoking their exempt status. This was a time of considerable ferment within the charitable community, as courts and the IRS had only begun to decide that racially discriminatory practices were inconsistent with section 501(c)(3) status. After the court in Green v. Connally[8] so held, the IRS announced in Rev. Rul. 71-447[9] that it would not approve new applications for exempt status from organizations that practiced racial discrimination, and would revoke exempt status of those organizations that were found on audit to engage in such practices.

Bob Jones University was one of the organizations whose status was threatened by this position. It sought injunctive relief in a local district court, and was awarded that relief.[10] The district court's ruling, however, was overturned on appeal by the Fourth Circuit.[11] At about the same time, Americans United for the Separation of Church and State lost its exempt status because the IRS determined that it had engaged in more than insubstantial lobbying activities, in contravention of one of the requirements of section 501(c)(3) status. The organization, along with a few of its "friendly donors," sought an injunction against the IRS, but the action was dismissed in an unpublished order by a three-judge panel of the D.C. district court on grounds that the suit violated the Tax Anti-Injunction Act now embodied in IRC section 7421(a). However, the Court of Appeals

[7] Because this entails a willingness to undergo a general review of their tax returns for the year in question, one can see that such donors must be very friendly indeed to the organization.
[8] 330 F. Supp. 1150 (D.D.C. 1971), aff'd *mem. sub nom.* Coit v. Green, 404 U.S. 997 (1971).
[9] 1971-2 C.B. 230.
[10] Bob Jones University v. Connally, 477 F. Supp. 1169 (D.S.C. 1973).
[11] *Id.*; 472 F. 2d 903 (4th Cir. 1973).

found that, at least as to the organization itself, that the suit was not truly to enjoin collection of taxes, and that no other remedy was adequate to prevent the damage done by withdrawal of exempt status.[12]

The Supreme Court granted *certiorari*, and decided for the IRS as to both organizations.[13] Essentially, the decision was that the remedy of paying a tax of some sort, and seeking a refund of that tax, though cumbersome, was sufficient from a constitutional perspective, and that IRC section 7421(a) did indeed bar injunctive relief in such cases. But the Supreme Court was not completely unsympathetic to the organizations that had lost their exempt status, noting that "[T]hese post-revocation avenues of review take substantial time, during which the organization is certain to lose contributions . . . ."[14] While stopping short of affirmatively urging Congressional remedy of the situation, the Court did note that Congress was in a position to consider the wisdom of extending more direct relief.[15]

Viewed from the perspective of the second decade of the 21st Century, the Bob Jones University of the early 1970s, which flatly prohibited admission of any African-American students,[16] does not seem like a very sympathetic litigant. But at the time, it had its vocal supporters. And the fact that the Court simultaneously denied relief to an organization of nearly opposite political and social hue lent a semblance of balance to the concern for charitable organizations generally that might find their operations gravely disrupted by an unreviewable order denying the benefits of exempt status. In what seems to have been a similar balancing exercise, the Commissioner of Internal Revenue in the early 1970s, Randolph Thrower, published a journal article in which he both expressed

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[12] Comm'r v. Americans United, Inc., 477 F.2d 1169 (D.C. Cir.1973). As to the individual taxpayers who had sued based on denial of deductions, the Circuit Court sustained the District Court panel's finding that the Anti-Injunction Act precluded jurisdiction.

[13] Bob Jones University v. Simon, 416 U.S. 725 (1974) and Alexander v. Americans United, Inc., 416 U.S. 752 (1974).

[14] 416 U.S. at 730.

[15] *Id.* at 749–50.

[16] Only later did it modify this stance, permitting admission of such students, but insisting that there be no interracial dating. *See* Bob Jones University v. United States, 461 U.S. 574, 580–81 (1983) for a description of the several different admission policies that Bob Jones University pursued during different years in the 1970s.

support for two ideas: that racial discrimination was inconsistent with exempt status, and that organizations facing loss of exempt status should have more immediate access to review by a court.[17]

With this *de facto* support of both the executive and judicial branches, and the cover of recent revocations of exempt status that were paired in such a way that nearly everyone was offended by one or the other, Congress did not balk at adding section 7428 to the IRC. The task was made even easier by the fact that it had only recently enacted provisions granting jurisdiction to review IRS determinations relating to the tax status of employee plans under the provisions of ERISA;[18] adding section 7428 seemed a logical extension, and was cited in the Joint Committee's explanation of the Tax Reform Act of 1976 (the "Blue Book") with approbation.[19]

Bob Jones University did, eventually and famously, get its day in court, by the much more circuitous path of a refund suit.[20] Though the provisions of section 7428 do not provide clear signals about the priority, if any, between actions seeking declaratory judgments and those seeking refunds of taxes that hinge on exempt status,[21] the Tax Reform Act was clear that the new addition to the IRC did not authorize review of IRS determinations that were made before 1976.[22] The Bluebook also indicated that the new

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[17] Randolph W. Thrower, *IRS is Considering Far Reaching Changes in Ruling on Exempt Organizations*, 34 J. OF TAXATION 168 (1971).

[18] The Employee Retirement Income Security Act of 1974, Pub. L. 93-406, § 1041, 88 Stat. 829, 949 contained a provision that added declaratory relief for employee plans, codified at IRC § 7476.

[19] Joint Committee Explanation of the Tax Reform Act of 1976, reprinted in 1976-3 C.B. 400, at 401.

[20] Bob Jones University v. United States, 461 U.S. 574 (1983). The university paid $21 of FUTA taxes with respect to the wages of a single employee, and the IRS counterclaimed for $489,676 of such taxes on all of the wages of the university's employees over the tax years in question (1971-75). As everyone knows, the university lost its exempt status, and even though it claims to have discontinued the discriminatory practices that occasioned the revocation, it does not appear to have reapplied for recognition of exempt status in the years since.

[21] There is some discussion of this problem in the General Explanation, *id.* note 18 *supra,* at 404: "[I]t is expected that in general a court which has accepted pleadings in a declaratory judgment proceeding will yield to a court which has accepted pleadings in a redetermination of deficiency or a tax refund suit, unless the proceedings in the declaratory judgment suit are so far along that it would facilitate the interest of prompt justice for the latter court to yield to the former." Despite the vagueness of this guidance, and the fact that no reference to any of this appears in section 7428 itself, there appear to have been few if any cases in which organizations have brought refund suits and declaratory judgment suits at the same time.

[22] The IRS determination was issued on April 16, 1975. 416 U.S. 574, 581.

law was not intended to oust jurisdiction for refund suits, and the Bob Jones University refund suit was already underway when the new provisions were added to the IRC.

Americans United, Inc., was in the peculiar position of being disabled from generating any income tax issues by the very IRS acts that caused the organization's grievance: the IRS determination was that Americans United *was* exempt, but under section 501(c)(4), rather than section 501(c)(3). So it could never owe an income tax itself.[23] They may also have elected to pay FICA and FUTA taxes (though the record is unclear) which would have made it difficult to generate refund suits under those taxes. Its only recourse might have been a suit by a "friendly donor" who was willing to contribute to the organization, and then contest denial of the charitable deduction, which is surely the most cumbersome way to obtain court review of the organization's exempt status.[24] In the actual event, however, it does not appear that Americans United pursued any of these possibilities. More than Bob Jones University, Citizens United was the poster child for the need for a declaratory judgment cause of action; but like Bob Jones University, the effective date of the new statute disqualified it for relief pursuant to the new provisions.

But unlike Bob Jones University, the Americans United story does have a happy ending—of the Sleeping Beauty, many, many years later variety: Americans United was granted 501(c)(3) status, without going to court, in 2000, and is presumably out there, insubstantially lobbying, as these words are being written.

2. The Declaratory Judgment Rules—The rules of section 7428 are simple. Subsection (a) creates jurisdiction in the Tax Court, the District Court for the District of Columbia, or the United States Court of Federal Claims,[25] to review determinations as to

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[23] The organization could, of course, have an income tax liability of a sort if it engaged in unrelated business activities. IRC § 511 (2006). However, because these provisions apply in substantially the same way to both (c)(3) and (c)(4) organizations, the organization's status as one or the other of those would not be in issue.

[24] It was for similar reasons that, in the pair of cases decided together in 1964, Justice Blackman concurred in Bob Jones University, but dissented in Americans United. 416 U.S. 752, 763.

[25] Section 7428(a)(2) refers to this last court by its former name, the United States Claims Court. Until 1982, it was the trial division of the U.S. Court of Claims, and it still functions in that manner, with appeals lying with the U.S. Court of Appeals for the Federal Circuit. The name of the court was most recently changed in 1992, when the court was given its current name. Court of Federal Claims Technical and Procedural Improvements Act of 1992, Pub. L. No. 102-572, § 902(b), 106 Stat. 4506, 4516.

"initial qualification or continuing qualification" as an organization exempt under section 501(c)(3).[26] The cause of action is available only to the aggrieved organization itself.[27] If the petitioner organization is found to have exhausted its administrative remedies,[28] it can contest not merely adverse determinations, but also failure by the IRS to make any determination at all.[29] If an IRS determination has been made, the action must be brought within ninety days of that determination.[30]

An additional feature of section 7428—and one that presumably makes it particularly attractive to organizations facing possible revocation of exempt status—is that contributions to the organization made during the pendency of the action will under some circumstances continue to be deductible, even if the organization is unsuccessful in its efforts to overturn the IRS determination.[31] This relief is limited in several ways, however. The donor must be an individual;[32] the aggregate amount of deductions for such gifts cannot exceed $1,000 per person or married couple;[33] and the donor's own actions must not have been related to the cause of the revocation of the exemption.[34]

Under the rules of the Tax Court, review of denials of applications for exemption are conducted solely on the basis of the administrative record, making them in effect summary judgment actions without trial.[35] This has advanced the interests of efficiency and timeliness in achieving resolution of these disputes.

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[26] Subsection (a) also authorizes review of determinations of private foundation status, private operating foundation status, and farmers' cooperative status under section 521, but those are not germane to the present paper.
[27] IRC § 7428(b)(1) (2006).
[28] *Id.* § 7428(b)(2).
[29] *Id.* § 7428(a)(2).
[30] *Id.* § 7428(b)(3).
[31] *Id.* § 7428(c)(1).
[32] *Id.* § 7428(c)(2)(A).
[33] *Id.*
[34] *Id.* § 7428(c)(3).
[35] Rules 217(a), Tax Court Rules of Practice and Procedure. There are occasional attempts by petitioner organizations to supplement the administrative record with testimony, and the rules permit this under extraordinary circumstances. Houston Lawyer Referral Service, Inc. v. Comm'r, 69 T.C. 570 (T.C. 1978) (No good cause for failure to reduce oral responses to IRS to writing, in order to get those responses into administrative record; therefore, no showing of exhaustion of administrative remedies.)

3. The Declaratory Judgment Cases Overall—The new rules proved immediately popular among the relatively small number of organizations whose application for exempt status was denied, or whose existing status was revoked. Cases brought under this section first began to appear at the very end of 1977,[36] and 76 cases of this sort were decided within five years of the first such case. Because declaratory judgment actions under this section reliably cite the section itself, a computerized data-base search for such cases is likely to be comprehensive or very nearly so. The results of that search appear in the Appendix to this article.

As can be seen, there have been a total of 185 cases decided through August of 2011. Several generalizations about section 7428 actions can be drawn from the pool of these cases:

- The flow of cases has diminished over time. In the first decade, through the end of calendar year 1986, 114 cases were decided. In the following decade, from 1987 to 1996, inclusive, 39 cases were decided; in the decade from 1997 to 2006, only 23 cases were decided; and in the current decade, which is only half complete (2007-2011), only nine cases have been decided. The dwindling number of cases may be caused by any number of factors, and speculation regarding which may be operating will be offered below.

- More than three-quarters of the cases—146 out of 185—are actions seeking review of denials of exempt status; 33 sought review of revocations, four were seeking review in the absence of a determination, and in two cases the opinion did not make clear whether the case involved a denial or revocation.

- Most organizations (149) chose to litigate in the Tax Court; some in the District Court for the District of Columbia (25); and only a few in the Court of Federal Claims (11).

[36] Hancock Academy of Savannah, Inc., v. Comm'r, 69 T.C. 488 (T.C. 1977).

- Organizations are usually unsuccessful in their attempts to have adverse determinations by the IRS overturned, but the results are not so dismal as to suggest that seeking a declaratory judgment is hopeless. Overall, organizations prevailed in 39 of the 185 cases, for a success rate of 21%. These results are consistent between the Tax Court and the D.C. District Court, with success rates of 18.7% (28 of 149) and 24% (6 of 25) respectively. Organizations enjoyed better success in the Court of Federal Claims (5 of 11), but the sample size is too small for this difference to have any significance.

- The results are not consistent over time, however. The would-be charitable organization prevailed in nearly 40% (21/53) of the cases decided before 1981, but in only about 13.6% (18/132) of the cases decided since.

These data raise many questions, most of which are not interesting. A few questions, however, merit further exploration. Why has the annual rate of declaratory judgment actions declined over time? In part, it may have been because there was pent-up demand for such actions at the time they were first permitted. Although actions explicitly could not be brought with respect to IRS determinations made prior to January 1, 1976, the IRS obligingly reissued a number of earlier adverse determination letters, consciously permitting organizations whose applications had been denied to obtain court review of those decisions.[37] But it is also plausible to assume that either the IRS or the exempt organization bar, or both, learned from the early cases, which enabled them to weed out cases in which their preferred positions were unlikely to prevail. The IRS in particular has proven to be much more selective in the cases it allows to go to trial than it was in the early years.

That explanation also sheds some light on the other interesting question raised by the data. Why has the success rate for organizations declined over time? The early

[37] Congress was apparently mildly concerned about the fact that the effective date of §7428 was deferred for six months following enactment, but required actions to be brought within 90 days of an IRS determination. To signal to the IRS its hopes that the IRS would not rush negative determinations out the door in order to preclude review, the Joint Committee indicated its hope that the IRS would reissue any determination letters sent during the first three months following enactment. *Supra,* note 19, at 406-07.

results—many of which were quite favorable to organizations with a reasonable claim that they were doing good things—presumably encouraged organizations that were disappointed by adverse IRS rulings to seek court review. After all, such organizations generally stand to lose nothing more than the expenses of litigation. The adverse IRS determination has already cost them their exempt status; they can either achieve a reversal of that unfortunate result, or not, but do not stand to lose anything more than they have already lost by the time the jurisdictional requirement of section 7428 has been met by a denial or revocation of exempt status.[38]

Even in the face of a declining winning percentage, it is not surprising that organizations continue to bring cases to the courts, for two reasons: First, not all organizations are represented by attorneys with experience relevant to these issues;[39] indeed, just as in other Tax Court litigation, some of these cases—usually those most conspicuously lacking merit, are effectively argued *pro se*.[40] Second, even if the winning percentage is declining, it may still be appropriate for an experienced attorney to advise an organization that while it will probably lose a section 7428 action, the value of an unlikely win so vastly exceeds the costs of a likely loss that the case is worth pursuing despite odds against winning that may be as high as ten to one or more.[41]

The Tax Court was going through a learning process itself in the first decade following passage of the Tax Reform Act of 1976. It is noteworthy that all but one of the first 39 cases brought under section 7428 in the Tax Court were reported in the regular

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[38] Penalties from bringing frivolous actions before the courts could apply in cases of, well, frivolity. This does not appear to be a significant risk in most of the cases involving close questions of exempt status, but may (and should) discourage would-be litigants whose organizations have no plausible claim to exempt status.

[39] For a discussion of the influence of lawyering on tax outcomes, and a general discussion of the success (or not) of tax litigants, *see generally* Leandra Lederman & Warren B. Hrung, *Do Attorneys Do Their Clients Justice? An Empirical Study of Lawyer's Effects on Tax Court Litigation Outcomes*, 41 WAKE FOREST L.REV. 1235 (2006).

[40] They are not truly *pro se* cases, because the petitioners are always organizations, and the lawyers are always individuals. But it is not infrequently the case that the founder or other central figure of the organization, who may or may not have any law training, argues the case on behalf of the organization. *See, e.g.,* Christian Manner International, Inc. v. Comm'r, 71 T.C. 661 (T.C. 1979), which was argued by its founder, one Willie Day Smith, and General Conferenc of Free Church of America v. Comm'r, 71 T.C. 920 (T.C. 1979), which was argued by Paul R. Stout, who was an officer of the organization.

[41] Note that organizations have won only a single case in the 21st century, out of the 21 that have been contested.

Tax Court Reports.[42] After creating a body of precedent in those cases, the chief judges have been much more selective about official publication, choosing to place most section 7428 opinions in the unofficial memorandum reports. (In fact, 20 of the last 22 Tax Court decisions in section 7428 cases have been published in the memorandum reports.) This exacerbates the problem of dwindling jurisprudence (if indeed it is a problem): not only are there fewer cases overall, but a lower proportion of them are regarded as having anything important to add to the jurisprudence in this area.

4. Declaratory Judgment Cases in Particular Areas—Other papers presented at this conference explore particular boundaries separating charitable from noncharitable organizations in the areas of private inurement, excess benefit, and private benefit. Beyond noting that nearly half of the cases in the data base involve, sometimes along with other issues, allegations of private inurement or private benefit, this paper will leave exploration of those areas to those other papers. The cases that are not focused primarily on private inurement or benefit can be reasonably divided into cases involving churches, most of which involve common issues; cases involving questions about the exempt purpose of the organization; cases involving commerciality; cases involving lobbying or campaign participation, and cases involving violations of public policy. These categories are not mutually exclusive. In particular, since being a church is emphatically *not* grounds for disqualification as a charity, *all* of the church cases involve consideration of one or more of the grounds listed. The church category is discussed separately here because many of those cases involve factual situations that are not easily brought within any of the standard disqualification categories, as will be explained below.

a. Churches—Roughly a quarter of the litigated cases on charitable status involve churches—or, rather, organizations claiming to be such.[43] From the very beginning of our income tax, the actions of all three branches of government have

[42] The exception, Michigan Early Childhood Center, Inc. v. Comm'r, T.C. Memo. 1978-186 (T.C. 1978), was decided shortly after a very similar case, San Francisco Infant School, Inc. v. Comm'r, 69 T.C. 957 (T.C. 1978).

[43] This is not to say that none of these organizations could accurately be described as a church; rather, it is simply to suggest that several of these cases contain facts that would cause a reasonable person to doubt the good faith of the proponent(s) of the organization. You'll see.

reflected concern that there be no excessive entanglement of government in the operations of religious organizations. The constitutional dimensions of this were definitively explored by the Supreme Court in the famous Lemon v. Kurtzman[44] case, in which the Court said that in order to survive scrutiny under the First Amendment, a statute must, *inter alia*, not foster "an excessive entanglement with religion."[45]

Congress has been very conscious of this prong, the third of a three-prong test offered by the Court in Lemon v. Kurtzman,[46] in designing the statutory rules relating to the tax oversight of churches; and the IRS has generally followed its cues accordingly. The result is a system in which churches are treated with particular deference in a number of ways. Unlike other 501(c)(3) organizations, they do not need to file an application for exemption, but are instead automatically presumed to enjoy that status.[47] Unlike other organizations, churches do not need to file annual information returns. Churches are also favorably treated, though not uniquely so, as to other features of the charitable organization regulatory framework, such as the presumption that they are not private foundations, regardless of the breadth of their financial support. Finally, churches enjoy the benefit of the Church Audit Procedure Act, which effectively prohibits random audits, requiring instead a "reasonable belief" on the part of a senior official of the IRS that the target church may not be entitled to exempt status. This Act also provides substantial procedural protections not available to other charitable organizations, such as a 15-day notice requirement prior to the beginning of any examination, an opportunity for a pre-audit conference, and limitations on the duration of any audit.

This governmental forbearance is no doubt a blessing—or a mitzvah, if you will—conferred by a benevolent Congress on the many deserving congregations of the devout of all stripes. But it does not require a particularly skeptical mind to imagine that this

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[44] 403 U.S. 602 (1971).
[45] *Id.* at 612–13.
[46] The other two prongs are that the statute must have a secular purpose, and a principal effect that neither advances nor inhibits religion. *Id.*
[47] Although they are not required to apply for recognition of exempt status, many do so, primarily as a means of securing a spot in IRS publication 78, which assures donors acting in good faith that contributions to the listed organizations, whose exempt status has been approved by the IRS, will be deductible.

deference also creates opportunities for abuse. One series of related abuses was spawned in the early 1970s, by the creator of the Universal Life Church of Modesto, one Kirby J. Hensley.[48] The theology of the Church was simple: it had none. Or, rather, it embraced them all, believing that everyone had a right to his own beliefs, whatever they might be.[49] In his deposition in the refund suit challenging the exemption denial, Hensley said that the Church "had no traditional doctrine. It only believes in that which is right."[50] The practices of the Church included traditional worship services (though one wonders what those would have looked like), but also consisted of issuing charters to others who wanted to create their own churches, and honorary Doctor of Divinity degrees to anyone who requested one.[51] These services to others were provided without explicit charge, though "offerings" of particular amounts were suggested.[52]

The dispute over the Church's status arose before 1976, and so proceeded in the form of a refund suit.[53] As is typical in such cases, the IRS did not challenge the sincerity or good faith of Hensley, but rather said that the Church was not organized exclusively for religious purposes, but rather for the substantial non-exempt purpose of issuing church charters and honorary Doctorates of Divinity.[54] The IRS also alleged that the issuance of the degrees was contrary to provisions of the California Education Code, and as such was an illegal purpose justifying denial of exemption.[55]

The court did not accept either claim. It found that the California education law was unconcerned with any aspect of honorary degrees, and that issuing charters for other churches and ordaining ministers was one of the things that churches do, in pursuit of their exempt purposes. The IRS does not appear to have appealed this decision, probably because neither the facts developed nor the framing of the issues made it an attractive case to take to the court of appeals. Instead, the IRS bided its time, later challenging the

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[48] Universal Life Church, Inc. v. United States, 372 F. Supp. 770 (E.D.Ca. 1974).
[49] *Id.* at 773.
[50] *Id.*
[51] *Id.* at 775.
[52] *Id.*
[53] *Id.* at 770.
[54] *Id.* at 771.
[55] *Id.*

Church's status in subsequent tax years. It mounted arguments and developed facts that more explicitly raised the "mail-order church" argument, and eventually managed to sustain revocation of exempt status in 1984.[56]

In the meantime, however, a good deal of damage had been done. Some sense of that can be inferred from another 1984 case, Church of Ethereal Joy v. Commissioner.[57] The latter church said in its application that it wouldn't begin operations until its exempt status was recognized. Thus, it had no congregants and had performed no religious services.[58] What it had done already was to place an ad in the local paper containing the following statement:

> REDUCE INCOME TAX BY 70 PERCENT
>
> In 1974, the IRS challenged the tax-exempt status of the Universal Life church and lost in District Court. We have over 50,000 tax-exempt congregations without a successful challenge. You won't see many of our ads because we are growing so rapidly by word of mouth, but we believe that people who are not lucky enough to know a ULC minister also deserve to reap the blessings given to us by the Internal Revenue Code, so we advertise once in a while to give everyone a chance.[59]

In some of these cases, an explicit claim of private inurement was made by the IRS, and sustained by the court. For example, in Church of the Modern Enlightenment v. Commissioner,[60] the Tax Court moved immediately from the observation that the Church's 1982 disbursements of $24,493 consisted "almost exclusively" of living expenses of the putative pastor (and founder) of the church, to the observation that there was private inurement. Though that claim seemed central, this case nicely illustrates the fluidity of characterization that can be behind a determination that an organization is not exempt. Here, the pastor was a full-time employee of the New York City Transit Authority, who contributed his entire salary to the church, and then used those funds to pay himself a salary and to maintain his living quarters. Is this really a case of inurement in the usual sense? Inurement ordinarily refers to one of three situations (which are not

[56] Universal Life Church v. Comm'r, 83 T.C. 292 (T.C. 1984).
[57] 83 T.C. 20 (T.C. 1984).
[58] *Id.* at 22.
[59] *Id.* at 24.
[60] T.C. Memo. 1988-312 (T.C. 1988).

mutually exclusive): 1) Money is raised from outside donors, for ostensibly charitable purposes, but then diverted to the private use of an insider instead; 2) assets are pooled, and used to generate business or investment earnings, which are diverted to the private use of an insider; or 3) an insider contributes funds to an organization for charitable purposes, but later changes his mind and takes them back.

None of these characterizations apply to the situation in *Modern Enlightenment*.[61] One almost needs a new phrase to describe what was happening in this case. Perhaps "self-inurement," or "charitable money laundering." From the start, the plan was to cycle funds from the donor, through the organization, and then back to the donor. No outside donations or earnings were involved—merely the shuttling of funds into and back out of the charitable organization. Indeed, even to describe this situation as involving transfers at all elevates form over substance.

The court also referred to this situation as one in which the organization had substantial non-charitable purposes.[62] But that description also seems inapt. Taking the organizations' evidence at face value, its funds were being spent in much the way many churches spend their funds: maintaining their house of worship (in this case, the worshiper's own house), and compensating their staff (in this case, the worshiper himself). Ordinarily, "noncharitable purposes" refers to purposes that may be legitimate in themselves, but simply don't fit within the several adjectives contained in section 501(c)(3). The famous *Federation Pharmacy* case discussed below is an example: according to the court in that case, the organization simply engaged in the sale of the usual wares of a drug store, which is not a purpose that qualifies the organization for exempt status.[63] In a technical sense, one could say that "private inurement" and "tax evasion" are not exempt purposes, but to do that seems to shift the focus from the private inurement or

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[61] Arguably, the third situation—contributions followed by distributions back to the donor—describes the situation in *Modern Enlightenment*. But this is not a situation in which there was any change of course. The donor knew at the moment of the "gift" that the fund were simply being passed through the organization's books, with no intent that they should come to rest within the organization at any point. This is why the alternative characterizations in the text seem more accurate.

[62] T.C. Memo. 1988-312, at 21.

[63] Federation Pharmacy Services, Inc. v. Comm'r, 72 T.C. 687 (T.C. 1979), aff'd, 625 F.2d 804 (8th Cir. 1980).

tax evasion to a less direct, more colorless "substantial nonexempt purpose," which captures little of the flavor of what's going on here.

What's going on in cases of this sort is tax evasion, or at least abusive avoidance.[64] This was an organization whose application for exemption very much needed to be denied, but saying why in a defensible way is not an easy task. The court sees a donor to an organization; it sees a pastor who is paid by the organization; it sees organizational documents, and representations about operational details, that describe activities conventionally associated with churches. Why isn't this a church? One supposes that it was an inability to answer that question that led to a finding of exempt status in the original *Universal Life* case. On reflection, one may well conclude that, in fact, this is a reasonably good tax shelter, in the technical sense. No obvious misrepresentations of the facts are necessary, and all the elements of a standard church can be reasonably simulated. But it seems fishy, and the fish aren't particularly fresh. Perhaps "substantial nonexempt purpose" is the best that courts can do under these circumstances, but it is troubling that there isn't a more direct means of challenging organizations of this sort. One almost longs for the open-textured language of a provision like IRC section 482, or any of the many Code sections that invoke the concept of "tax avoidance purposes,"[65] which might explicitly authorize the IRS to employ a "smell test"

The data set assembled for this paper includes twenty or more cases involving facts more or less similar to those of *Universal Life, Ethereal Joy* and *Modern Enlightenment*, many of which involve organizations whose very names seem to stick out their corporate tongues at the IRS, daring challenge of exempt status.[66] The IRS denial or revocation of

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[64] Tax evasion requires proof beyond a reasonable doubt of willfulness. IRC § 7201(a) (2006). It is possible, given the original Universal Life outcome, that willfulness could not be conclusively demonstrated in many of these cases.

[65] *See, e.g.*, IRC § 357(b) (2006) (assumption of liabilities by a corporation treated as money paid to contributing shareholder if transfer is motivated by a substantial tax avoidance purpose). There are many others.

[66] Bubbling Well of Universal Love, Inc. v. Comm'r, 74 T.C. 531 (T.C. 1980) is a favorite, though it is hard to top the straight-forward claims of Church By Mail, Inc. v. U.S., 63 AFTR 2d 89-471 (D.D.C. 1988).

exempt status—variously couched in terms of private inurement or benefit,[67] but more commonly in terms of substantial noncharitable purposes[68]—was upheld in all but one of this sort of case. The exception, Church of Visible Intelligence That Governs The Universe v. U.S.,[69] was in many respects similar to *Ethereal Joy*: it was an incipient organization that had not assembled a congregation or begun worship services, and had assets of only the $100 of cash that the organization's president-for-life[70] had contributed to it. Still, it claimed its intention to be a church, and denied private inurement, intentions to engage in excessive lobbying, or any other activity that would cause it to fail the standard tests for exemption. And it had not placed any incendiary ads promising tax benefits to any who wanted them. It tested the limits of the familiar "operational" test of the Treasury Regulations,[71] under which organizations whose operations are prospective can still qualify for exemption, but only if the operations are described in sufficient detail to permit evaluation of their consistency with the regulations. In this case, the court found that, while the application could have contained more detail, it managed barely to meet the test, and the court granted exempt status.[72] The court went on to deny the organization church status, on grounds that it hadn't demonstrated that it would meet the criteria used by the IRS to determine that status.[73] This is curious, since the facts justifying exemption and the facts justifying church status were similarly speculative at the time of the application. In fact, they were virtually the same facts—or facts in the making, in the actual case.

The data base contains a few other cases involving churches that seem much more real—churches of the more traditional form—but which may have conducted non-church activities that gave the IRS pause. For example, Bethel Conservative Mennonite Church v.

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[67] Modern Enlightenment is an example. Church of Modern Enlightenment, T.C. Memo. 1988-312 (T.C. 1988).
[68] Ethereal Joy is an example. Church of Ethereal Joy, 83 T.C. 20 (T.C. 1984).
[69] 4 Cl.Ct. 55 (1983).
[70] Quite literally; the organizational documents expressly provided a term for the president co-extensive with his life. *Id.* at 58.
[71] Treas. Regs. § 1.501(c)(3)-1(c).
[72] 4 Cl.Ct. at 62.
[73] *Id.* at 65. The criteria are presented in Rev. Rul. 59-129, 1959-1 C.B. 58, consisting of fourteen factors ("established place of worship; regular congregation, etc.) that the IRS believes are defining qualities of a church.

Commissioner[74] involved what was conceded to be an ordinary Mennonite church. However, the church also administered a health care aid program for the benefit of its members that accounted for 22% of the church's total budget, which the IRS found to be a substantial nonexempt purpose. The church discontinued the health care program on January 20, 1981,[75] so the issue was narrowed to whether the church had exempt status prior to that date. The Tax Court sustained the IRS view that the health plan was fatal to exempt status, but the Seventh Circuit disagreed, and accordingly reversed.[76]

b. Exempt Purpose—The controversy over the Mennonite church's health plan provides an opportunity to transition into a discussion of one of the more interesting boundary issues in the exempt organizations world: what, in the view of the IRS and the courts, is the appropriate range of activities that can be considered charitable for purposes of qualification for section 501(c)(3) status? For reasons noted above (relating to the total flow of cases, and the proportion of them regarded by the Tax Court as having high precedential value), most of the interesting section 7428 jurisprudence came in the first decade or so following its addition to the IRC.

In the years immediately following 1976, the IRS seemed quite pointedly to take a narrow view of the sort of activities that could constitute exempt purposes under section 501(c)(3). While it succeeded in some of these efforts, it would be fair to describe this series of cases as a rejection by the courts of the narrow views of the IRS. Several examples should make the pattern clear:

- In San Francisco Infant School, Inc. v. Commissioner,[77] the IRS decided that an organization that might be described as either a day-care center or an early-childhood school was primarily "custodial" rather than educational.[78] There was ample evidence in the record that a good deal of thought had gone into the

[74] 80 T.C. 352 (T.C. 1983).
[75] This was the very day on which Ronald Reagan was inaugurated as President (which may be just a coincidence).
[76] 740 F.2d 388 (7th Cir.1984).
[77] 69 T.C. 957 (T.C. 1978).
[78] *Id.* at 964

structure of the activities arranged each day for the "students," but the students in question ranged in age from six months to three years, leading the IRS to judge the operation of the organization to involve more diaper-changing and naptime than anything traditionally educational. The Tax Court agreed that quite of lot of personal child care was part of the package, but found those aspects to be incidental to the instructional program, and accordingly granted exempt status to the school.[79] The IRS acquiesced to this finding,[80] and the data base includes no subsequent cases involving day-care centers.[81]

- In Sound Health Association v. Commissioner,[82] the IRS determined that a Washington state health maintenance organization was engaged in substantial nonexempt activities resembling the commercial provision of health insurance, though this organization also engaged in activities that directly provided health care to its members (and, for a fee, to nonmembers). The Tax Court found that the organization met the "community benefit" standard that had been in use by the IRS since 1969,[83] and accordingly granted exempt status.[84]

  The IRS acquiesced in this case,[85] but has continued to insist that most health maintenance organizations do not qualify for 501(c)(3) status, and courts have so far agreed,[86] at least in cases where the organization provides no direct medical care, but rather simply arranges for the care, and payment therefore.

[79] *Id.* at 966.
[80] AOD 1978-101 (May 5, 1978).
[81] A substantially simultaneous case, Michigan Early Childhood Center, Inc. v. Comm'r, T.C. Memo. 1978-186 (1978), reached the same outcome.
[82] 71 T.C. 158 (T.C. 1978).
[83] *See* Rev. Rul. 69-545, 1969-2 C.B. 117.
[84] *Sound Health*, 71 T.C. at 187–88.
[85] AOD 1981-127 (June 10, 1981).
[86] *See* Geisinger Health Plan v. Comm'r, 100 T.C. 394 (T.C. 1993), aff'd, 30 F.3d 494 (3d Cir. 1994), and IHC Health Care, Inc. v. Comm'r, T.C. Memo. 2001-248 (T.C. 2001), aff'd, 325 F.3d 1188 (10th Cir. 2003).

- In Aid to Artisans, Inc. v. Commissioner,[87] the IRS determined that an organization created to "promote, improve, and expand handicraft output of disadvantaged artisans in developing [countries]"[88] was not pursuing charitable purposes in so doing. The Tax Court found these activities to be within the understanding of "charitable" activities, and granted the exemption. The IRS acquiesced in the result,[89] reserving the right to locate factual distinctions in future cases, though no case much resembling this one seems to have appeared since in the section 7428 data set.

- In People's Translation Service/Newsfront International California Nonprofit Corp. v. Commissioner,[90] the IRS determined that an organization that published bi-weekly summaries of foreign news articles, which it sold at cost to students and educators (among others), and also maintained libraries of previously translated materials, and engaged in other similar activities, was not entitled to exempt status. But the Tax Court found this to be a valid educational purpose, and the IRS acquiesced.[91]

- In Hutchinson Baseball Enterprises, Inc. v. Commissioner,[92] the IRS determined that a recognized 501(c)(3) organization that sponsored several boys' baseball leagues, and also (primarily, in terms of budget) owned a team that competed in a semi-professional baseball league, was not entitled to exemption as a charitable organization, and that such status was therefore revoked. The period under audit in this case consisted of the tax years ending in 1974 and 1975. These preceded the amendments to section 501(c)(3) that explicitly added "amateur sports competition" to the list of exempt purposes that would qualify for exemption under that section. The Tax Court found nevertheless that, even prior to the effective date of those amendments, amateur sports were within the

[87] 71 T.C. 202 (T.C. 1978).
[88] *Id.*
[89] AOD 1979-68 (Feb. 15, 1979).
[90] 72 T.C. 42 (T.C. 1979).
[91] AOD 1979-93 (April 26, 1979).
[92] 73 T.C. 144 (T.C. 1979), aff'd 696 F.2d 757 (10th Cir. 1982).

general concept of "charitable" activities.[93] The IRS did not acquiesce in this case,[94] and might well have continued to raise concerns about organizations of this type, because the primary activity consisted of fielding a team in a semi-professional league, and because the players on the team, while officially amateurs, were paid wages for part-time work in the area offered by other employers, but arranged by the team.

- In Dumaine Farms v. Commissioner,[95] the IRS denied the exemption application of an organization that operated a "demonstration farm," which tested soil conservation techniques, and published the results of its experiments for the benefit of farmers in the south Atlantic coast area, which is characterized by soil with a high concentration of clay. The Tax Court found the organization to be pursuing scientific and educational purposes, and granted the exemption. The IRS partly acquiesced, and partly not.[96]

- In a pair of cases involving boards set up to review hospital admissions standards, medical necessity determinations, and similar actions by hospitals receiving Medicare and Medicaid payments from the federal and various state governments (Virginia Professional Standards Review Foundation v. Blumenthal[97] and Professional Standards Review Organization of Queens County, Inc. v. Commissioner[98]), the IRS found that substantial nonexempt purposes, such as advancing the interests of doctors, were served by the organizations in question, and even raised the possibility that such organizations were better classified as section 501(c)(6) organizations (business leagues). The courts found that any advancement of private interests was incidental, and that

[93] The syllabus to the Tax Court opinion says flatly that "Training baseball players is an educational activity." However, the case does not seem to have been argued or decided on the grounds that the organization was educational.
[94] AOD 1980-104 (Feb. 14, 1980).
[95] 73 T.C. 650 (T.C. 1980).
[96] AOD 1980-45 (Feb. 11 1980).
[97] 466 F. Supp. 1164 (D.D.C. 1979).
[98] 74 T.C. 240 (T.C. 1980).

the organizations served a valid charitable purpose of relieving the burdens of government in administering the Medicare and Medicaid programs.[99]

- In Goldsboro Art League, Inc. v. Commissioner,[100] the organization's activities consisted of providing art instruction, maintenance of an art collection that was displayed in a variety of public locations, and operation of two art galleries, with the league retaining 20% of the price of any articles sold to cover its costs. The IRS thought that the last activity was purely commercial, and meant that substantial nonexempt purposes were being pursued. But the Tax Court found that the gallery activities were integrated into the general program of advancing local interest in fine arts, and granted exempt status.

- In Plumstead Theatre Society, Inc. v. Commissioner, the IRS denied exempt status to a nonprofit theatre organization that participated in a joint venture with a for-profit organization in the production of a single play.[101]

Clearly the "Just Say No" approach of the IRS during this period was taking a beating.[102] Indeed, it is fair to say that the net result of the efforts of the IRS to cabin the notion of "charitable" to narrowly traditional categories was the opposite of its apparent intention: those efforts produced a good deal of jurisprudence that actually *broadened* traditional notions of charity. To its credit, the IRS seems to have taken the lessons of these cases to heart. After 1983, few if any cases of this sort appear in the data base, presumably because the IRS was willing to grant exempt status to organizations that seem to be doing largely good things, even if the good things fall outside traditional categories of charitable activities.

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[99] *Blumenthal*, 466 F. Supp at1173 ; *Professional Standards*, 74 T.C. at 249.
[100] 75 T.C. 337 (1980).
[101] This was also a major part of the IRS' concern in the *Hutchinson Baseball* case, 73 T.C. 144 (T.C. 1979). Joint ventures have continued to trouble the IRS. The best-known recent case—St. David's Health Care System, Inc. v. U.S., 349 F.3d 232 (5th Cir. 2003)-- is not in the section 7428 data base, because the organization chose to pursue its case, following revocation of its exempt status, through the usually less-preferred path of a refund suit. Though the Fifth Circuit opinion resulted in merely a remand for further development of the facts, the organization ultimately prevailed.
[102] Ironically, this was at the same time that "Just Say No" was becoming our national drug policy. But there I go again.

The IRS did manage to win a number of cases relating to charitable purpose during the early years of section 7428, but they consisted mostly of cases that either had a more intense commercial hue (discussed in the next section of this paper) than the ones already described, or cases involving very narrow categories of beneficiaries, such as the members of a family who created a genealogical society,[103] or, more hilariously, the class of people interested in being inseminated by the sperm of an eccentric software engineer who established a foundation to meet the presumed demand for this service.[104]

c. Commercial Activities—As noted above, the IRS was much more successful in sustaining its denial of exempt status in cases involving would-be charities that engaged in activities that had a strong "commercial hue." The line separating the cases in this category from those in the previous category is subtle,[105] and drawn in large part by the posture of the IRS in defending its denial of exempt status. In the cases in the previous section, the IRS was arguing that the activity engaged in was simply not charitable. In the cases in this section, the arguments of the IRS seem directed not at what the organization wasn't, but rather at what it was: simply a commercial activity conducted within a facially nonprofit entity.[106]

Several of these cases involve organizations that engaged in activities that are generally pursued on a for-profit basis. The organizations' claims for exempt status in such cases rested largely on the facts that the organizations themselves were chartered as nonprofit corporations, and that the clientele that they served consisted largely of either other nonprofit organizations, or of populations that could be described as disadvantaged. Those claims failed to persuade the IRS, and, as noted, also generally failed to persuade the courts. A sampling of such cases will convey their general flavor:

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[103] *See, e.g.,* Calloway Family Ass'n, Inc. v. Comm'r, 71 T.C. 340 (T.C. 1978), and Price Genealogical Ass'n v. comm'r, 44 AFTR 2d 79-5024 (D.D.C. 1979).
[104] *See* Free Fertility Foundation v. Comm'r, 135 T.C. 21 (T.C. 2010).
[105] Note that several of the cases described in the preceding section did involve at least a cursory assertion by the IRS that they were engaged in commercial activities, and so are denoted as involving allegations of commerciality in the summary notes in the appendix.
[106] It must be admitted, however, that many cases could appear in either category, or both. Goldsboro Art League, Plumstead Theatre, and several others could be reasonably considered as cases in which the IRS concern was about the commercial nature of the organization's activities.

- In B.S.W. Group, Inc. v. Commissioner,[107] the organization provided consulting services for "rural-related policy and program development."[108] It had both nonprofit and for-profit clients, and charged amounts that covered their costs (or more). This was not a difficult case, and the court sustained the IRS determination.

- In EST of Hawaii v. Commissioner, an offshoot of the famous Werner Erhard institutes of "interpersonal awareness" sought exempt status, but its activities consisted heavily of licensing arrangements involving for-profit entities within the greater Erhard enterprises. Its rainbow-shaped hue was amply commercial, and denial of its exemption application was sustained.

In general, the courts seem heavily influenced by the fact that the activities of an organization closely resemble those of for-profit entities in the same industry. This seems unfortunate in cases where the clientele served is consciously sought by the organization to achieve a purpose that would generally be regarded as charitable. A well-known example of such a case is Federation Pharmacy Services, Inc. v. Commissioner,[109] in which the organization operated a store that sold pharmaceuticals at cost (and below market retail prices) to elderly and handicapped clients. Notwithstanding the sympathetic facts, the business was too commercial for the IRS and the Tax Court. As the court found:

> It is clear that [Federation's] exclusive purpose . . . is to sell drugs, an activity that is normally carried on by a commercial profitmaking enterprise. . . . We fail to see how the fact that it happens to deal in drugs [converts] it to a section 501(c)(3) organization. If it could be so converted then so could a store selling orthopedic shoes, crutches, health foods, or any other product beneficial to health.[110]

Indeed. And what a sad world it would be if a nonprofit store selling crutches, wheelchairs, and back braces to needy patients could be operated on an exempt basis!

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[107] 70 T.C. 352 (T.C. 1978).
[108] *Id.*, at 353.
[109] 72 T.C. 687 (T.C. 1980).
[110] *Id.* at 691–92.

Several cases involve nonprofit organizations that provide services exclusively to recognized charitable organizations, and the results have been mixed. Associated Hospital Services, Inc. v. Commissioner[111] involved an organization that laundered linens for four exempt hospitals. The IRS, and then the Tax Court, found that this organization was essentially a "feeder organization," and as such barred from charitable status by the terms of IRC section 502. That section appears to be aimed at organizations that conduct for-profit activities, such as the manufacture and sale of macaroni, but seek exempt status because all profits are donated to charitable organizations. In *Associated Hospital*, a case could be made that the activities of the organization were integral to the operations of the hospitals served, distinguishing their activities from the macaroni business. But that argument was not successful.

Similar facts were involved in a pair of cases, separated by several years but decided by the same court, that reached opposite conclusions on the exempt-status issue. In Washington Research Foundation v. Commissioner,[112] the Tax Court found that a nonprofit organization formed to assist technology transfers to universities and other nonprofit research organizations, by acquiring intellectual property rights such as patents and copyrights, and licensing them to those organizations, was not exempt. Some years later, however, the court found, in Council for Bibliographic and Information Technologies v. Commissioner,[113] that an organization that provided its members (nonprofit libraries) with access to a regional library computer network, to facilitate inter-library loans, and the like, was entitled to exempt status. In both cases, the services provided seemed designed not to funnel resources to exempt organizations, as a feeder corporation might, but to provide services that were helpful in the pursuit of the clients' exempt missions.

The court in *Bibliographic* did not cite the earlier decision in *Washington Research*, but a possible distinction was that the latter was an independent organization, while the

[111] 74 T.C. 213 (T.C. 1980)
[112] T.C. Memo. 1985-570 (T.C. 1985).
[113] T.C. Memo. 1992-364 (T.C. 1992).

former was a membership organization, and the members/clients controlled the service provider. Ownership obviously won't help in a feeder corporation case, since ownership is in the very nature of a feeder corporation. But in cases where that epithet cannot be reasonably applied, control over a nonprofit organization by other nonprofit organizations may help assure the IRS and the courts that exempt purposes are indeed being pursued.

d. Lobbying and Campaign Participation—Since 1934, section 501(c)(3) has permitted otherwise qualified charities to enjoy tax-exempt status provided that "no substantial part" of their activities consist of lobbying. Despite more than three-quarters of a century of experience with that rule, the content of this rule remains opaque. Section 7428 might have flushed out cases that would illuminate this concept, but it has not.[114]

Two developments since 1975 have reduced the range of controversy somewhat. First, the Tax Reform Act of 1976, which added section 7428 to the IRC, also included a provision, codified at section 501(h), that allows charities to elect a lobbying regime that is much more specific, and probably more generous, than the "no substantial part" test. While section 501(h) is an optional regime that has been elected by few charities, the list of charities that have made a section 501(h) election presumably includes many of the organizations that feel themselves to be most at risk of disqualification under the "no substantial part" test.

Relief of another sort was provided by an early section 7428 case, Regan v. Taxation With Representation of Washington,[115] in which the Supreme Court made it clear that organizations exempt under section 501(c)(3) could operate as affiliates of organizations exempt under section 501(c)(4). Because the latter can engage in lobbying, the former can insulate themselves from exposure to disqualification under the "no substantial part" test by creating an affiliate (c)(4) organization to be its voice on issues before Congress.

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[114] *See generally* Miriam Galston, *Lobbying and the Public Interest: Rethinking the Internal Revenue Code's Treatment of Legislative Activities*, 71 TEX. L.REV. 1269 (1993).
[115] 461 U.S. 540 (1983).

The few cases on lobbying that appear in the data base (except, of course, *Taxation with Representation)* do not involve the "no substantial part" test directly. Rather, they involve the related concept of an "action organization," as defined in the Regulations.[116] These regulations were found unconstitutional in a well-known section 7428 case, Big Mama Rag, Inc. v. United States,[117] largely because of the vagueness of the "full and fair exposition" test embodied in those regulations. Despite this dramatic outcome, the IRS did not revise the regulations, but rather sought to repair their constitutional defects by publishing a Revenue Procedure that offered instructions on how the Regulations were to be interpreted and used.[118] The IRS must also have chilled its internal antipathy to gay and lesbian groups (which had been outed by the pleadings in *Big Mama Rag*),[119] because in the 30 years since that opinion was issued there have been no further cases in which sexual orientation appears to have been an issue in the denial of an exemption application.

It is perhaps just as well that the IRS did not wholly revoke its "full and fair exposition" test, because that test proved useful in disposing of a pair of unsavory cases involving neo-Nazi organizations.[120] But although these cases were in fact decided on the grounds that the organizations in question failed the full and fair exposition test, one presumes that they could alternatively have been decided on grounds that granting exempt status would be contrary to public policy. After all, if prohibition of interracial dating was fatal to exempt status, presumably calls for armed confrontations between the races would be as well, *a fortiori*.[121]

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[116] Treas. Regs. §1.501(c)(3)-1(c)(3)(iv): "An organization is an action organization if . . .(a) its main . . . objective . . .may be attained only by legislation . . . and (b) it advocates . . .the attainment of such main objective . . . as distinguished from engaging in nonpartisan analysis, study, or research . . . ."
[117] 631 F.2d 1030 (D.C. Cir. 1980).
[118] Rev. Proc. 86-43, 1986-2 C.B. 729.
[119] The IRS national office specifically noted the "articles, lectures, editorials, etc. promoting lesbianism" among its reasons for denying the application in BMR following a hearing at that office. 631 F.2d at 1033.
[120] National Alliance v. U.S., 710 F.2d 868 (D.C. Cir. 1983), and Nationalist Movement v. Comm'r, 37 F.3d 216 (5th Cir. 1994).
[121] Prohibition of interracial dating was among the primary complaints about Bob Jones University in its second Supreme Court case. *Bob Jones University v. U.S.*, 461 U.S. 574, 605 (1983). Encouraging armed confrontations between white and black citizens was among the objects in the National Alliance case. *National Alliance v. U.S.*, 48 A.F.T.R. 2d 81-5138, 81-5139 n.2 (D.D.C. 1981).

Even much milder political activity doomed one organization's exemption application. The Fund for Study of Economic Growth and Tax Reform was established in 1995 by Jack Kemp, acting as chair of the National Commission on Economic Growth and Tax Reform, which was itself created by Newt Gingrich and Robert Dole when they were Speaker of the House and Majority Leader of the Senate, respectively. The Fund was active for about a year—a year not coincidentally preceding the Presidential election of 1996. It published materials promoting adoption of the so-called "Flat Tax," and little else. The IRS found it to be an action organization, a result that was confirmed by the D.C. District Court, and ultimately by the Court of Appeals.[122]

Campaign participation is an issue that provokes the attention of the IRS periodically (quadrennially, in fact). In view of the fact that section 501(c)(3) makes *any* participation grounds for revocation or denial, it is surprising that it has provoked so little litigation. The few cases that have come up under this issue include a revocation case of a church that took out a full-page ad in widely-circulated daily newspapers urging readers not to vote for a candidate for the office of President.[123] While it was useful to confirm that an organization cannot go that far, no reasonable person had imagined that it could. The case does have some significance in confirming the absence of a constitutional barrier to imposing the prohibition on campaign participation, however.

A more interesting case, Association of the Bar of the City of New York v. Commissioner,[124] involved publication of ratings by the bar association of candidates for judicial offices. The Tax Court found this practice acceptable, interpreting the participation ban to apply only to partisan, as opposed to more objective, activities. But the Second Circuit reversed, saying that it was indeed participation in campaigns of the sort that was barred by the explicit language of section 501(c)(3).

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[122] Fund for Study of Economic Growth and Tax Reform v. IRS, 997 F.Supp. 15, (D.D.C. 1998); aff'd, 161 F.3d 755 (D.C.Cir. 1998).
[123] Branch Ministries v. Rossotti, 211 F.3d 137(D.C.Cir. 2000).
[124] 858 F2d 876 (2d Cir. 1988).

e. Public Policy—The Supreme Court's decision in the second Bob Jones case solidified the idea that an organization could not be charitable if its practices violated public policy.[125] The problematic practice in that case, of course, was the practice of racial discrimination. One might imagine that, by now, nearly 30 years later, there would be a number of things that would have been found to violate public policy, thereby foreclosing the possibility of exempt status for organizations that engage in those practices. Gender discrimination perhaps? So-called "reverse discrimination," in which an organization might engage in practices that favor a historically disadvantaged group? Global warming violations, in which an organization engages in practices that unreasonably consume fossil fuels, adding to the buildup of carbon dioxide in the atmosphere?

But no. The set of recognized, public-policy-violating, exemption-disqualifying practices still consists of only its original element, racial discrimination. The possibility surely exists that the IRS could propose other candidates for consideration to augment the list of practices that would violate public policy. (If you were named Fagin, for example, it would probably be unwise to establish a school carrying your name.) But it hasn't happened yet. The Tax Court had an opportunity recently in Mysteryboy Inc. v. Commissioner.[126] That case involved an application by an organization formed by a convicted child-abuser, the purpose of which was to advocate legal changes that would de-criminalize sex between children and adults. The Tax Court decided the case on grounds that the organization had not shown that it wasn't an "action" organization, nor that it was not designed to advance the private interests of its creator.

The data set also includes three cases involving disqualification based on racial discrimination, not counting the pair of neo-Nazi cases mentioned above. There is

[125] 461 U.S. 574, 598 (1983).
[126] T.C. Memo. 2010-13 (T.C. 2010).

nothing particularly interesting about any of these cases, except perhaps that one of them was decided prior to the Bob Jones case itself.[127]

f. The Cases That Never Happen—While the nearly 200 cases decided under section 7428 represent a substantial body of jurisprudence, they nevertheless account for only a small fraction of the cases in which exempt status is sought unsuccessfully or revoked. A recent report of the Center on Philanthropy and Civil Society at Stanford University[128] analyzed the nearly 80,000 applications for exempt status that were submitted to the IRS in 2008 alone. Of the 56,000 that received determination letters from the IRS, about 1200 were denied.[129] An additional 23,000 were incomplete or withdrawn.[130] A few from each category—denials, and failures to rule—may result in litigation under section 7428, but most will not.

This is, of course, how litigation works in every context, and particularly so in the tax world. Nearly every audited return has some potential for disputes, but relatively few are taken all the way to the courts. In most cases, the potential litigants, be they taxpayers or would-be exempt organizations, conclude (perhaps on the basis of expert advice) either that their case lacks merit, or that the costs of pursuing the question to its ultimate conclusion are too great. There may be some reason to lament all the disputes that are imperfectly resolved, but at the same time it is clear that litigation is expensive and time-consuming; one cannot even contemplate the sort of judicial system we would need to reach definitive conclusions in hundreds of thousands of tax cases each year, including perhaps a few thousand exempt status cases.

What may be more lamentable is the number of cases that do not reach even an administrative conclusion. An application for exemption ordinarily represents considerable undertakings on the part of its proponents. An organization must obtain a

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[127] Prince Edward School Foundation v. Comm'r, 478 F.Supp 107 (D.D.C. 1979), *cert. denied*, 450 U.S. 944 (1981). The denial in this case was grounded on Green v. Connally, 330 F.Supp 1150 (D.D.C. 1971), aff'd *per curiam sub nom.* Coit v. Green, 404 U.S. 997 (9171).

[128] ROB REICH, LACEY DORN, AND STEFANIE SUTTON, ANYTHING GOES: APPROVAL OF NONPROFIT STATUS BY THE IRS (2009), *available at* http://www.stanford.edu/~sdsachs/AnythingGoesPACS1109.pdf

[129] *Id.* at 7.

[130] *Id.* at 7 n.7.

charter, adopt bylaws, have an organizational meeting, and complete IRS Form 1023, which contains eleven parts and runs to twelve pages, not counting additional schedules that must be completed in certain cases (if the organization is a church, a school, etc.) While it is likely that some of the applications for exemption are filed with the degree of attention and care that a college student might devote to his or her 1040EZ, most applications presumably represent many hours of effort by the organizations' moving parties, and expenses ranging upwards of $1000, considering all filing fees collectively, and not including any professional fees that might have been incurred.[131] Those applications also in most cases represent genuine intentions of doing the sorts of good works for which charitable status is appropriate. Why, then do so many of them seem to fall into a limbo of unresolved status?

One suspects, based on the institutional incentive structure, that the IRS is to some degree complicit in this. An adverse determination letter is ordinarily a jurisdictional prerequisite to a section 7428 action seeking declaratory judgment. Jurisdiction will also lie in a case in which there is "a failure by the Secretary [of the Treasury] to make a determination" with respect to an exemption application.[132] However, an organization seeking a declaratory judgment in a case in which no adverse determination letter has been issued has a substantial burden of showing that it has exhausted its administrative remedies, which is an explicit requirement of section 7428.[133]

A few cases in the section 7428 data base involve organizations that have sought declaratory judgments in the absence of adverse determination letters. In some, the court decides that administrative remedies were not in fact exhausted.[134] In at least two cases, however, the court has been highly critical of the IRS for what appear to the court to be unreasonable demands for additional information, or other delays in the timely processing of an application. For example, in an early section 7428 case, World Family Corporation

[131] From the author's personal experience, a total cost including legal fees of $10,000 or more is routine for organizing an entity and taking it through the exemption application stage.
[132] IRC §7428(a)(2) (2006).
[133] *Id.* §7428(b)(2).
[134] *See, e.g.,* Exploratory Research, Inc. v. Comm'r, T.C. Memo. 2008-89 (T.C. 2008), and National Paralegal Institute Coalition v. Comm'r, T.C. Memo. 2005-293 (T.C. 2005).

v. Commissioner,[135] the court found that "petitioner's missionary support program is described in more than sufficient detail. Indeed, we find it difficult to imagine what additional details respondent requires."[136] The processing of the application in this case had taken over two years, and involved repeated requests for additional information by the IRS.[137]

In National Foundation, Inc. v. United States,[138] the court noted that the organization "neither refused to answer any question propounded by the IRS nor merely restated an answer when asked for additional information."[139] The court added: "[I]t would be difficult to conceive of any stronger evidence of exhaustion of administrative remedies than is contained in the Record in this action."[140] Noting that the delay in obtaining recognition of exempt status had "endangered [the organization's] existence," the court took the extraordinary step of announcing its favorable determination at a status conference held with the IRS and the organization some six weeks prior to the formal issuance of the opinion.[141]

Many practitioners are familiar with the ritual: an application is filed. Some months later, an inquiry from the IRS arrives demanding more facts. Responses are sometimes quite difficult, because the organization may well not be fully operational, since without assurance of its exempt status, it has difficulty acquiring the resources to proceed with its programs. So a tentative response, based more on expectations than actual operations, is offered. Some months later an additional inquiry is received. Repeat as necessary. Some practitioners report that they have overseen exemption applications (of worthy organizations that were quite serious about their intended charitable work) that

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[135] 81 T.C. 958 (T.C. 1983).
[136] *Id.* at 964. The IRS characterization of the petitioner's response to one query had been that it "leaves a great deal to be desired." *Id.* So, one notes, does this characterization.
[137] *Id.* at 959. To be fair, the facts are not sufficiently detailed to determine whether the IRS or petitioner were primarily responsible for the delays in processing.
[138] 13 Cl.Ct. 486 (Cl. Ct. 1987).
[139] *Id.* at 495.
[140] *Id.*
[141] *Id.* at 496.

had been pending for as much as five years or more without a definitive response from the IRS.

As the title of the report referenced earlier by the Stanford Center on Philanthropy and Civil Society indicated,[142] the authors of that report concluded that obtaining recognition of exemption was easy—rather too easy, they argued.[143] This conclusion was based on the fact that relatively few applications were actually denied. The study put to one side the cases that were deemed incomplete or were withdrawn, excluding them from both numerator and denominator of the "success rate" fraction that they calculated. But it seems likely that many of the 23,000 applications that are neither approved nor disapproved are in fact killed by suffocation. Although the legislative history of section 7428 does not appear to discuss problems related to processing delays, the inclusion of "failure . . . to make a determination" as a sufficient jurisdictional basis was presumably intended to address this problem. It seems, however, to have been at best only partly successful in that effort.

Conclusions?

Section 7428 has served two very useful purposes: First, it has provided fledgling organizations, and existing organizations that are the targets of possibly fatal IRS enforcement actions, with a means of obtaining court review of IRS actions in a way that is reasonably direct, inexpensive, quick and simple. This provides a very important procedural safeguard in an area in which an administrative agency (the IRS) has very broad powers, unconstrained by much in the way of statutory limitations.

Second, it has had the effect of stimulating the generation of a considerable jurisprudence relating to a number of issues regarding regulation of charitable organizations that would probably not have been forthcoming under the more cumbersome previous rules requiring the generation of artificial refund suits.

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[142] *Supra* note 121. The title was: "Anything Goes: Approval of Nonprofit Status by the IRS."
[143] *Id.* at 4.

Perhaps the most important clarifications have come in the form of the several cases decided in the first decade of section 7428's existence relating to the sorts of purposes that charitable organizations may serve, within the rubric of "charity." The relevant code provisions, in IRC sections 501(c)(3) and 170(c)(2), contain simply a string of adjectives, without any elaboration or definition. The Regulations in section 1.501(c)(3)-1 provide some additional detail, but are far from comprehensive, and should, at age 52, be relegated to the senior tour.[144] But the series of cases described in part 4.b above constitute an important judicial statement to the effect that the notion of charity is expansive and organic, capable of adaptation to the emerging social needs that charitable organizations are uniquely equipped to deal with.

Although this article does not detail developments in notions of private inurement and benefit, actions brought under section 7428 have also contributed greatly to the refinement of the law in those areas.

For reasons that are not entirely clear, the body of declaratory judgment cases has done less to enhance understanding of the degree and type of commercial activities that exempt organizations can safely engage in, or in the amount of lobbying they are permitted to do. Nor has much law been developed on what constitutes participation in political campaigns. The public policy limitation on exempt status has not been developed at all, though that is more attributable to the reluctance of the IRS to deny exempt status on those grounds than to the failure of the courts to come to grips with this issue.

Finally, though this suggestion is somewhat speculative, it would appear that the IRS could do a great deal to make the section 7428 process even more productive. Instead of simply nursing along applications that it does not like for extended periods, it should push those cases to conclusions, issue determinations one way or the other, and permit the organizations to access the relief that section 7428 was meant to provide. Indeed, one almost wishes that the IRS would revert to its quite negative approach of the first decade

[144] The reference is to the PGA's practice of segregating professional golfers by age, with a separate set of tournaments for those over the age of 50. Something like that should be arranged for tax regulations.

of section 7428 actions.[145] If it were to more frequently decide, for example, that particular organizations have engaged in more than insubstantial lobbying, the exempt organizations bar might finally learn what that means.

Even without any enhancements of the sort just imagined, it is surely true that section 7428 has paved the way for many important contributions to field of nonprofit law.

[145] It should be admitted that it is much easier to hope for this approach as an academic. Lawyers with real clients may have quite a different wish list.

Appendix I

Filed Date	Title	Court	Citation	Outcome	Revoked or Denied	Appealed	Nonacquiescence
19-Dec-77	Hancock Academy of Savannah, Inc. v. C.I.R.	U.S.Tax Ct.	69 T.C. 488	Nonexempt	Denied		
9-Jan-78	Baltimore Regional Joint Board Health & Welfare Fund, Amalgamated Clothing & Textile Workers Union v. C.I.R.	U.S.Tax Ct.	69 T.C. 554	Nonexempt	Denied		
19-Jan-78	Houston Lawyer Referral Service, Inc. v. C.I.R.	U.S.Tax Ct.	69 T.C. 570	Dismissed	Denied		
26-Jan-78	Levy Family Tribe Foundation, Inc. v. C.I.R.	U.S.Tax Ct.	69 T.C. 615	Nonexempt	Denied		
20-Mar-78	San Francisco Infant School, Inc. v. C.I.R.	U.S.Tax Ct.	69 T.C. 957	Exempt	Denied		Acquiescing, IRS AOD-1978-101 (May 5, 1978)
22-May-78	Michigan Early Childhood Center v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1978-186	Exempt	Denied		
30-May-78	B.S.W. Group, Inc. v. C.I.R.	U.S.Tax Ct.	70 T.C. 352	Nonexempt	Denied		
31-Jul-78	Pulpit Resource v. C.I.R.	U.S.Tax Ct.	70 T.C. 594	Exempt	Denied		Acquiescing, IRS AOD-1979-175 (Sept. 11, 1979)
18-Aug-78	Consumer Credit Counseling Service of Alabama, Inc. v. U.S	D.D.C.	44 A.F.T.R.2d 79-5122	Exempt	Revoked		
21-Sep-78	Christian Stewardship Assistance, Inc. v. C.I.R.	U.S.Tax Ct.	70 T.C. 1037	Nonexempt	Denied		
1-Nov-78	Church in Boston v. C.I.R.	U.S.Tax Ct.	71 T.C. 102	Nonexempt	Denied		
6-Nov-78	National Association for Legal Support of Alternative Schools v. C.I.R.	U.S.Tax Ct.	71 T.C. 118	Exempt	Denied		Acquiescing, AOD-1979-53 (IRS AOD) (Nov. 22, 1978)
13-Nov-78	Sound Health Association v. C.I.R.	U.S.Tax Ct.	71 T.C. 158	Exempt	Denied		Acquiescing, IRS AOD-1981-127 (June 10, 1981)
20-Nov-78	Aid to Artisans Inc. v. C.I.R.	U.S.Tax Ct.	71 T.C. 202	Exempt	Denied		Acquiescing in result only, AOD 1979-68 (Feb. 15, 1979).
5-Dec-78	Callaway Family Assoc. Inc. v. C.I.R.	U.S.Tax Ct.	71 T.C. 340	Nonexempt	Denied		
24-Jan-79	Northern California Cent. Services, Inc. v. U. S.	Ct.Cl.	219 Ct.Cl. 60	Exempt	Denied		
24-Jan-79	Virginia Professional Standards Review Foundation v. Blumenthal	D.D.C.	466 F.Supp. 1164	Exempt	Denied		
29-Jan-79	Christian Manner International Inc. v. C.I.R.	U.S.Tax Ct.	71 T.C. 661	Nonexempt	Denied		
31-Jan-79	Taxation With Representation of Washington v. Blumenthal	D.D.C.	43 A.F.T.R.2d (RIA) 679	Non-501(c)(3)	Denied	461 U.S. 540 (1983)	
28-Feb-79	General Conference of Free Church of America v. C.I.R.	U.S.Tax Ct.	71 T.C. 920	Nonexempt	Denied		
28-Mar-79	EST of Hawaii v. C.I.R.	U.S.Tax Ct.	71 T.C. 1067	Nonexempt	Denied	647 F.2d 170 (Table) (9th Cir. 1981)	

4-Apr-79	Peoples Translation Service/Newsfront International California Non-Profit Corporation v. C.I.R.	U.S.Tax Ct.	72 T.C. 42	Exempt	Denied		Acquiescence, IRS AOD-1979-93 (April 26, 1979).
18-Apr-79	Prince Edward School Foundation v. C.I.R.	D.D.C.	478 F.Supp. 107	Nonexempt	Revoked	450 U.S. 944 (1981) (denying certiorari).	
26-Apr-79	Price Genealogical Ass'n v. I.R.S.	D.D.C.	44 A.F.T.R.2d 79-5024	Nonexempt	Denied		
30-Apr-79	Big Mama Rag, Inc. v. U.S.	D.D.C.	494 F. Supp. 473	Exempt (on appeal)	Denied	631 F.2d 1030 (D.C. Cir 1980)	
1-May-79	Miss Georgia Scholarship Fund, Inc. v. C.I.R.	U.S.Tax Ct.	72 T.C. 267	Nonexempt	Denied		
6-Jun-79	Beth-El Ministries v. U.S.	D.D.C.	44 A.F.T.R.2d 79-5190	Nonexempt	Denied		
7-Jun-79	Sense of Self Society v. U.S.	D.D.C.	44 AFTR 2d 78-6167	Dismissed	Denied		
13-Jun-79	Credit Counseling Centers of Oklahoma, Inc. v. U.S.	D.D.C.	45 A.F.T.R.2d 80-1401	Exempt	Revoked		
29-Jun-79	Hospital Co-op. Services Inc. v. U. S.	Ct.Cl.	220 Ct.Cl. 728	Exempt	Unknown		
26-Jul-79	Federation Pharmacy Services, Inc. v. C. I. R.	U.S.Tax Ct.	72 T.C. 687	Nonexempt	Denied	625 F.2d 804 (8th Cir. 1980)	
15-Oct-79	Industrial Aid for the Blind v. C.I.R.	U.S.Tax Ct.	73 T.C. 96	Exempt	Denied		Acquiescing, 1981-2 C.B. 1, IRS AOD- 1980-57 (Feb. 14, 1980)
24-Oct-79	Hutchinson Baseball Enterprises, Inc. v. C.I.R.	U.S.Tax Ct.	73 T.C. 144	Exempt	Revoked	696 F.2d 757 (10th Cir. 1982)	Nonacquiescing, IRS AOD 1980-104 (Feb. 14, 1980)
31-Oct-79	Western Catholic Church v. C.I.R.	U.S.Tax Ct.	73 T.C. 196	Nonexempt	Revoked	631 F.2d 736 (Table) (7th Cir. 1980)	
4-Dec-79	Chart, Inc. v. U.S.	D.D.C.	491 F.Supp. 10	Nonexempt (on appeal)	Denied	652 F.2d 195 (Table) (D.C. Cir. 1981)	
9-Jan-80	Dumaine Farms v. C.I.R.	U.S.Tax Ct.	73 T.C. 650	Exempt	Denied		Nonacquiescing in part, IRS AOD 1980-45 (Feb. 11, 1980)
17-Jan-80	Syrang Aero Club Inc. v. C.I.R.	U.S.Tax Ct.	73 T.C. 717	Nonexempt	Denied		
18-Jan-80	Missouri Professional Liability Ins. Ass'n. v. U.S.	Ct.Cl.	222 Ct.Cl. 558	Exempt	Unknown		
16-Apr-80	Greater United Navajo Development Enterprises, Inc. v. C.I.R.	U.S.Tax Ct.	74 T.C. 69	Nonexempt	Denied	672 F.2d 922 (Table) (9th Cir. 1981)	
29-Apr-80	Ann Arbor Dog Training Club, Inc. v. C.I.R.	U.S.Tax Ct.	74 T.C. 207	Nonexempt	Denied		
1-May-80	New York County Health Services Review Organization, Inc. v. C.I.R.	D.D.C.	45 A.F.T.R.2d 80-1552	Dismissed	Denied		
6-May-80	Associated Hospital Services, Inc. v. C.I.R.	U.S.Tax Ct.	74 T.C. 213	Nonexempt	Denied		
8-May-80	Professional Standards Review Organization of Queens County, Inc. v. C.I.R.	U.S.Tax Ct.	74 T.C. 240	Exempt	Denied		Acquiescing, IRS AOD-1981-45 (Sept. 25, 1980).
19-May-80	American New Covenant Church v. C.I.R.	U.S.Tax Ct.	74 T.C. 293	Dismissed	Denied		
27-May-80	First Libertarian Church v. C.I.R.	U.S.Tax Ct.	74 T.C. 396	Nonexempt	Denied		
3-Jun-80	Unitary Mission Church of Long Island v. C.I.R.	U.S.Tax Ct.	74 T.C. 507	Nonexempt	Denied	647 F.2d 163 (Table) (2d Cir. 1981)	

9-Jun-80	Bubbling Well Church of Universal Love, Inc. v. C.I.R.	U.S.Tax Ct.	74 T.C. 531	Nonexempt	Denied	670 F.2d 104 (9th Cir. 1981)	
28-Jul-80	Basic Bible Church v. C.I.R.	U.S.Tax Ct.	74 T.C. 846	Nonexempt	Denied	Kile v. C.I.R., 739 F.3d 265 (7th Cir. 1984)	
10-Sep-80	Southern Church of Universal Brotherhood Assembled, Inc. v. C.I.R.	U.S.Tax Ct.	74 T.C. 1223	Nonexempt	Denied		
16-Sep-80	University of Massachusetts Medical School Group Practice v. C.I.R.	U.S.Tax Ct.	74 T.C. 1299	Exempt	Denied		
18-Sep-80	Plumstead Theatre Society, Inc. v. C.I.R.	U.S.Tax Ct.	74 T.C. 1324	Exempt	Denied	675 F.2d 148 (3d Cir. 1984)	
14-Oct-80	People of God Community v. C.I.R.	U.S.Tax Ct.	75 T.C. 127	Nonexempt	Denied		
8-Dec-80	Goldsboro Art League, Inc. v. C.I.R.	U.S.Tax Ct.	75 T.C. 337	Exempt	Denied		Acquiescing, AOD-1986-29 (April 28, 1986)
5-Jan-81	Church of Transfiguring Spirit, Inc. v. C.I.R.	U.S.Tax Ct.	76 T.C. 1	Nonexempt	Denied		
26-Jan-81	University of Maryland Physicians, P. A. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1981-23	Exempt	Denied		
27-Jan-81	Incorporated Trustees of Gospel Worker Soc. v. U.S., Dept. of Treasury	D.D.C.	510 F. Supp. 374	Nonexempt	Revoked	672 F.2d 894 (D.C. Cir. 1981)	
28-Jan-81	Basic Unit Ministry of Alma Karl Schurig v. C. I. R.	D.D.C.	511 F. Supp. 166	Nonexempt	Denied	670 F.2d 1210 (D.C. Cir. 1982)	
24-Feb-81	Schoger Foundation v. C.I.R.	U.S.Tax Ct.	76 T.C. 380	Nonexempt	Denied		
26-Feb-81	Indiana Crop Improvement Association, Inc. v. C.I.R.	U.S.Tax Ct.	76 T.C. 394	Exempt	Denied		Acquiescing, 1981-2 C.B. 1, IRS ACQ (Dec. 31, 1981)
29-Apr-81	Truth Tabernacle v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1981-214	Nonexempt	Denied		
27-May-81	National Alliance v. U.S.	D.D.C.	48 A.F.T.R.2d 81-5138	Nonexempt (on appeal)	Denied	710 F.2d 868 (D.C. Cir. 1983)	
24-Jun-81	John Marshall Law School v. U.S.	Ct.Cl.	48 A.F.T.R.2d 81-5340	Nonexempt	Revoked		
29-Jul-81	Save the Free Enterprise System, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1981-388	Nonexempt	Denied		
4-Aug-81	Ohio Teamsters Educational & Safety Training Trust Fund v. C.I.R.	U.S.Tax Ct.	77 T.C. 189	Nonexempt	Denied	692 F.2d 432 (6th Cir. 1982)	
19-Oct-81	U.S. CB Radio Ass'n, No. 1, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1981-601	Nonexempt	Revoked	742 F.2d 1441 (Table) (2d Cir. 1983)	
3-Nov-81	North American Sequential Sweepstakes v. C.I.R.	U.S.Tax Ct.	77 T.C. 1087	Nonexempt	Denied		
25-Nov-81	Policemen's Benev. Ass'n of Westchester County, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1981-679	Nonexempt	Revoked		
25-Jan-82	International E22 Class Association v. C.I.R.	U.S.Tax Ct.	78 T.C. 93	Exempt	No Decision		Acquiescing, AOD-1982-68 IRS AOD (Aug. 02, 1982)
23-Feb-82	Pius XII Academy, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1982-97	Nonexempt	Denied	711 F.2d 1058 (Table) (6th Cir. 1983)	
24-Feb-82	Retired Teachers Legal Defense Fund, Inc. v. C.I.R.	U.S.Tax Ct.	78 T.C. 280	Nonexempt	Denied		
9-Jun-82	Kentucky Bar Foundation, Inc. v. C.I.R.	U.S.Tax Ct.	78 T.C. 921	Exempt	Denied		

29-Jun-82	New Life Tabernacle v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1982-367	Nonexempt	Denied		
26-Jul-82	Gondia Corp. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1982-422	Nonexempt	Denied		
15-Nov-82	Copyright Clearance Center, Inc. v. C.I.R.	U.S.Tax Ct.	79 T.C. 793	Nonexempt	Denied		
16-Nov-82	Interneighborhood Housing Corp. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1982-661	Nonexempt	Denied		
23-Dec-82	Presbyterian & Reformed Publishing Co. v. C.I.R.	U.S.Tax Ct.	79 T.C. 1070	Exempt (on appeal)	Revoked	743 F.2d 148 (3d Cir. 1984)	
10-Jan-83	Parshall Christian Order v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1983-11	Nonexempt	No Decision		
25-Jan-83	High Adventure Ministries, Inc. v. C.I.R.	U.S.Tax Ct.	80 T.C. 292	Dismissed	Revoked	726 F.2d 555 (9th Cir. 1984)	
2-Feb-83	Local Union 712, I.B.E.W. Scholarship Trust Fund v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1983-76	Nonexempt	Denied		
7-Feb-83	Bethel Conservative Mennonite Church v. C.I.R.	U.S.Tax Ct.	80 T.C. 352	Exempt (on appeal)	Denied	746 F.2d 388 (7th Cir. 1984)	
2-Mar-83	Synanon Church v. U.S.	D.D.C.	557 F. Supp. 1329	Dismissed	Revoked		
2-May-83	Ecclesiastical Order of Ism of Am, Inc. v. C.I.R.	U.S.Tax Ct.	80 T.C. 833	Nonexempt	Denied	740 F.2d 967 (Table) (6th Cir. 1984)	
24-May-83	Basic Bible Church of America, Auxiliary Chapter 11004 v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1983-287	Nonexempt	Denied	Kile v. C.I.R., 739 F.3d 265 (7th Cir. 1984)	
26-May-83	Alumnae Chapter Beta of Clovia v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1983-303	Nonexempt	Denied		
17-Aug-83	Minnesota Kingsmen Chess Ass'n, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1983-495	Nonexempt	Denied		
1-Dec-83	Church of Visible Intelligence That Governs The Universe v. U.S.	Cl.Ct.	4 Cl.Ct. 55	Exempt	Denied		
14-Dec-83	World Family Corporation v. C.I.R.	U.S.Tax Ct.	81 T.C. 958	Exempt	Denied		Acquiescing in part and Nonacquiescing in part, IRS AOD-1988-13 (Dec. 24, 1984).
5-Jan-84	National Association of American Churches v. C.I.R.	U.S.Tax Ct.	82 T.C. 18	Nonexempt	Denied		
26-Jan-84	P.L.L. Scholarship Fund v. C.I.R.	U.S.Tax Ct.	82 T.C. 196	Nonexempt	Denied		
26-Jan-84	Piety, Inc. v. C.I.R.	U.S.Tax Ct.	82 T.C. 193	Nonexempt	Denied		
31-Jan-84	La Verdad v. C.I.R.	U.S.Tax Ct.	82 T.C. 215	Nonexempt	Denied		
9-Feb-84	Synanon Church v. U.S.	D.D.C.	579 F. Supp. 967	Nonexempt	Revoked	820 F.2d 421 (D.C. Cir. 1987)	
23-Feb-84	Alive Fellowship of Harmonious Living v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1984-87	Exempt	Denied		Acquiescing in result only, AOD 1985-01 (Jan. 25, 1985).
26-Apr-84	Freedom Church of Revelation v. U.S.	D.D.C.	588 F.Supp. 693	Nonexempt	Revoked		
21-Jun-84	Self-Realization Broth., Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1984-319	Nonexempt	Denied		

21-Jun-84	Retreat in Motion, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1984-315	Nonexempt	Denied		
17-Jul-84	Church of Ethereal Joy v. C.I.R.	U.S.Tax Ct.	83 T.C. 20	Nonexempt	Denied		
30-Aug-84	Universal Life Church, Inc. v. C.I.R.	U.S.Tax Ct.	83 T.C. 292	Nonexempt	Denied		
28-Nov-84	New Concordia Bible Church v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1984-619	Nonexempt	Denied		
12-Dec-84	Fraternal Medical Specialist Services, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1984-644	Exempt	Denied		
13-Dec-84	Society of Costa Rica Collectors v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1984-648	Nonexempt	Denied		
30-Jan-85	Chief Steward of Ecumenical Temples v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1985-50	Nonexempt	Denied		
2-Apr-85	St. Louis Science Fiction Ltd. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1985-162	Nonexempt	Denied		
2-May-85	Church of Nature in Man v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1985-212	Nonexempt	Denied		
1-Jul-85	Cleveland Creative Arts Guild v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1985-316	Exempt	Denied		
24-Jul-85	Triune of Life Church, Inc. v. C.I.R.	U.S.Tax Ct.	85 T.C. 45	Nonexempt	Denied	791 F.2d 922 (Table) (3d Cir. 1986)	
12-Nov-85	Virginia Educ. Fund v. C.I.R.	U.S.Tax Ct.	85 T.C. 743	Nonexempt	Revoked	799 F.2d 903 (4th Cir. 1986)	
21-Nov-85	Washington Research Foundation v. C.I.R.	U.S.Tax Ct.	T.C. Memo 1985-570	Nonexempt	Denied		
29-Apr-86	Church of Eternal Life and Liberty, Inc. v. C.I.R.	U.S.Tax Ct.	86 T.C. 916	Nonexempt	Denied (upon IRS initiation)		
30-May-86	Church of Gospel Ministry, Inc. v. U.S.	D.D.C.	640 F. Supp. 96	Nonexempt	Revoked	830 F.2d 1188 (D.C. Cir. 1987)	
4-Aug-86	Wendy L. Parker Rehabilitation Foundation, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo 1986-348	Nonexempt	Denied		
20-Nov-86	American Science Foundation v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1986-556	Nonexempt	Denied		
25-Nov-86	Media Sports League, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1986-568	Nonexempt	Denied		
17-Dec-86	Linwood Cemetery Ass'n v. C.I.R.	U.S.Tax Ct.	87 T.C. 1314	Nonexempt	Denied		
6-Jan-87	Columbia Park and Recreation Ass'n., Inc. v. C.I.R.	U.S.Tax Ct.	88 T.C. 1	Nonexempt	Denied	838 F.2d 465 (4th Cir. 1988)	
10-Jun-87	Easter House v. U.S.	Cl.Ct.	12 Cl.Ct. 476	Nonexempt	Denied	846 F.2d 78 (Fed. Cir. 1988)	
17-Sep-87	Association of the Bar of City of New York v. C.I.R.	U.S.Tax Ct.	89 T.C. No. 42	Nonexempt (on appeal)	Denied	858 F.2d 876 (2d Cir. 1988)	
30-Oct-87	National Foundation, Inc. v. U.S.	Cl.Ct.	13 Cl.Ct. 486	Exempt	Denied		
10-Nov-87	Universal Life Church, Inc. v. U.S.	Cl.Ct.	13 Cl.Ct. 567	Nonexempt	Revoked	862 F.2d 922 (3d Cir. 1986)	
23-Feb-88	Universal Church of Jesus Christ, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1988-65	Nonexempt	Denied		

4-May-88	Athenagoras I Christian Union of World, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1988-196	Nonexempt	Denied		
25-Jul-88	Church of Modern Enlightenment v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1988-312	Nonexempt	Denied	875 F.2d 307 (Table) (2d Cir. 1989)	
25-Jul-88	Good Friendship Temple v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1988-313	Nonexempt	Denied		
16-Aug-88	Orange County Agr. Soc., Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1988-380	Nonexempt	Revoked	893 F.2d 529 (2d Cir. 1990)	
12-Oct-88	Senior Citizens of Missouri, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1988-493	Nonexempt	Denied		
28-Nov-88	Church By Mail, Inc. v. U.S.	D.D.C.	63 A.F.T.R. 2d 89-471	Nonexempt	Denied	765 F.2d 1387 (9th Cir. 1985)	
9-Jan-89	Make a Joyful Noise, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1989-4	Nonexempt	Revoked		
24-Jan-89	International Postgraduate Medical Foundation v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1989-36	Nonexempt	Revoked		
9-Mar-89	Bill Wildt's Motorsport Advancement Crusade v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1989-93	Nonexempt	Denied		
27-Jun-89	Newspaper Guild of New York v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1989-314	Nonexempt	Revoked		
19-Oct-89	Colorado State Chiropractic Soc. v. C.I.R.	U.S.Tax Ct.	93 T.C. 487	Exempt	Denied		
15-Nov-89	Manning Ass'n v. C.I.R.	U.S.Tax Ct.	93 T.C. 596	Nonexempt	Denied		
1-Mar-90	Calhoun Academy v. C. I. R.	U.S.Tax Ct.	94 T.C. 284	Nonexempt	Denied		
10-Sep-90	Living Faith, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1990-484	Nonexempt	Denied	950 F.2d 365 (7th Cir. 1991)	
29-Oct-90	United Missionary Aviation, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1990-566	Nonexempt	Revoked	985 F.2d 564 (Table) (8th Cir. 1991)	
8-Jan-91	Public Industries, Inc. v. C. I. R.	U.S.Tax Ct.	T.C. Memo. 1991-3	Nonexempt	Denied		
14-Jan-91	Copperweld Steel Company's Warren Employees' Trust v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1991-7	Nonexempt	Denied		
30-Dec-91	Geisinger Health Plan v. C.I.R.	U.S.Tax Ct.	T.C. Memo 1991-649	Nonexempt (on appeal)	Denied	985 F.2d 1210 (3d Cir. 1993) remanding to 100 T.C. 394 (1993).	
18-Mar-92	Tony and Susan Alamo Foundation v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1992-155	Nonexempt	Revoked		
29-Jun-92	Church of Spiritual Technology v. U.S.	Cl.Ct.	26 Cl.Ct. 713	Nonexempt	Denied	991 F.2d 812 (Fed. Cir. 1993)	
29-Jun-92	Council for Bibliographic and Information Technologies v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1992-364	Exempt	Denied		
4-Aug-92	El Paso de Aguila Elderly v. C. I. R.	U.S.Tax Ct.	T.C. Memo. 1992-441	Nonexempt	Denied		
29-Mar-93	Housing Pioneers, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1993-120	Nonexempt	Denied	58 F.3d 401 (9th Cir. 1995)	
29-Mar-93	United Libertarian Fellowship, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1993-116	Nonexempt	Denied		
3-May-93	Geisinger Health Plan v. C.I.R.	U.S.Tax Ct.	100 T.C. 394	Nonexempt	Denied	30 F.3d 494 (3d Cir 1994)	

19-May-93	Airlie Foundation, Inc. v. U.S.	D.D.C.	826 F.Supp. 537	Nonexempt	Revoked	55 F.3d 684 (D.C. Cir 1995)	
28-Feb-94	Church of World Peace, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1994-87	Nonexempt	Revoked	52 F.3d 337 (10th Cir. 1995)	
11-Apr-94	Nationalist Movement v. C.I.R.	U.S.Tax Ct.	102 T.C. 558	Nonexempt	Denied	37 F.3d 216 (5th Cir. 1994)	
4-Aug-94	Florida Hosp. Trust Fund v. C.I.R.	U.S.Tax Ct.	103 T.C. 140	Nonexempt	Denied	71 F.3d 808 (11th Cir. 1996)	
12-Oct-94	Spanish American Cultural Ass'n of Bergenfield v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1994-510	Non-501(c)(3)	Denied		
10-Nov-94	Nonprofits' Ins. Alliance of California v. U.S.	Ct.Cl.	32 Fed.Cl. 277	Nonexempt	Denied		
29-May-96	Bob Jones University Museum and Gallery, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1996-247	Exempt	Denied		
30-May-96	University Medical Resident Services, P.C. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1996-251	Nonexempt	Denied		
15-Apr-97	Fund for Anonymous Gifts v. I.R.S.	D.D.C.	79 A.F.T.R.2d 97-2520	Exempt (on appeal)	No Decision	194 F.3d 173 (D.C. Cir. 1999) (vacating and remanding after Fund amended its governing instrument to comply with District Court opinion); 88 A.F.T.R.2d 2001-6040 (D.D.C. 2001) (declaring Fund a private foundation).	
2-Dec-97	United Cancer Council, Inc. v. C.I.R.	U.S.Tax Ct.	109 T.C. 326	Exempt (on appeal)	Revoked	165 F.3d 1173 (7th Cir. 1999)	
12-Feb-98	Fund For Study of Economic Growth and Tax Reform v. I.R.S.	D.D.C.	997 F. Supp. 15	Nonexempt	Denied	161 F.3d 755 (D.C. Cir. 1998)	
27-Jul-98	Anclote Psychiatric Center, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1998-273	Nonexempt	Revoked		
3-May-99	Larry D. Bowen Family Foundation v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1999-149	Nonexempt	Denied		
17-May-99	Tate Family Foundation v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1999-165	Nonexempt	Denied		
18-May-99	Tamaki Foundation v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1999-166	Nonexempt	Denied		
30-May-99	Branch Ministries v. Rossotti	D.D.C.	40 F. Supp. 2d 15	Nonexempt	Revoked	211 F.3d 137 (D.C. Cir 2000)	
2-Jul-99	Share Network Foundation v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 1999-216	Nonexempt	Denied		
19-Jul-99	Redlands Surgical Services v. C.I.R.	U.S.Tax Ct.	113 T.C. 47	Nonexempt	Denied	242 F.3d 904 (9th Cir. 2001)	
15-Sep-99	Wayne Baseball, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo 1999-304	Nonexempt	Denied		
11-Oct-00	Nationalist Foundation v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2000-318	Nonexempt	Denied		

25-Oct-00	At Cost Services, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2000-328	Nonexempt	Denied		
19-Sep-01	IHC Health Care, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2001-248	Nonexempt	Revoked	325 F.3d 1188 (10th Cir. 2003)	
19-Sep-01	IHC Health Group, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2001-247	Nonexempt	Revoked	325 F.3d 1188 (10th Cir. 2003)	
19-Sep-01	IHC Health Plans, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2001-246	Nonexempt	Revoked	325 F.3d 1188 (10th Cir. 2003)	
24-Sep-03	Airlie Foundation v. I.R.S.	D.D.C.	283 F.Supp.2d 58	Nonexempt	Denied		
20-Nov-03	Thomas Kinkade Foundation Charitable Trust v. U.S.	D.D.C.	92 A.F.T.R.2d 92-7210	Exempt	No Decision		
15-Jan-04	Prize v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2004-12	Nonexempt	Denied		
22-Feb-05	Amend16robertwirengard v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2005-30	Nonexempt	Denied		
14-Dec-05	South Community Ass'n v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2005-285	Nonexempt	Revoked		
22-Dec-05	National Paralegal Inst. Coalition v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2005-293	Dismissed	Denied		
24-Apr-06	New Dynamics Foundation v. U.S.	Ct.Cl.	70 Fed.Cl. 782	Nonexempt	Denied		
5-Mar-07	Families Against Government Slavery v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2007-49	Nonexempt	Denied		
10-Apr-07	Rameses School of San Antonio, Texas v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2007-85	Nonexempt	Revoked		
30-Apr-07	CRSO v. C.I.R.	U.S.Tax Ct.	128 T.C. 153	Nonexempt	Denied		
5-Feb-08	Solution Plus, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2008-21	Nonexempt	Denied		
8-Apr-08	Exploratory Research, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2008-89	Dismissed	Denied		
12-Nov-09	Ohio Disability Ass'n v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2009-261	Nonexempt	Denied		
26-Jan-10	Mysteryboy Incorporation v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2010-13	Nonexempt	Denied		
7-Jul-10	Free Fertility Foundation v. C.I.R.	U.S.Tax Ct.	135 T.C. 21	Nonexempt	Denied		
24-Jan-11	Asmark Institute, Inc. v. C.I.R.	U.S.Tax Ct.	T.C. Memo. 2011-20	Nonexempt	Denied		

Appendix I Continued

Filed Date	Title	Private Benefit/ Inurement	Commerciality	Failure to Exhaust Administrative Remedies	Other nonexempt purpose/activity	Tax Avoidance	Insufficient Filings	Assets not to 501(c)(3) on dissolution	Other
19-Dec-77	Hancock Academy of Savannah, Inc. v. C.I.R.	X							
9-Jan-78	Baltimore Regional Joint Board Health & Welfare Fund, Amalgamated Clothing & Textile Workers Union v. C.I.R.	X							
19-Jan-78	Houston Lawyer Referral Service, Inc. v. C.I.R.			X					
26-Jan-78	Levy Family Tribe Foundation, Inc. v. C.I.R.	X			Trading postage stamps.				
20-Mar-78	San Francisco Infant School, Inc. v. C.I.R.				Custodial activity not educational.				
22-May-78	Michigan Early Childhood Center v. C.I.R.				Custodial activity not educational.				
30-May-78	B.S.W. Group, Inc. v. C.I.R.		X						
31-Jul-78	Pulpit Resource v. C.I.R.		X						
18-Aug-78	Consumer Credit Counseling Service of Alabama, Inc. v. U.S				Not organized and operated for exempt purpose (debt management counseling), not limited to low-income families, and charge a fee for service.				
21-Sep-78	Christian Stewardship Assistance, Inc. v. C.I.R.	X							
1-Nov-78	Church in Boston v. C.I.R.				Grants not sufficiently charitable				
6-Nov-78	National Association for Legal Support of Alternative Schools v. C.I.R.	X			Not educational (full and fair exposition of the facts)				
13-Nov-78	Sound Health Association v. C.I.R.	X							Community Benefit Standard

20-Nov-78	Aid to Artisans Inc. v. C.I.R.	X	X						
5-Dec-78	Callaway Family Assoc. Inc. v. C.I.R.	X							
24-Jan-79	Virginia Professional Standards Review Foundation v. Blumenthal	X							
24-Jan-79	Northern California Cent. Services, Inc. v. U. S.								501(e) exempt organization; services 501(c)(4).
29-Jan-79	Christian Manner International Inc. v. C.I.R.	X	X						
31-Jan-79	Taxation With Representation of Washington v. Blumenthal				Lobbying/Politcal Activity				
28-Feb-79	General Conference of Free Church of America v. C.I.R.						X	X	
28-Mar-79	EST of Hawaii v. C.I.R.	X	X						
4-Apr-79	Peoples Translation Service/Newsfront International California Non-Profit Corporation v. C.I.R.		X						
18-Apr-79	Prince Edward School Foundation v. C.I.R. Service				Racially Discriminatory.				
26-Apr-79	Price Genealogical Ass'n v. I.R.S.	X							
30-Apr-79	Big Mama Rag, Inc. v. U.S.				Not educational (full and fair exposition of the facts)				
1-May-79	Miss Georgia Scholarship Fund, Inc. v. C.I.R.				Scholarships were compensatory, not charitable				
6-Jun-79	Beth-El Ministries v. U.S.	X							
7-Jun-79	Sense of Self Society v. U.S.			X					
13-Jun-79	Credit Counseling Centers of Oklahoma, Inc. v. U.S.				Not organized and operated for exempt purpose (debt management counseling), not limited to low-income families, and charge a fee for service.				
29-Jun-79	Hospital Co-op. Services Inc. v. U. S.								Stipulated Judgment

26-Jul-79	Federation Pharmacy Services, Inc. v. C. I. R.		X						
15-Oct-79	Industrial Aid for the Blind v. C.I.R.		X						§502 Feeder Organization
24-Oct-79	Hutchinson Baseball Enterprises, Inc. v. C.I.R.				Promoting Amateur Baseball				
31-Oct-79	Western Catholic Church v. C.I.R.	X							
4-Dec-79	Chart, Inc. v. U.S.								501(e) exempt organization.
9-Jan-80	Dumaine Farms v. C.I.R.	X	X				X		
17-Jan-80	Syrang Aero Club Inc. v. C.I.R.	X							
18-Jan-80	Missouri Professional Liability Ins. Ass'n. v. U.S.								Stipulated Judgment
16-Apr-80	Greater United Navajo Development Enterprises, Inc. v. C.I.R.		X						
29-Apr-80	Ann Arbor Dog Training Club, Inc. v. C.I.R.				Dog training.				
1-May-80	New York County Health Services Review Organization, Inc. v. C.I.R.			X					
6-May-80	Associated Hospital Services, Inc. v. C.I.R.								§502 Feeder Organization
8-May-80	Professional Standards Review Organization of Queens County, Inc. v. C.I.R.	X							
19-May-80	American New Covenant Church v. C.I.R.			X					
27-May-80	First Libertarian Church v. C.I.R.				Social and political activty.				
3-Jun-80	Unitary Mission Church of Long Island v. C.I.R.	X							
9-Jun-80	Bubbling Well Church of Universal Love, Inc. v. C.I.R.	X							
28-Jul-80	Basic Bible Church v. C.I.R.	X							
10-Sep-80	Southern Church of Universal Brotherhood Assembled, Inc. v. C.I.R.	X							
16-Sep-80	University of Massachusetts Medical School Group Practice v. C.I.R.	X			Collect fees not exempt purpose/activity.				
18-Sep-80	Plumstead Theatre Society, Inc. v. C.I.R.	X	X						
14-Oct-80	People of God Community v. C.I.R.	X							

8-Dec-80	Goldsboro Art League, Inc. v. C.I.R.	X	X						
5-Jan-81	Church of Transfiguring Spirit, Inc. v. C.I.R.	X							
26-Jan-81	University of Maryland Physicians, P. A. v. C.I.R.	X			Practice of Medicine.				
27-Jan-81	Incorporated Trustees of Gospel Worker Soc. v. U.S., Dept. of Treasury		X						
28-Jan-81	Basic Unit Ministry of Alma Karl Schurig v. C. I. R.	X					X		
24-Feb-81	Schoger Foundation v. C.I.R.				Social and Recreational Activities				
26-Feb-81	Indiana Crop Improvement Association, Inc. v. C.I.R.	X	X						Seed certification lessen burden of government.
29-Apr-81	Truth Tabernacle v. C.I.R.	X						X	
27-May-81	National Alliance v. U.S.				Racially discriminatory material not educational.				
24-Jun-81	John Marshall Law School v. U.S.	X							
29-Jul-81	Save the Free Enterprise System, Inc. v. C.I.R.	X							
4-Aug-81	Ohio Teamsters Educational & Safety Training Trust Fund v. C.I.R.				Compensatory rather than charitable.				
19-Oct-81	U.S. CB Radio Ass'n, No. 1, Inc. v. C.I.R.	X							
3-Nov-81	North American Sequential Sweepstakes v. C.I.R.	X							
25-Nov-81	Policemen's Benev. Ass'n of Westchester County, Inc. v. C.I.R.	X							
25-Jan-82	International E22 Class Association v. C.I.R.								Provision of athletic equipment or facilities
23-Feb-82	Pius XII Academy, Inc. v. C.I.R.						X		
24-Feb-82	Retired Teachers Legal Defense Fund, Inc. v. C.I.R.	X							
9-Jun-82	Kentucky Bar Foundation, Inc. v. C.I.R.				Promoting the legal profession.				
29-Jun-82	New Life Tabernacle v. C.I.R.	X							
26-Jul-82	Gondia Corp. v. C.I.R.	X							

15-Nov-82	Copyright Clearance Center, Inc. v. C.I.R.	X			Protect copyright and obtain licensing fees.				
16-Nov-82	Interneighborhood Housing Corp. v. C.I.R.		X				X		
23-Dec-82	Presbyterian & Reformed Publishing Co. v. C.I.R.		X						
10-Jan-83	Parshall Christian Order v. C.I.R.	X							Reservation in transfer of property provided opportunity to reclaim.
25-Jan-83	High Adventure Ministries, Inc. v. C.I.R.			X					
2-Feb-83	Local Union 712, I.B.E.W. Scholarship Trust Fund v. C.I.R.	X							
7-Feb-83	Bethel Conservative Mennonite Church v. C.I.R.	X						X	
2-Mar-83	Synanon Church v. U.S.			X					
2-May-83	Ecclesiastical Order of Ism of Am, Inc. v. C.I.R.	X			Providing Tax Advice	X			
24-May-83	Basic Bible Church of America, Auxiliary Chapter 11004 v. C.I.R.						X		
26-May-83	Alumnae Chapter Beta of Clovia v. C.I.R.				Social and fraternal activities; Providing subsidized housing.				
17-Aug-83	Minnesota Kingsmen Chess Ass'n, Inc. v. C.I.R.				Recreational activities (playing chess).				
1-Dec-83	Church of Visible Intelligence That Governs The Universe v. U.S.	X					X		
14-Dec-83	World Family Corporation v. C.I.R.	X			Scientific research funding.		X		
5-Jan-84	National Association of American Churches v. C.I.R.	X			Tax advice.	X			
26-Jan-84	P.L.L. Scholarship Fund v. C.I.R.	X	X						
26-Jan-84	Piety, Inc. v. C.I.R.		X						§502 Feeder Organization
31-Jan-84	La Verdad v. C.I.R.						X		

9-Feb-84	Synanon Church v. U.S.								Fraud upon the court: destorying documents and tapes.
23-Feb-84	Alive Fellowship of Harmonious Living v. C.I.R.	X	X						
26-Apr-84	Freedom Church of Revelation v. U.S.		X			X	X		
21-Jun-84	Self-Realization Broth., Inc. v. C.I.R.	X			Laying carpet substantial nonexempt activity.				
21-Jun-84	Retreat in Motion, Inc. v. C.I.R.				Social and Recreational Activities of sightseeing				
17-Jul-84	Church of Ethereal Joy v. C.I.R.	X				X			
30-Aug-84	Universal Life Church, Inc. v. C.I.R.	X				X			
28-Nov-84	New Concordia Bible Church v. C.I.R.						X		
12-Dec-84	Fraternal Medical Specialist Services, Inc. v. C.I.R.	X	X						
13-Dec-84	Society of Costa Rica Collectors v. C.I.R.		X						
30-Jan-85	Chief Steward of Ecumenical Temples v. C.I.R.	X						X	
2-Apr-85	St. Louis Science Fiction Ltd. v. C.I.R.	X			Social and recreational.				
2-May-85	Church of Nature in Man v. C.I.R.						X	X	
1-Jul-85	Cleveland Creative Arts Guild v. C.I.R.	X	X						
24-Jul-85	Triune of Life Church, Inc. v. C.I.R.	X	X		Spinology not exempt purpose/activity--too similar to chiropractic services.		X		
12-Nov-85	Virginia Educ. Fund v. C.I.R.				Distributes to racially discriminatory schools.				
21-Nov-85	Washington Research Foundation v. C.I.R.		X		Noneducational: bringing scientific researcheres and industry leaders together				

29-Apr-86	Church of Eternal Life and Liberty, Inc. v. C.I.R.	X							Not a church or 508(c)(1)(B) organization.
30-May-86	Church of Gospel Ministry, Inc. v. U.S.	X					X		
4-Aug-86	Wendy L. Parker Rehabilitation Foundation, Inc. v. C.I.R.	X							
20-Nov-86	American Science Foundation v. C.I.R.						X		
25-Nov-86	Media Sports League, Inc. v. C.I.R.				Social and Recrational activities nonexempt.				
17-Dec-86	Linwood Cemetery Ass'n v. C.I.R.		X						
6-Jan-87	Columbia Park and Recreation Ass'n., Inc. v. C.I.R.	X						X	
10-Jun-87	Easter House v. U.S.	X	X						
17-Sep-87	Association of the Bar of City of New York v. C.I.R.				Political Activity/Lobbying				Action Organization
30-Oct-87	National Foundation, Inc. v. U.S.	X	X						
10-Nov-87	Universal Life Church, Inc. v. U.S.					X			
2-Dec-87	United Cancer Council, Inc. v. C.I.R.	X							
23-Feb-88	Universal Church of Jesus Christ, Inc. v. C.I.R.		X						
4-May-88	Athenagoras I Christian Union of World, Inc. v. C.I.R.	X						X	
25-Jul-88	Church of Modern Enlightenment v. C.I.R.	X							
25-Jul-88	Good Friendship Temple v. C.I.R.	X							
16-Aug-88	Orange County Agr. Soc., Inc. v. C.I.R.	X			Operating a race track.				
12-Oct-88	Senior Citizens of Missouri, Inc. v. C.I.R.	x							
28-Nov-88	Church By Mail, Inc. v. U.S.	X							
9-Jan-89	Make a Joyful Noise, Inc. v. C.I.R.				Participation in the operation of Bingo games.				
24-Jan-89	International Postgraduate Medical Foundation v. C.I.R.	X							
9-Mar-89	Bill Wildt's Motorsport Advancement Crusade v. C.I.R.	X	X						
27-Jun-89	Newspaper Guild of New York v. C.I.R.				Compensatory rather than charitable.				
19-Oct-89	Colorado State Chiropractic Soc. v. C.I.R.		X					X	
15-Nov-89	Manning Ass'n v. C.I.R.	X	X						
1-Mar-90	Calhoun Academy v. C. I. R.				Racially discriminatory				
10-Sep-90	Living Faith, Inc. v. C.I.R.		X						
29-Oct-90	United Missionary Aviation, Inc. v. C.I.R.		X						

8-Jan-91	Public Industries, Inc. v. C. I. R.		X						Selling prison-made products does not lessen a burden of government
14-Jan-91	Copperweld Steel Company's Warren Employees' Trust v. C.I.R.				Compensating employees.				
30-Dec-91	Geisinger Health Plan v. C.I.R.								Community benefit standard
18-Mar-92	Tony and Susan Alamo Foundation v. C.I.R.	X	X						
29-Jun-92	Church of Spiritual Technology v. U.S.	X	X			X	X		
29-Jun-92	Council for Bibliographic and Information Technologies v. C.I.R.		X						
4-Aug-92	El Paso de Aguila Elderly v. C. I. R.				Providing burial plots for its members		X		
29-Mar-93	Housing Pioneers, Inc. v. C.I.R.	X	X						
29-Mar-93	United Libertarian Fellowship, Inc. v. C.I.R.						X		
3-May-93	Geisinger Health Plan v. C.I.R.								Integral Part Doctrine
19-May-93	Airlie Foundation, Inc. v. U.S.	X							
28-Feb-94	Church of World Peace, Inc. v. C.I.R.	X				X			
11-Apr-94	Nationalist Movement v. C.I.R.	X			Counseling and Legal activity not charitable. Not educational: fails methodolgy test.				
4-Aug-94	Florida Hosp. Trust Fund v. C.I.R.		X (§501(m) commercial-type insurance)						§502 feeder organization, and not §501(e) cooperative.
12-Oct-94	Spanish American Cultural Ass'n of Bergenfield v. C.I.R.				§501(c)(4)'s social activities too substantial to be exempt.				
10-Nov-94	Nonprofits' Ins. Alliance of California v. U.S.		X (§501(m) commercial-type insurance)						
29-May-96	Bob Jones University Museum and Gallery, Inc. v. C.I.R.	X							

30-May-96	University Medical Resident Services, P.C. v. C.I.R.				Administrative services not educational.				Integral Part Doctrine
15-Apr-97	Fund for Anonymous Gifts v. I.R.S.				Allowed charitable deductions with investment control.				
12-Feb-98	Fund for the Study of Economic Growth and Tax Reform v. I.R.S.				Lobbying/Political Activity				Action organization.
27-Jul-98	Anclote Psychiatric Center, Inc. v. C.I.R.	X							
3-May-99	Larry D. Bowen Family Foundation v. C.I.R.						X		
17-May-99	Tate Family Foundation v. C.I.R.						X		
18-May-99	Tamaki Foundation v. C.I.R.						X		
30-May-99	Branch Ministries v. Rossotti				Lobbying/Political Activity				
2-Jul-99	Share Network Foundation v. C.I.R.						X		
19-Jul-99	Redlands Surgical Services v. C.I.R.	X							
15-Sep-99	Wayne Baseball, Inc. v. C.I.R.				Social and Recrational activities nonexempt.				
11-Oct-00	Nationalist Foundation v. C.I.R.				Not educational material/distortion of facts.				
25-Oct-00	At Cost Services, Inc. v. C.I.R.	X	X						
19-Sep-01	IHC Health Care, Inc. v. C.I.R.		X (§501(m) commercial-type insurance)						Community Benefit Standard/ Integral Part Doctrine
19-Sep-01	IHC Health Group, Inc. v. C.I.R.								Community Benefit Standard/ Integral Part Doctrine
19-Sep-01	IHC Health Plans, Inc. v. C.I.R.		X (§501(m) commercial-type insurance)						Community Benefit Standard/ Integral Part Doctrine
24-Sep-03	Airlie Foundation v. I.R.S.		X						
20-Nov-03	Thomas Kinkade Foundation Charitable Trust v. U.S.								Not in opinion.
15-Jan-04	Prize v. C.I.R.	X							

22-Feb-05	Amend16robertwirengard v. C.I.R.		X						
14-Dec-05	South Community Ass'n v. C.I.R.		X						
22-Dec-05	National Paralegal Inst. Coalition v. C.I.R.			X					
24-Apr-06	New Dynamics Foundation v. U.S.	X				X			
5-Mar-07	Families Against Government Slavery v. C.I.R.				Not educational: unsupported opinion/legislative and political activity				
10-Apr-07	Rameses School of San Antonio, Texas v. C.I.R.	X							
30-Apr-07	CRSO v. C.I.R.								§502 Feeder Organization
5-Feb-08	Solution Plus, Inc. v. C.I.R.	X			Debt management programs not educational or charitable				
8-Apr-08	Exploratory Research, Inc. v. C.I.R.			X					
12-Nov-09	Ohio Disability Ass'n v. C.I.R.	X					X		
26-Jan-10	Mysteryboy Incorporation v. C.I.R.	X							Action Organization. Against public Policy.
7-Jul-10	Free Fertility Foundation v. C.I.R.								Community Benefit Standard
24-Jan-11	Asmark Institute, Inc. v. C.I.R.		X						

Appendix II

Filed Date	Title	Citation	Summary
20-Nov-78	Aid to Artisans Inc. v. Commissioner of Internal Revenue	71 T.C. 202	Organization was created to purchase and sell the handicrafts of disadvantaged artisans. The IRS argued that this was primarily a commercial purpose and that the organization operated for the benefit of private individuals. The court disagreed, concluding that disadvantaged artisans is a charitable class and that any nonexempt purpose was insubstantial.
24-Sep-03	Airlie Foundation v. I.R.S.	283 F.Supp.2d 58	IRS denied the application of an organization that hosted and sponsored educational conferences in addition to some private and commercial conferences. The court agreed with the IRS that the organization's corporate and private clients (which accounted for between 30 and 40% of its revenues), advertising costs, and high revenues created what the IRS called a "commercial hue." As a result, the organization failed to show that the IRS was mistaken in its determination and that it was entitled to tax exemption.
19-May-93	Airlie Foundation, Inc. v. U.S.	826 F.Supp. 537	Founder had been convicted of conspiracy to commit tax fraud. Court found that an extensive network of businesses benefitted the founder and his family including a boat purchased by the organization, a condominium used by the founder, a business relationship with the founder's other commercial endeavors, and a trust that operated in part for his benefit. Held that the organization was not exempt because it operated for the private benefit of its founder to whom a benefit inured.
23-Feb-84	Alive Fellowship of Harmonious Living v. C.I.R.	T.C. Memo. 1984-87	Organization operated outreach centers for religious instruction in "polarity treatment." The IRS denied their application contending that they operated for a profit and in the same manner as a lodge or health spa. The court disagreed concluding that the organizations activity was primarily religious. The court also concluded that no private inurement occurred regardless of unequal compensation geared to the individual member's needs because such inequality was "superficial."
26-May-83	Alumnae Chapter Beta of Clovia v. C.I.R.	T.C. Memo. 1983-303	Organization of alumnae women sought exemption. Court held that substantial purpose social and personal and the organization also provided subsidized housing to members.
22-Feb-05	Amend16robertwirengard v. C.I.R.	T.C. Memo. 2005-30	Organization was created for "establishing IRAs, pooling funds, electronic payroll deposits for small firms and possibly for United Health Payers, accruals, disbursements, and providing micro loans." The court agreed with the IRS that the organization was operating as a commercial bank.
19-May-80	American New Covenant Church v. Commissioner of Internal Revenue	74 T.C. 293	Organization changed its name and adopted new articles during the review process. After the IRS issued an adverse determination regarding the old entity and insisted the organization file a new application, the organization filed for a declaratory judgment. The court held that the organization failed to exhaust its administrative remedies.
20-Nov-86	American Science Foundation v. C.I.R.	T.C. Memo. 1986-556	Organization sought to provide loans and scholarship grants. The IRS and court agreed that it failed to describe its proposed activities in sufficient detail such as criteria for providing grants and how they would be publicized.
27-Jul-98	Anclote Psychiatric Center, Inc. v. C.I.R.	T.C. Memo. 1998-273	Organization sold its hospital for below fair market value, resulting in private inurement.
29-Apr-80	Ann Arbor Dog Training Club, Inc. v. Commissioner of Internal Revenue	74 T.C. 207	Organization claimed it was educational because it taught owners how to train dogs. The IRS and court determined that its primary purpose was the training of animals and that any training humans received was incidental.
24-Jan-11	Asmark Institute, Inc. v. C.I.R.	T.C. Memo. 2011-20	Organization was designed to be a resource center for compliance materials for agribusiness. It operated a number of compliance programs for which it charged businesses a fee. The IRS and court agreed that Asmark was participating in commercial activity.

6-May-80	Associated Hospital Services, Inc. v. Commissioner of Internal Revenue	74 T.C. 213	Organization was created by six hospitals to provide laundry services to each. The IRS concluded that the organization was a feeder under section 502 and that Congress explicitly left such laundry services out of section 501(e). The court agreed after analyzing the legislative history of two acts in which such services were included and then struck from the legislation and considering the "reenactment doctrine."
17-Sep-87	Association of the Bar of City of New York v. Commissioner of Internal Revenue	89 T.C. No. 42	Organization prepared ratings of candidates for judicial offices. The Tax Court found that the ratings were not based on political preferences but were based on experience. The Second Circuit reversed, 858 F.2d 876, finding that the ratings were participation in a political campaign.
25-Oct-00	At Cost Services, Inc. v. C.I.R.	T.C. Memo. 2000-328	Organization was designed to train the unemployed or underemployed to be temporary workers. The organization was created and run by the owner of a similar for-profit company that placed temporary workers with local businesses. Its funding was primarily composed of fees paid by its clients, although it did not charge businesses a fee, which would have been typical for a similar for-profit entity. The IRS denied the application stating that the “operations of [the organization] serve the private interests of [its founder and operator], [it] is operated for private benefit rather than exclusively for public purposes, and [it] has failed to establish that it is operated exclusively for exempt purposes.” The court concurred with the IRS’s determination, concluding that the organization’s “activities are indistinguishable from the activities of a for-profit temporary service agency."
4-May-88	Athenagoras I Christian Union of World, Inc. v. C.I.R.	T.C. Memo. 1988-196	Organization was created to promote unity among Christian churches. The organization claimed both to be a religious and an educational institution. The founder of the organization and his family resided in a house owned by the organization and all of the property was to transfer to him upon dissolution. The court found that the organization served the founder's interest, which explained the "vacillating nature of petitioner's stated activities. As the interest of Mr. Bouchlas changed, so changed the nature of petitioner's activities." Also, the court found that a benefit inured to the founder and his wife as they resided at a house owned by the organization.
30-May-78	B.S.W. Group, Inc. v. Commissioner of Internal Revenue	70 T.C. 352	The court agreed with the IRS that the petitioning organization was not entitled to tax exemption. B.S.W. Group was organized to provide consulting services for “limited-resource groups” in rural-related policy and development issues, including the performance of “basic and applied research” for its clients. The court concluded that B.S.W. Group was not exempt, although some of its employees worked without pay and it only served nonprofit organizations, because it failed to establish that it was not competing with other commercial organizations and its only finance structure involved fees paid by client organizations, which were set above cost. These fees were relatively high, representing 10.8 percent of projected income, and the organization never intended to charge fees below cost. The fee issue in B.S.W. has been used to distinguish facts in similar cases when a court holds against the IRS. See Fraternal Medical, T.C. Memo. 1984-64.
9-Jan-78	Baltimore Regional Joint Board Health & Welfare Fund, Amalgamated Clothing & Textile Workers Union v. Commissioner of Internal Revenue	69 T.C. 554	Taxpayer was a 501(c)(9) that applied for 501(c)(3). It operates a child day care center and provides physical examinations and immunizations for its members. IRS denied because taxpayer provided substantial medical benefits to its members. The court agreed and held that the organization failed the operational test because it provided medical services and its day care centers operated for the benefit of its membership at a discounted rate.
24-May-83	Basic Bible Church of America, Auxiliary Chapter 11004 v. C.I.R.	T.C. Memo. 1983-287	The IRS sought information from the church, which the church refused to provide. The court agreed with the IRS that without sufficient information it could not conclude that the organization was exempt.

28-Jul-80	Basic Bible Church v. Commissioner of Internal Revenue	74 T.C. 846	Church's founders took a "vow of poverty" and donated all of their money and property to the church with the exception that if the church did not receive exempt status the property would revert to the founders. The money was expended for the founders and it did not appear that the church functioned frequently. The court found that the church operated for the benefit of its founders.
28-Jan-81	Basic Unit Ministry of Alma Karl Schurig v. C. I. R.	511 F. Supp. 166	Religious organization requires its members to transfer all property to the organization, which could only be withdrawn with the approval of the organization. It also required that its members perform non-charitable work for third parties who would pay salaries directly to the organization. All of the members' living expenses were paid by the organization. The court held that because of the organization's refusal to answer certain questions regarding its expenses and charitable activities it had not met its burden of proving that it did not operate for the benefit of its members and was not entitled to exemption.
7-Feb-83	Bethel Conservative Mennonite Church v. C.I.R.	80 T.C. 352	On appeal, the 7th Circuit reversed the Tax Court's determination that a church's medical aid plan for its members constituted a nonexempt purpose and private benefit. The 7th Circuit concluded that the medical aid plan was in keeping with the church's belief that their religious community should support each other. The court also disagreed with the Tax Court that this plan was for the private benefit of its members because many of the activities of church's only affect a given church's members. The court went on to conclude that there was no dissolution problem and declared the church tax exempt.
6-Jun-79	Beth-El Ministries v. U.S.	44 A.F.T.R.2d 79-5190	Church's members donate their salaries to the church which then provides them with clothing, shelter, food, school etc. Court found that this constituted private inurement.
30-Apr-79	Big Mama Rag, Inc. v. U.S.	494 F. Supp. 473	The IRS denied the organization's application for exemption because it concluded that it did not provide a "full and fair exposition of the facts" and as a result was not educational. The D.C. Circuit reversed the D.D.C.'s holding for the IRS, concluding that the full and fair exposition test was unconstitutionally vague.
9-Mar-89	Bill Wildt's Motorsport Advancement Crusade v. C.I.R.	T.C. Memo. 1989-93	Taxpayer sought to benefit the motorsports community by publishing a newsletter, presenting a "visually spectacular" program, and investigating FCC for lack of motorsports on the air. The court held that the taxpayer's activities were commercial, as they sought to benefit the financial wellbeing of the industry and improve ticket sales for motorsports. The court also found that benefits inured to its founder.
29-May-96	Bob Jones University Museum and Gallery, Inc. v. C.I.R.	T.C. Memo. 1996-247	Taxpayer took over the operation of a museum affiliated with Bob Jones University. Taxpayer and the university entered into a 3 year lease agreement and the board of directors of the museum had extensive crossover with the university. The IRS claimed that the museum operated for the benefit of the university, which is not tax exempt, because of "(1) Petitioner's payment of rent to the University; (2) petitioner's payment of salaries to employees formerly employed by the University; (3) petitioner's exhibition of artwork on loan from the University; (4) the University's influence on petitioner's board; (5) petitioner's location on the campus of the University; and (6) the reputational benefit that the University will derive from its association with petitioner." The court disagreed and discussed each of these reasons in turn. The court concluded that the IRS's position would lead to the conclusion that a "taxable corporation could never spin off a tax exempt organization and conduct subsequent financial dealings with it."
30-May-99	Branch Ministries v. Rossotti	40 F. Supp. 2d 15	A church took out advertisements opposing Bill Clinton for President in 1992. The church challenged the IRS's subsequent revocation of its exempt status, and the court granted the government's motion to dismiss after considering the church's constitutional claims.
9-Jun-80	Bubbling Well Church of Universal Love, Inc. v. Commissioner of Internal Revenue	74 T.C. 531	Church spent most of its resources on the founder's family and failed to provide any detail regarding its activities. It failed to show that it performed religious functions or that the distribution to the family was compensation.

1-Mar-90	Calhoun Academy v. C. I. R.	94 T.C. 284	Private school with a history of having a racially discriminatory admissions policy did not show a good faith effort to implement a nondiscriminatory policy. It had not taken affirmative steps to implement its policy, as it had never admitted a black student and did not publicize its nondiscriminatory admissions policy.
5-Dec-78	Callaway Family Assoc. Inc. v. Commissioner of Internal Revenue	71 T.C. 340	Organization sought to study genealogical history of "Callaway" as variously spelled from Britain to the U.S. The court concluded this served private interests, and distinguished from a revenue ruling that held Mormon genealogical services were exempt activities because they were integral in religious services.
4-Dec-79	Chart, Inc. v. U.S.	491 F.Supp. 10	Organization was a 501(e) exempt hospital coop that provides data and processing services to its member hospitals. The IRS argued that 501(e) was the only means for such an organization to be exempt. The court disagreed, and concluded that 501(e) was meant to expand the class 501(c)(3) was available to. The D.C. Cir reversed without opinion, 652 F.2d 195 (Table) (D.C. Cir. 1981).
30-Jan-85	Chief Steward of Ecumenical Temples v. C.I.R.	T.C. Memo. 1985-50	Church refused to further amend its Articles of Incorporation to provide for dissolution to another tax exempt entity and also failed to provide sufficient information for the court or IRS to determine if the organization operated for public interests.
29-Jan-79	Christian Manner International Inc. v. Commissioner of Internal Revenue	71 T.C. 661	The court agreed with the IRS that the organization's primary purpose was the sale of the founder's books for profit, that this sale was primarily commercial in nature, and that any other nonexempt purpose of the organization was insubstantial compared with this dominant commercial purpose.
21-Sep-78	Christian Stewardship Assistance, Inc. v. Commissioner of Internal Revenue	70 T.C. 1037	Organization provided tax and financial planning advice to wealthy individuals who donated to Christian organizations so that they might maximize their tax benefits. The court held that this was a substantial nonexempt purpose.
28-Nov-88	Church By Mail, Inc. v. U.S.	63 A.F.T.R. 2d 89-471	Court found that compensation for church's founders in excess of $300,000 was unreasonable and constituted private inurement.
1-Nov-78	Church in Boston v. Commissioner of Internal Revenue	71 T.C. 102	Taxpayer, a church, gave a substantial amount of “grants” to ‘individuals who were financially unable to meet essential needs” as determined by the church’s “elders.” The IRS denied on the grounds that the taxpayer’s lack of records regarding its grants was evidence that its grant program had no criteria, and grants with no obligation for repayment resulted in private inurement. The court agreed that the church failed to show that its grant program was in furtherance of an exempt purpose and upheld the determination. It did not consider the private inurement question.
29-Apr-86	Church of Eternal Life and Liberty, Inc. v. C.I.R.	86 T.C. 916	Organization never applied for exemption but the IRS sought information and denied it exemption. The organization claimed to be a church but it only had two members and primarily maintained a library and published a newsletter. It also acquired a libertarian merchandise company and began making significant money. The IRS and court agreed that the organization was not a church and not an organization described in 508(c)(1)(B). The court concluded that the organization failed the 501(c)(3) test because a benefit inured to its founder.

17-Jul-84	Church of Ethereal Joy v. Commissioner of Internal Revenue	83 T.C. 20	The church's application stated that it would not begin operating until after its status was recognized, and at the time of its application it had no congregation and had not performed a single religious ceremony or service. The church's board was a "small, self-perpetuating group," and was closely related to Universal Life Church as well as a similar organization called the Church of World Peace, which seemed to be run and operated by one of the church's founders and directors, Bill Conklin. Perhaps most compelling, the Church of World Peace had advertised in a local paper, which included the number and address of Conklin, and stated that it could offer the benefits of tax exemption. Id. Concurring with the IRS's determination that the church was not entitled to tax exemption, the court reasoned that, although in the past simply stating that an organization was a church would be sufficient, "cynical abuse" of the tax system required a more skeptical approach. Because of the involvement of Conklin, the court held that the organization had not met its burden of showing that it would not operate for the benefit of its members.
30-May-86	Church of Gospel Ministry, Inc. v. U.S.	640 F. Supp. 96	Church issued ordinations and sought donations. The church failed to keep records for expenses and the IRS revoked its exempt status. The court upheld the revocation, pointing to examples of undocumented cash expenditures, personal expenses of its officers, and donations that were personally received by the president that were never recorded or deposited.
25-Jul-88	Church of Modern Enlightenment v. C.I.R.	T.C. Memo. 1988-312	IRS denied exemption to a church that had only received contributions from one person who was also a trustee and who lived at the church's address. The church did not appear to offer any services or perform any evangelism but paid for its founder's food, clothing, and other "necessities of life." The court agreed with the IRS that the church operated for the benefit of an individual and that the church failed to show that the IRS was mistaken.
2-May-85	Church of Nature in Man v. C.I.R.	T.C. Memo. 1985-212	Church did not amend its articles to include a proper dissolution provision and the court also noted that the church did not describe its activities in sufficient detail.
29-Jun-92	Church of Spiritual Technology v. U.S.	26 Cl.Ct. 713	Church was created by the Church of Scientology. L. Ron Hubbard's estate was to transfer the bulk of the income producing property that past courts had concluded was not tax exempt if this church received exemption. The court concluded that the primary purpose of the organization was as a tax haven and that, independently, the church did not cooperate with the IRS during the application process, resulting in incomplete filings.
5-Jan-81	Church of Transfiguring Spirit, Inc. v. Commissioner of Internal Revenue	76 T.C. 1	Founders of church were given nearly all of the church's income in housing allowances. The court agreed with the IRS that this was private inurement.
1-Dec-83	Church of Visible Intelligence That Governs The Universe v. U.S.	4 Cl.Ct. 55	IRS denied the application of a church that had not yet begun its activities because it did not describe its anticipated activities in sufficient detail and it granted too much power to its founder. The court rejected the IRS's first argument, concluding that the church made a "concerted effort" to establish that it was exempt, it noted that it held regular prayer meetings and weekly services, and provided a list of proposed activities and other information. The court also determined that the powers granted to the church's founder were not excessive, noting that "if there was any evidence in the record to support defendant's inference of private benefit, the court would be troubled by [the founder's] powers," but that the founder had contributed money without any private benefit and had not yet exercised "totalitarian powers."
28-Feb-94	Church of World Peace, Inc. v. C.I.R.	T.C. Memo. 1994-87	Bill Conklin, also present in n Church of Ethereal Joy v. Commissioner, 83 T.C. 20 (1984), was again pursued by the IRS in an extensive network of money laundering by way ordaining ministers and establishing church charters. The record was full of evidence that the church operated primarily as a tax avoidance and money laundering scheme and the court upheld the IRS's revocation.

1-Jul-85	Cleveland Creative Arts Guild v. C.I.R.	T.C. Memo. 1985-316	Organization put on various art programs and art education efforts in addition to having some art festivals and craft shows that the IRS contended involved "sales for sales sake" and invalidated the exemption as a commercial purpose and private benefit. The court disagreed finding that any sales were incidental to the organization's primary purpose of educating the public and that although a large number of the organization's members featured art in the festivals, the lack of selection criteria was important to ensure as wide participation as possible and so the private benefit of its members was not a substantial purpose of the organization.
19-Oct-89	Colorado State Chiropractic Soc. v. C.I.R.	93 T.C. 487	501(c)(6) organization decided to amend its articles to become a 501(c)(3). Although the IRS granted exemption, it did not grant it for a period before the amendments were made. The court concluded that the original articles were sufficient to satisfy the organizational test. The IRS argued that taxpayer's Mobile Educational Unit was not for educational purposes but was for advertising purposes. Although the court agreed with the IRS, it found that these activities were insubstantial and did not threaten its exemption. The court found that the exemption should have applied before the amendment to the articles.
6-Jan-87	Columbia Park and Recreation Ass'n., Inc. v. C.I.R.	88 T.C. 1	Organization sought tax exemption so it might benefit from issuing tax exempt bonds. Columbia, MD is a privately developed and unincorporated city. The organization was created to own and operate the recreational areas within the city. The court concluded that the organization was organized and operated for private benefit of those living in the private development and failed the dissolution test. The court noted that the organization could avoid this result if it incorporated as a city but that its organizers may lose control over the direction of the city.
18-Aug-78	Consumer Credit Counseling Service of Alabama, Inc. v. U.S	44 A.F.T.R.2d 79-5122	Taxpayer is one of many affiliated credit counseling services that provides information on budgeting and consumer credit and provides counseling to debt-distressed individuals. As a part of the latter function the agency may help an individual set up a monthly debt payment and even intercede with creditors to get them to agree. A nominal fee will be charged if the agency does that but not where it would work a financial hardship. The IRS revoked the exempt status (ostensibly given "inadvertently") because the debt management service is not limited to low income individuals and fees are charged. The court found that the organization was exempt. Its debt management activities are an integral part of the counseling and even if they weren't they are incidental to principle functions and would not render the agency nonexempt. The court also found that the law does not prevent an organization from charging a fee or from serving other than low income families.
14-Jan-91	Copperweld Steel Company's Warren Employees' Trust v. C.I.R.	T.C. Memo. 1991-7	The IRS denied the exemption to the trust because it distributed scholarships to the employee's children, which operated as a fringe benefit of employment.
15-Nov-82	Copyright Clearance Center, Inc. v. C.I.R.	79 T.C. 793	Organization sought to be a clearing house for obtaining copyrighted works and paying licensing fees for libraries. The court found that the existence of substantial profit was a driving force behind the organization's creation and that individual authors and publishers benefited from its operation.
29-Jun-92	Council for Bibliographic and Information Technologies v. C.I.R.	T.C. Memo. 1992-364	Taxpayer is a spin-off organization that operates an electronic library catalogue system. The IRS determined that the taxpayer was not operating for educational purposes but as an administrative system to help local libraries "catalog information, perform research, control circulation of materials, track overdue materials, compute the amount of fines due on the overdue materials, and bill for these amounts." As such it was operating for a commercial purpose as well as accumulating an annual profit. The court disagreed, finding that taxpayer is an organization formed by a cooperative of nonprofits and the services it performs are necessary and indispensable to the operation of those organizations. The court also noted that any funds the petitioner receives will reduce future costs and future fees.

13-Jun-79	Credit Counseling Centers of Oklahoma, Inc. v. U.S.	45 A.F.T.R.2d 80-1401	Incorporates both the facts and the conclusions of law of Consumer Credit Counseling Service of Alabama, Inc. v. US, 44 A.F.T.R.2d 79-5122 by reference.
30-Apr-07	CRSO v. C.I.R.	128 T.C. 153	Organization's sole activity was renting two parcels of land and donating the proceeds to a 501(c)(3). The IRS contended that the organization was a section 502 feeder organization and thus not exempt under 501. The court agreed, concluding that if an organization that engages in deriving rent does not meet the Unrelated Business Taxable Income "trade or business" exclusion under 512(b)(3), then it is engaged in a trade or business under 502 and not entitled to exemption.
9-Jan-80	Dumaine Farms v. Commissioner of Internal Revenue	73 T.C. 650	Organization runs a farm that also conducts scientific research and experimentation for different ways to farm that cure some of the problems associated with cash crop farming. The organization will also be feeding, watering and breeding areas for local wildlife. The IRS argued that farming was a commercial purpose and that it failed to describe its operations in detail. The court disagreed finding that the purpose of the farm was limited to its ecological and wildlife habitat purposes, that any commercial activity is meant to demonstrate the commercial viability of its farming techniques, and that proposed operations were sufficiently described. The court also found that there was no private benefit.
10-Jun-87	Easter House v. U.S.	12 Cl.Ct. 476	Adoption agency sought disadvantaged women and offered counseling and assistance in what it called a "continuum" service. The court acknowledged some exempt purposes but noted that the adoption agency function was a trade or business and framed the issue as such: "is the promotion of exempt purposes primary to business purposes or vice versa?" The court concluded that the operation of the business was its primary purpose and therefore it was not entitled to exemption. The court also found that a benefit had inured to a private individual whose salary was unreasonable and to whom the organization had extended three loans.
2-May-83	Ecclesiastical Order of Ism of Am, Inc. v. Commissioner of Internal Revenue	80 T.C. 833	Church provided instructions on how to structure a church such that it provides tax benefits. The court found that the primary purpose of the church was to provide tax counseling which was no different from a commercial tax advice service and as such was not exempt.
4-Aug-92	El Paso de Aguila Elderly v. C. I. R.	T.C. Memo. 1992-441	Organization formed to provide burial insurance to the elderly. The IRS argued that offering this insurance at cost was not an exempt purpose. The court agreed finding that the organization failed to establish any plan to provide assistance to ineligible participants or indigent nonmembers. Although the organization argued that it had already contributed funds to participants who had made only minimal payments, the court found that it failed to show these benefits were disbursed in an objective and nondiscriminatory manner.
28-Mar-79	EST of Hawaii v. Commissioner of Internal Revenue	71 T.C. 1067	"Erhard Seminars Training" organized trainings and seminars for participants to learn the self help philosophy of Erhard. These activities are performed by three for-profit corporations that license nonprofit organizations to carry on these activities as well. The court agreed with the IRS that the nonprofits were acting as franchises of the for profit corporations and that regardless they operated primarily for a commercial purpose.

8-Apr-08	Exploratory Research, Inc. v. C.I.R.	T.C. Memo. 2008-89	IRS failed to make a determination regarding the application of Exploratory Research, Inc., after twice seeking additional information and requesting that it add members to its board of directors. Because Exploratory Research would not commence its activities until after it received tax exemption from the IRS and grant funding, its filings were general estimates and rough projections. In response to the IRS's requests, Exploratory Research refused to change its board's composition contending that the Internal Revenue Code and Treasury Regulations did not require additional board members. It also responded to many of the IRS's questions by referring to its original application. After Exploratory Research's two responses, the IRS concluded that it had insufficient information to make a final determination as to Exploratory Research's tax exempt status. Exploratory Research then sought a declaratory judgment under section 7428 and the Tax Court dismissed its claim for lack of jurisdiction, concluding that the organization's initial application and its responses to IRS inquires did not describe its proposed activities in sufficient detail.
5-Mar-07	Families Against Government Slavery v. C.I.R.	T.C. Memo. 2007-49	the IRS denied exemption to an organization that sought to educate the public regarding injustices to minority Americans and to distribute materials that contained conspiracy theories regarding the FBI kidnapping and enslaving Hollywood celebrities and minorities for financial reasons, among others. Applying Revenue Procedure 86-43, the court concluded that the organization was not exempt because its materials were "full of unsupported opinions and distorted facts. Petitioner's presentations and documents use inflammatory language and emotional and irrelevant statements."
26-Jul-79	Federation Pharmacy Services, Inc. v. C. I. R.	72 T.C. 687	Pharmacy proposed to sell prescriptions at a 5% discount to its members. The court concluded that it had the commercial purpose of selling drugs.
27-May-80	First Libertarian Church v. C.I.R.	74 T.C. 396	Church failed to segregate its social and recreational "club meetings" and publication of a newsletter from its religious activities, and so was not entitled to exemption.
4-Aug-94	Florida Hosp. Trust Fund v. C.I.R.	103 T.C. 140	The IRS denied a group of trust funds created so that hospitals could insure as a group against worker's compensation and malpractice claims. The court concluded that the organizations were not described in 501(e) because they were not "purchasing" insurance but were in fact providing insurance. The court also found that 501(m) barred the organizations' exemption because they were engaged in commercial-type insuring.
12-Dec-84	Fraternal Medical Specialist Services, Inc. v. C.I.R.	T.C. Memo. 1984-644	Organization operates a medical and dental referral service. It charges a fee which varies depending upon the number of the subscribers and the administrative burden on the group. Providers pay reduced rates to subscribers. The organization also prepares a health care newsletter, a health fair, and an annual conference for doctors and dentists. The IRS argued that the referral service was a nonexempt commercial purpose. The court disagreed and found that the referral service contributed to its larger purpose of promoting health. The court also dismissed the IRS's contention that the referrals served private interests.
7-Jul-10	Free Fertility Foundation v. C.I.R.	135 T.C. 21	Organization was created by a single man who offered his sperm to female candidates for free. He would determine whether a candidate was acceptable and provide her with sperm. The court determined that while providing free sperm may be a charitable activity, the class of beneficiaries in this case was too small.
26-Apr-84	Freedom Church of Revelation v. U.S.	588 F.Supp. 693	Church failed to provide any business records or explanation of what happened to disappearing funds. The government provided evidence that the church was in large part a tax avoidance scheme that provided advice to other organizations on how to avoid taxes. Further, the IRS obtained bank records that showed what appeared to be significant expenditures for private purposes.

15-Apr-97	Fund for Anonymous Gifts v. I.R.S.	79 A.F.T.R.2d 97-2520	Organization allows individuals to make charitable donations on an anonymous basis. The court found that the organization had a substantial nonexempt purpose of providing donors the discretion to invest their donations as they see fit and donating them to whomever they choose. This would be a risk free investment that they control and would then be able to take a charitable deduction for, which is not an exempt purpose. This decision was vacated on appeal when the organization agreed to remove the portions of its articles that allow for investment control. 194 F.3d 173 (D.C. Cir. 1999).
12-Feb-98	Fund For Study of Economic Growth and Tax Reform v. I.R.S.	997 F. Supp. 15	Organization operated public hearings around the country in support of an overhaul of the Internal Revenue Code that would create a flat tax. The organization was created as a means of promoting and supporting a commission on tax reform that was often referred to as the "GOP Commission" or "Republican Commission." The court found that the organization had a primary purpose of supporting a political agenda and so was not exempt. the court also found that the organization qualified as an action organization.
30-Dec-91	Geisinger Health Plan v. C.I.R.	T.C. Memo 1991-649	Geisinger was an HMO that primarily operated in underserved, rural communities. It offered a subsidized dues program as part of its operation. The Tax Court held that Geisinger was exempt under the community benefit standard. On appeal, the Third Circuit held that the subsidized dues program was not enough of a benefit to qualify as tax exempt and reversed the Tax Court. It remanded to 100 T.C. 394 for consideration of the Integral Part Doctrine.
3-May-93	Geisinger Health Plan v. C.I.R.	100 T.C. 394	On remand from 985 F.2d 1210, the Tax Court held that Geisinger was not exempt under the integral part doctrine. The court stated that although there are instances when an organization like Geisinger could qualify under the test, in this case it "cannot conclude that petitioner's operations were so substantially and closely related to the exempt purposes of its affiliates that those private interests may be disregarded."
28-Feb-79	General Conference of Free Church of America v. Commissioner of Internal Revenue	71 T.C. 920	The IRS denied the church's application on the grounds that its organizing document was too vague and as such would allow nonexempt activities, that it did not contain a proper dissolution provision, and that the church did not sufficiently describe its proposed operations. The court disagreed on the first point, noting that the "mere existence" of this power was not fatal. However the court did agree with the IRS on the other two points, concluding that the organizing document needed a dissolution provision and that many of the church's responses to IRS inquiries were ambiguous and vague.
8-Dec-80	Goldsboro Art League, Inc. v. Commissioner of Internal Revenue	75 T.C. 337	Organization operates to promote the arts in Goldsboro. Among its operation are two art galleries. The organization keeps approximately 20% of any sale. The IRS argued that the organization was essentially a commercial operation and that a benefit inured to private interests. The court disagreed, concluding that any sales were incidental to the exempt purpose and that the only benefit inured to unrelated 3rd parties, and the proscription against inurement does not apply to such parties.
26-Jul-82	Gondia Corp. v. C.I.R.	T.C. Memo. 1982-422	Organization did nothing other than promote its founders inventions. The court found that that there was no exempt purpose and that the founder benefitted from its activities.
25-Jul-88	Good Friendship Temple v. C.I.R.	T.C. Memo. 1988-313	Religious organization paid for all of the founder’s necessities of life, who was its sole contributor. The court agreed with the IRS that the organization was operating for his benefit and that a benefit inured to him.
16-Apr-80	Greater United Navajo Development Enterprises, Inc. v. C.I.R.	74 T.C. 69	Organization was in the business of leasing oil drilling equipment and could not maintain its exemption on the grounds that its proceeds went to charitable purposes.
19-Dec-77	Hancock Academy of Savannah, Inc. v. Commissioner of Internal Revenue	69 T.C. 488	Organization is a spin off of a for profit school. It acquired the school's property and incurred a liability of $50,000 for goodwill and required its students' parents to extend interest free loans to the former school. The court concluded that $50,000 was excessive and benefited private interests and that the loans resulted in private inurement.

25-Jan-83	High Adventure Ministries, Inc., v. Commissioner of Internal Revenue	80 T.C. 292	After the organization operated a radio station in "Free Lebanon" and included Major Saad Haddad in broadcasts, an investigation into its exempt status began. However, the IRS never revoked the organization's exemption. The organization sought relief but the court dismissed for failure to exhaust administrative remedies.
29-Jun-79	Hospital Co-op. Services Inc. v. U. S.	220 Ct.Cl. 728	Stipulated judgment in favor of organization.
29-Mar-93	Housing Pioneers, Inc. v. C.I.R.	T.C. Memo. 1993-120	Organization sought to provide housing to low income and handicapped persons as well as ex-convicts. It would enter into partnerships with other housing companies so that those companies would benefit from California's tax benefit provided to housing units that contained a certain portion of the type of individuals Housing Pioneers was targeting. The court determined that the organization was not exempt because it would be operating with the for-profit housing partnerships.
19-Jan-78	Houston Lawyer Referral Service, Inc. v. Commissioner of Internal Revenue	69 T.C. 570	Organization sought to submit oral testimony it had provided the IRS but the court concluded that 7428 required written submissions.
24-Oct-79	Hutchinson Baseball Enterprises, Inc. v. C.I.R.	73 T.C. 144	The IRS argued that the organization was not exempt because it sponsored and promoted recreational and amateur baseball, which exceeded that which was allowed for organizations who "foster national or international amateur sports competition," which the IRS argued alone had not been held to be sufficient for tax exemption. The IRS also argued that the organization's predominant activity was the operation of the Hutchinson Broncos, which the commissioner contended was a semi-professional team. The court found that the organizations activities fell within the language of the statute quoted above and that the Broncos was an amateur baseball team and also met that purpose.
19-Sep-01	IHC Health Care, Inc. v. C.I.R.	T.C. Memo. 2001-248	HMO was held to not be tax exempt because it did not provide any actual services so could not provide free or low cost health care and it relied on independent health care workers; therefore, it did not qualify under the community benefit standard and it was not an integral part of Health Services' exempt function.
19-Sep-01	IHC Health Group, Inc. v. C.I.R.	T.C. Memo. 2001-247	HMO was held to not be tax exempt because it did not provide any actual services so could not provide free or low cost health care and it relied on independent health care workers; therefore, it did not qualify under the community benefit standard and it was not an integral part of Health Services' exempt function.
19-Sep-01	IHC Health Plans, Inc. v. C.I.R.	T.C. Memo. 2001-246	HMO was held to not be tax exempt because it did not provide any actual services so could not provide free or low cost health care and it relied on independent health care workers; therefore, it did not qualify under the community benefit standard and it was not an integral part of Health Services' exempt function.
27-Jan-81	Incorporated Trustees of Gospel Worker Soc. v. U.S., Dept. of Treasury	510 F. Supp. 374	Organization's status was revoked because it ceased its missionary work and operated as a publisher at a substantial profit. The court upheld the revocation because the substantial profits, the jump in salaries, and the fact that the organization competed with commercial entities suggested a commercial purpose.
26-Feb-81	Indiana Crop Improvement Association, Inc. v. Commissioner of Internal Revenue	76 T.C. 394	Organization partnered with Purdue University and performed seed certification for the State of Indiana as well as performing scientific research. The IRS argued that seed certification had not been recognized as a burden of government and that the organization performed essentially a commercial operation to the benefit of private persons and entities. The court disagreed, finding that the organization lessened the burdens of government, that normal commercial entities did not perform this kind of seed research, and that the research served to benefit the community.

15-Oct-79	Industrial Aid for the Blind v. Commissioner of Internal Revenue	73 T.C. 96	Organization sells products made by the blind and distributes the profits to the workers as bonuses. The IRS argued that the organization was operating as a business. The court disagreed and held that handling the sale of products made by organizations performing an exempt purpose was an exempt purpose itself. The court also found that the organization was not a sec. 502 feeder.
25-Jan-82	International E22 Class Association v. Commissioner of Internal Revenue	78 T.C. 93	In addition to fostering international boating competitions, the organization also maintained a measurement template and "master plug" which were available to anybody free of charge. The IRS contended that this amounted to "the provision of athletic facilities or equipment" in violation of 501(c)(3). The court disagreed, concluding that the template and master plug did not qualify as athletic equipment or athletic facilities in the meaning of the statute.
24-Jan-89	International Postgraduate Medical Foundation v. C.I.R.	T.C. Memo. 1989-36	Organization was designed to provide continuing medical education trips abroad for doctors. The IRS revoked the organization's exemption finding that a primary purpose was to increase the income of H&C Tours, which was owned by the founder of the organization. The court agreed, and found that the organization served private interests.
16-Nov-82	Interneighborhood Housing Corp. v. C.I.R.	T.C. Memo. 1982-661	Taxpayer operated a housing corporation that serviced low income individuals. The IRS and court agreed that this was not an exempt purpose but rather the organization was operating as a commercial enterprise and that its organizing document allowed it to participate in nonexempt activities. The organization also failed to provide sufficient detail regarding its activities to Rev. Rul. 70–585.
24-Jun-81	John Marshall Law School v. U.S.	48 A.F.T.R.2d 81-5340	IRS revoked the status of a law school because a benefit inured to its dean. The court agreed, concluding that interest free loans, home furnishings, scholarships for his sons, automobile expenses, travel expenses, health insurance and benefits, and sports tickets provided to the dean constituted private inurement.
9-Jun-82	Kentucky Bar Foundation, Inc. v. Commissioner of Internal Revenue	78 T.C. 921	Organization operates a continuing legal education program, the public law library, the publication of the "Kentucky Bench and Bar," The IRS argued that the organization's lawyer referral service, client security fund, inquiry tribunal, and fee arbitration plan served the nonexempt purpose of promoting the legal profession. The court disagreed, finding that the activities benefitted the public and were a part of the responsibility of a bar association to maintain public confidence in the bar. Any nonexempt purpose, the court found, was insignificant and tenuous.
31-Jan-84	La Verdad v. Commissioner of Internal Revenue	82 T.C. 215	Organization proposed to promote religious education by issuing scholarships and grants. The IRS denied the application on the grounds that the organization provided insufficient information regarding its proposed activities. The court agreed and held for the IRS.
3-May-99	Larry D. Bowen Family Foundation v. C.I.R.	T.C. Memo. 1999-149	Organization was created after its founders attended a seminar held by William Tully, a promoter of tax-exempt entities. After correspondence with the IRS, which sought more detailed disclosures of its proposed activities, the Service denied its application. The court affirmed the denial, concluding that the answers to the IRS's questions were too vague to make a conclusion.
26-Jan-78	Levy Family Tribe Foundation, Inc. v. Commissioner of Internal Revenue	69 T.C. 615	Organization's founders traded stamps with "the children of Israel" and created the organization to buy tracts of land in Israel. The IRS denied the application for exemption concluding that the stamp trading served personal purposes and that the organization operated as an adjunct to the family business. As a result, it operated for private benefit. The court agreed, finding that the stamp activity did not serve an exempt purpose and that benefit had inured to the founder's stamp business.
17-Dec-86	Linwood Cemetery Ass'n v. C.I.R.	87 T.C. 1314	Organization had been exempt under 501(C)(3)'s predecessor as a cemetery company. Court found that it was no longer exempt because, although it provided burial to the poor and to veterans which lessened the burdens of government, it also "sells plots, markers, evergreens, crypts, vaults, and perpetual and special care services."

10-Sep-90	Living Faith, Inc. v. C.I.R.	T.C. Memo. 1990-484	Health food restaurant claimed that it operated to enable the diet of seventh day Adventists. The IRS and court agreed that the organization was operating like a commercial entity and was not exempt.
2-Feb-83	Local Union 712, I.B.E.W. Scholarship Trust Fund v. C.I.R.	T.C. Memo. 1983-76	Petitioner was organized pursuant to a collective bargaining agreement between the union and the association and was established for the purpose of awarding scholarships to the children of union employees. The IRS found that the Trust fund failed to meet the guidelines of Rev. Proc. 76-47. Also, the IRS found that the scholarship was compensatory rather than charitable because it came as a part of a collective bargaining agreement. The court agreed finding that the class is too restricted to confer public benefit and that it was primarily compensatory.
9-Jan-89	Make a Joyful Noise, Inc. v. C.I.R.	T.C. Memo. 1989-4	Organization raised money for the elderly through bingo games. After Tennessee revoked the permit to organize bingo games for many organizations including the taxpayer, the organization maintained fundraising by entering into agreements with organizations operating bingo games. The IRS revoked the organization's exemption and the court affirmed, concluding that its involvement with the operation of regularly scheduled bingo games was a trade or business unrelated to an exempt purpose.
15-Nov-89	Manning Ass'n v. C.I.R.	93 T.C. 596	Manning Association operates an historical home that includes a restaurant. Additionally the organization produces a newsletter and some genealogical information. The IRS denied exemption and the court affirmed, concluding that the organization operated to the substantial benefit of the restaurant and that although there may be some exempt activity, much of the genealogical information benefited the private interests of the family.
25-Nov-86	Media Sports League, Inc. v. C.I.R.	T.C. Memo. 1986-568	Organization is an amateur adult sports league in Pennsylvania. The court found that it was primarily operating for recreational and social purposes. It distinguished from Hutchinson by noting that here: "Petitioner, in contrast, provides no formal or ongoing instruction to its members, has no skill requirements for eligibility to play in its leagues and does not require members to participate in any of its activities. Petitioner also provides facilities and equipment for its members."
22-May-78	Michigan Early Childhood Center v. C.I.R.	T.C. Memo. 1978-186	Court finds for organization that provides day care services. Citing San Francisco Infant, the court concludes that the organization is primarily educational with any custodial activities being incidental to the exempt purpose and activities.
17-Aug-83	Minnesota Kingsmen Chess Ass'n, Inc. v. C.I.R.	T.C. Memo. 1983-495	Organization was created to promote chess in Minnesota. The IRS and court agreed that the primary purpose of the organization was recreational (playing chess) rather than educational.
1-May-79	Miss Georgia Scholarship Fund, Inc. v. Commissioner of Internal Revenue	72 T.C. 267	Organization distributed scholarships to participants in the Miss Georgia Beauty Pageant. The IRS and court agreed that because these scholarships went to every participant, but not to those who fail to execute the "contestant contract," the scholarships were really compensation.
18-Jan-80	Missouri Professional Liability Ins. Ass'n. v. U.S.	222 Ct.Cl. 558	Stipulated judgment in favor of organization.
26-Jan-10	Mysteryboy Incorporation v. C.I.R.	T.C. Memo. 2010-13	IRS denied the application of an organization that sought to change the law to allow sexual activity between adults and children. The court affirmed the denial, concluding that the organization was an action organization, that it violated public policy, and that it served the private interests of its founder.
27-May-81	National Alliance v. U.S.	48 A.F.T.R.2d 81-5138	Organization was a white supremacist group that published a newsletter ("Attack!"). The IRS denied exemption claiming that it failed the "methodology test" to establish that it was educational. The District Court of DC disagreed, based on the D.C. Circuit's Big Mama Rag opinion that concluded that the "full and fair" exposition test was unconstitutionally vague. On appeal, the D.C. Circuit (710 F.2d 868) decided that it did not need to consider whether the new "methodology test" was also unconstitutionally vague, because it saw "no possibility that the National Alliance publication can be found educational within any reasonable interpretation of the term." In dictum, it expressed cautious support for the methodology test.

6-Nov-78	National Association for Legal Support of Alternative Schools v. C.I.R.	71 T.C. 118	Organization published and disseminated material regarding alternative schooling for children. The court found in favor of the organization concluding that it made its information available to the public, the public could subscribe to its newsletter for only 10 dollars a year, its legal and other documents are available for reproduction at cost only, and it puts parents in contact with alternative schools. Further, the court found that the organization provided a full and fair exposition of the facts.
5-Jan-84	National Association of American Churches v. Commissioner of Internal Revenue	82 T.C. 18	Organization offered tax and financial advice to its affiliated missions. The court affirmed the IRS's denial and concluded that the organization had a substantial nonexempt purpose of offering tax advice and that there were tax avoidance activities at the top of the organization. The court also concluded that the organization did not fully cooperate with the IRS during the application process. Finally, the court denied a request for group exemption from the affiliated missions because it lacked sufficiently detailed information.
30-Oct-87	National Foundation, Inc. v. U.S.	13 Cl.Ct. 486	National Foundation was organized to raise money it would then distribute to other nonprofit organizations, which would apply for funds and pay an application fee. After rejecting the IRS's contention that National Foundation was merely a commercial organization, the court considered whether the organization had filed a sufficiently complete application and whether it had exhausted its administrative remedies. Concluding that National Foundation's application was complete, the court noted that "[National Foundation] neither refused to answer any question propounded by the IRS nor merely restated an answer when asked for additional information by the IRS." The court also concluded that National Foundation had sufficiently exhausted its administrative remedies explaining that "[i]t would be difficult to conceive of any stronger evidence of exhaustion of administrative remedies" than what was contained in the record. Discussing its exasperation with the IRS, the court noted that "[i]n [its] view the delay in handling [National Foundation's] application by the Service . . . represent[s] the antithesis of good government." The court then "took the unusual step" of announcing its determination in favor of National Foundation at the status conference so that the organization could alert its contributors and avoid losing its support.
22-Dec-05	National Paralegal Inst. Coalition v. C.I.R.	T.C. Memo. 2005-293	Organizations failure to submit a substantially complete application and its belated responses to IRS inquiries constituted a failure to exhaust administrative remedies.
11-Oct-00	Nationalist Foundation v. C.I.R.	T.C. Memo. 2000-318	White supremacist organization was denied exemption because it was deemed to not be education under the methodology test. The court affirmed, noting that the record was insufficient, the organization distorted facts, and that it's activities were antithetical to some of the listed charitable purposes such as "to lessen neighborhood tension" and "to eliminate prejudice and discrimination."
11-Apr-94	Nationalist Movement v. C.I.R.	102 T.C. 558	IRS applied the methodology test to a white-supremacist organization. After considering the Revenue Procedure in light of the D.C. Circuit's opinion in National Alliance, 710 F.2d 868, the Tax Court concluded that it was "not unconstitutionally vague or overbroad on its face nor is it unconstitutional as applied." The court believed the test was "sufficiently understandable, specific, and objective both to preclude chilling of expression protected under the First Amendment and to minimize arbitrary or discriminatory application by the IRS." The court then upheld the IRS's determination that the white supremacist group failed the methodology test.
28-Nov-84	New Concordia Bible Church v. C.I.R.	T.C. Memo. 1984-619	Church's founders gave all of their money to the church. Upon application, the church did not provide sufficient information to show that no inurement occurred.

24-Apr-06	New Dynamics Foundation v. U.S.	70 Fed.Cl. 782	IRS denied the application of a foundation that proposed to collect money and distribute it to myriad causes as diverse as computer education, prison ministries, and animal welfare. The foundation had a complicated set of "sub-accounts" created from contributions that would then be overseen by an "advisory committee." The committee then received instructions on how to use funds as "administrative expenses" which the foundation admitted is how about 95% of donated funds would be spent. The foundation's materials included a brochure describing the benefits of "warehousing wealth" to avoid taxation. The IRS, in an uncharacteristically lengthy explanation, informed the foundation that it was organized largely as a "classic tax scheme" and for the benefit of its directors and contributors to whom benefits inured. The court agreed and held that the foundation was not entitled to exemption.
29-Jun-82	New Life Tabernacle v. C.I.R.	T.C. Memo. 1982-367	Church paid substantial sums to a small number of members. Court found that it was private inurement.
1-May-80	New York County Health Services Review Organization, Inc. v. C.I.R.	45 A.F.T.R.2d 80-1552	Court concluded that the organization failed to exhaust its administrative remedies because the IRS had not made a determination and 270 days had not passed after its filing.
27-Jun-89	Newspaper Guild of New York v. C.I.R.	T.C. Memo. 1989-314	Organization operated a scholarship fund for the children of employees of the New York Times pursuant to a collective bargaining agreement. The court agreed with the IRS that this constituted compensation and was not an exempt purpose.
10-Nov-94	Nonprofits' Ins. Alliance of California v. U.S.	32 Fed.Cl. 277	Organization provides insurance to nonprofits in California. It argued that it differed from similar commercial organizations because it provided insurance below cost, offered loss and risk management services for free, and shared claims an loss data. The court disagreed, noting that the organization underwrites the policies with other firms to reinsure, cuts off coverage of organizations that did not make timely payments, charges based on risk, did not receive donations, competes with commercial entities, and accumulated profits. The court also found that the organization was barred from exemption by section 501(m).
3-Nov-81	North American Sequential Sweepstakes v. Commissioner of Internal Revenue	77 T.C. 1087	Organization promoted and conducted a skydiving exhibition. The IRS and court agreed that although some exempt activities were performed, such as seminars explaining various skydiving techniques, the primary purpose of the organization was to pursue the private interests in skydiving of its creators.
24-Jan-79	Northern California Cent. Services, Inc. v. U. S.	219 Ct.Cl. 60	Hospital laundry service was denied exemption. IRS argued that coops could only be exempt under 501(e) and that it could not be exempt under 501(c)(3) because some of the hospitals it serviced were 501(c)(4)s. The court disagreed holding that 501(e) did not preclude exemption under 501(C)(3) and that servicing a 501(c)(4) was not automatically noncharitable.
12-Nov-09	Ohio Disability Ass'n v. C.I.R.	T.C. Memo. 2009-261	The IRS claimed that, although the organization was organized for an exempt purpose, it had failed to provide sufficient information to demonstrate that it will be operated exclusively for exempt purposes and that no benefit will inure to a private individual. The court agreed with the IRS, stating that the organization's responses to IRS requests for additional information "failed to supplement the initial application or clarify petitioner's purpose and proposed activities, but rather were mere repetitions of the statements in the initial application." The court also noted, with regard to private inurement, that the organization's sole director was worrisome and that "there are no procedures or personnel in place to ensure that either the stated policy will be followed or private inurement will not occur."
4-Aug-81	Ohio Teamsters Educational & Safety Training Trust Fund v. Commissioner of Internal Revenue	77 T.C. 189	Although scholarship trust serves some educational purposes, because it was created as a part of a collective bargaining agreement, the trust is primarily compensatory.

16-Aug-88	Orange County Agr. Soc., Inc. v. C.I.R.	T.C. Memo. 1988-380	Organization was incorporated to promote the interest of agriculture and horticulture in Orange County, New York. The organization put on an annual fair, during which it leased a portion of its fairgrounds to an organization that operated a racetrack (organized to insulate taxpayer from potential liability). The Tax court found that the organizations were more than lessor/lessee and that its involvement in the racetrack was a substantial nonexempt purpose. The Second Circuit affirmed concluding that even the races that occurred before and after the fair (it concluded that races occurring during the fair were qualified public entertainment activities) were substantial enough. The court also found that a benefit inured to private interests.
26-Jan-84	P.L.L. Scholarship Fund v. Commissioner of Internal Revenue	82 T.C. 196	Organization operated bingo games to raise money for scholarships. Bingo games occurred in a lounge establishment owned by the creators of the organization. The IRS and court agreed that the organization operated for the substantial commercial purpose and private benefit of encouraging business for the founders' lounge.
10-Jan-83	Parshall Christian Order v. C.I.R.	T.C. Memo. 1983-11	The organization claimed to be an integrated auxiliary of a church and hadn't applied for or been recognized as exempt. The IRS concluded that the organization was not exempt, and the court agreed finding that as a result of a state law determination the assets the founders transferred to the organization could be reclaimed and that the founders still had access to the income and property they transferred to the organization, and continued to use it as they had before.
14-Oct-80	People of God Community v. Commissioner of Internal Revenue	75 T.C. 127	Church compensated its ministers by way of a fixed percentage of gross receipts. The court found inurement because "paying over a portion of gross earnings to those vested with the control of a charitable organization constitutes private inurement."
4-Apr-79	Peoples Translation Service/Newsfront International California Non-Profit Corporation v. Commissioner of Internal Revenue	72 T.C. 42	Organization published a biweekly bulletin of translations from the foreign press, translated individual articles and maintained a library of translated and untranslated materials. The IRS argued that the organization operated like a commercial enterprise, and did not present a full and fair exposition of the facts. The court disagreed concluding that the organization's practice of providing free translations and maintaining a free library, offering a below cost subscription rate, working with an unpaid staff, and depending on donations was enough to distinguish it from commercial enterprises. The court also concluded that the IRS's second argument came too late and chose not to hear the issue.
26-Jan-84	Piety, Inc. v. Commissioner of Internal Revenue	82 T.C. 193	Organization raised money to distribute to nonprofits by operating bingo games. The IRS and court agreed that section 502 prohibited the organization from being exempt under 501(c)(3).
23-Feb-82	Pius XII Academy, Inc. v. C.I.R.	T.C. Memo. 1982-97	Organization proposed to start a school that would be funded by the operation of a bingo game. It was not able to provide much information as its operation was contingent on obtaining a license to operate a bingo game. The IRS and court agreed that it had not provided sufficient information for the IRS to rule that it was exempt.

18-Sep-80	Plumstead Theatre Society, Inc. v. Commissioner of Internal Revenue	74 T.C. 1324	IRS argued that taxpayer, organized for the exempt purpose of promoting the arts, was not operated exclusively for exempt purposes because the only activity it had engaged in at the time of the Commissioner's determination was the coproduction of a play with the Kennedy Center. The IRS noted that the performance used professionals, advertised the performance, and sold tickets in the same way a commercial enterprise would. The court distinguished commercial theaters from nonprofit theaters, noting that the latter did not operate for a profit and would often not reclaim the cost of production from box office sales because of its focus on classic and experimental works that do not attract large audiences, it had short seasons, it desired to keep ticket prices low, and it had limited seating capacity. The court concluded that based on these facts Plumstead sufficiently proved that it was operating in a similar manner to other nonprofit theaters. The court also concluded that Plumstead was not operating for the private benefit of its investors because it discovered its need for financing after entering into the agreement with the Kennedy Center, it sold its interest for a reasonable price in an arm's-length transaction, and the investors had no interest in the organization or in its future plays.
25-Nov-81	Policemen's Benev. Ass'n of Westchester County, Inc. v. C.I.R.	T.C. Memo. 1981-679	Organization's exemption was revoked because IRS concluded that one of its primary purposes was to pay its members retirement benefits. The court agreed and held that although some benefits may accrue (such as easing the burdens of government) these benefits are intangible and for the most part the organization benefits its members.
23-Dec-82	Presbyterian & Reformed Publishing Co. v. Commissioner of Internal Revenue	79 T.C. 1070	Organization that published religious literature saw marked increased in popularity and began producing more, paying employees rather than having volunteers, paying royalties, engaging in buying and selling books with other publishing companies, and generally adopted a more commercial method of operation. Tax Court agreed with IRS that organization was no longer exempt. On appeal, the 3rd Circuit disagreed. It concluded that the question was what point a tax exempt organization forfeits its tax exemption when it becomes successful. Rejecting the tax courts approach, the third circuit presented a two part test and concluded that the organization did not forfeit its exemption because: (1) there was no inurement to a private individual and (2) that there was no evidence of a nonexempt purpose.
26-Apr-79	Price Genealogical Ass'n v. I.R.S.	44 A.F.T.R.2d 79-5024	Organization was created with primary interest in developing accurate information on Benjamin Price. The IRS and Court agreed that this was primarily a private interest of the organization's members and not educational.
18-Apr-79	Prince Edward School Foundation v. Commissioner of Internal Revenue Service	478 F.Supp. 107	School did not sufficiently show that its admission policy was not racially discriminatory. It did not have a formal policy but left its admissions decisions to a board, had never admitted a black student, and was founded to maintain segregation. As a result the court denied its request for a declaratory judgment.
15-Jan-04	Prize v. C.I.R.	T.C. Memo. 2004-12	Organization was created to create and distribute prizes for humanitarian goals. The only prize the organization proposed would go to a car manufacture who builds a reliable car. The IRS and court found that car manufacturers are not a charitable class and that as such the organization would operate for private benefit.
8-May-80	Professional Standards Review Organization of Queens County, Inc. v. Commissioner of Internal Revenue	74 T.C. 240	The IRS denied the application of a professional standards review organization (PSRO) for medical professionals that was organized "to promote effective, efficient and economical delivery of health care services" related to Medicare and Medicaid patients. The IRS determined that one of the primary purposes was protecting members of the medical profession and their common business interests. Additionally, the IRS noted that the organization primarily benefited the medical profession as a whole by "minimize[ing] public criticism." The court disagreed with the IRS, concluding that because Medicare and Medicaid PSROs were authorized by Congress, the organization was merely complying with congressional intent and any incidental benefit to the medical community was "part and parcel of the congressional policy underlying the statute."

8-Jan-91	Public Industries, Inc. v. C. I. R.	T.C. Memo. 1991-3	Organization proposed to buy and sell prison-made products and claimed that it lessened the burdens of government. The court disagreed, pointing to federal and state statutes that forbid the sale of prison-made products in competition with private industry. As a result, the organization operated like a commercial entity and did not serve an exempt purpose.
31-Jul-78	Pulpit Resource v. Commissioner of Internal Revenue	70 T.C. 594	Court found that a religious-mailing subscription service operated at a profit but there was no “evidence that petitioner was in competition with any commercial enterprise conducting the same business activity. The market for petitioner's product was so limited in scope that it would not attract a truly commercial enterprise.” It also noted that the profits were devoted to religious activities. The court cautioned, however, that “[i]f the above circumstances change materially in the future, so might a ruling on petitioner's exempt status.”
10-Apr-07	Rameses School of San Antonio, Texas v. C.I.R.	T.C. Memo. 2007-85	The IRS revoked the school's exempt status after a Texas administrative review determined that the executive director of the school used funds for personal purposes, inflated attendance to increase funds to the school, and operated without a board. The court affirmed the IRS's denial, and concluded that the evidence was so strongly suggestive of inurement that it need not decide whether collateral estoppel applied to the state court proceedings.
19-Jul-99	Redlands Surgical Services v. C.I.R.	113 T.C. 47	Redland Health Services entered into a partnership with a for-profit entity to operate a surgical center and created the organization at issue to succeed its interest in the partnership. The IRS denied exemption and the court agreed, concluding that the following considerations convinced it that the organization was not exempt: "The lack of any express or implied obligation of the for-profit interests involved in petitioner's sole activity to put charitable objectives ahead of noncharitable objectives; petitioner's lack of voting control over the General Partnership; petitioner's lack of other formal or informal control sufficient to ensure furtherance of charitable purposes; the long-term contract giving SCA Management control over day-to-day operations as well as a profit-maximizing incentive; and the market advantages and competitive benefits secured by the SCA affiliates as the result of this arrangement with petitioner."
24-Feb-82	Retired Teachers Legal Defense Fund, Inc. v. Commissioner of Internal Revenue	78 T.C. 280	Organization exists to protect the contributions of its members to their pensions and to litigate against the pension’s trustees. The court found that this activity benefited the private interests of the members and did not lessen the burden of government, its precedential value was too remote, and although some of its members were poor or elderly it provided it operated without regard to those factors.
21-Jun-84	Retreat in Motion, Inc. v. C.I.R.	T.C. Memo. 1984-319	Religious organization was created to bus teenagers around through the Smoky Mountains and to Washington D.C. Although it was clear that religious activity was included, the court concluded that a substantial purpose was the recreational activity of sightseeing.
20-Mar-78	San Francisco Infant School, Inc. v. Commissioner of Internal Revenue	69 T.C. 957	Organization operated a school for infants focused on early education. The IRS denied the organization's application because it concluded that it performed a substantial custodial function. The court disagreed, noting that it had a faculty of educators and a curriculum, and concluded that any custodial activity was insubstantial and incidental to its educational purpose.
29-Jul-81	Save the Free Enterprise System, Inc. v. C.I.R.	T.C. Memo. 1981-388	Organization was created to produce a newsletter that primarily focused on the organization's founder's "persecution" by various federal agencies. In light of this, the court concluded that the organization served the founder's private interests.
24-Feb-81	Schoger Foundation v. Commissioner of Internal Revenue	76 T.C. 380	Organization operated the Christian Haven Lodge which it argued operated for a religious purpose. The IRS and court found however that the lodge had a substantial purpose of social and recreational activities.

21-Jun-84	Self-Realization Broth., Inc. v. C.I.R.	T.C. Memo. 1984-315	Religious organization was denied because its net earnings inure to its founders and because of the substantial nonexempt purpose of laying carpet for a fee. The court agreed with the IRS that there was both private inurement and that the primary operation of the organization seemed to be the installation of carpeting.
12-Oct-88	Senior Citizens of Missouri, Inc. v. C.I.R.	T.C. Memo. 1988-493	Organization sought to raise money and distribute it for the benefit of handicapped persons. IT paid its solicitors a set commission, including substantial unexplained advances. The court found that it had not described its compensation practice in sufficient detail and concluded that it was a substantial nonexempt purpose.
7-Jun-79	Sense of Self Society v. U.S.	44 AFTR 2d 78-6167	The organization failed to comply with IRS requests for information and the court held that it did not exhaust its administrative remedies.
2-Jul-99	Share Network Foundation v. C.I.R.	T.C. Memo. 1999-216	Organization was created after its founders attended a seminar held by William Tully, a promoter of tax-exempt entities. After correspondence with the IRS, which sought more detailed disclosures of its proposed activities, the Service denied its application. The court affirmed the denial, concluding that the answers to the IRS's questions were too vague to make a conclusion.
13-Dec-84	Society of Costa Rica Collectors v. C.I.R.	T.C. Memo. 1984-648	Organization was created to pursue stamp collection and trading with an emphasis on Costa Rica. The IRS and court agreed that the selling of stamps was a commercial activity, and represented a substantial nonexempt purpose of the organization.
5-Feb-08	Solution Plus, Inc. v. C.I.R.	T.C. Memo. 2008-21	Organization was a corporation that offered debt management programs and also engaged in financial management education. The IRS rejected the application for exemption. The Court affirmed concluding that the organization was not organized solely for educational purposes because it could operate an investment business and offer products and services to customers. Its financial literacy program was not well established in the record. The court found that its primary activity was to enroll customers in a debt management program, which only served those customers who met the criteria of participating creditors. The court also found that the organization operated for private benefit.
13-Nov-78	Sound Health Association v. Commissioner of Internal Revenue	71 T.C. 158	Health care organization provides direct health services to its members who agree to pay fees regardless of the amount of services provided to that individual. The court concluded that the organization was exempt because it operated an emergency room open to all regardless of ability to pay, did not charge indigent patients who use emergency care, established an educational program, received contributions from members to subsidize membership for those who couldn't afford it, and that the risk spreading feature of its pay structure was not similar to commercial insurance.
14-Dec-05	South Community Ass'n v. C.I.R.	T.C. Memo. 2005-285	Organization's operated a gaming operation. The organization argued that its gaming operation shouldn't be considered unrelated to its exempt purpose because the workers at the games were uncompensated consistent with 513(a)(1). The court found, to the contrary, that many of the workers were compensated and that the gaming operation was the organization's primary activity, which was a nonexempt purpose.
10-Sep-80	Southern Church of Universal Brotherhood Assembled, Inc. v. Commissioner of Internal Revenue	74 T.C. 1223	The court found that the church operated primarily for the benefit of its founder because there were only five members, substantial portions of the church's income were spent on his family, and it paid him rent and many of his living expenses.
12-Oct-94	Spanish American Cultural Ass'n of Bergenfield v. C.I.R.	T.C. Memo. 1994-510	Organization was a 501(c)(4) social welfare organization that subsequently sought 501(c)(3) status. The court agreed with the IRS that the organization's primary social purpose and social activities (such as dances and dinners) outweighed its charitable and educational activities. Even the proposed community center would continue to house primarily social activities. As a result, the court found in favor of the IRS.

2-Apr-85	St. Louis Science Fiction Ltd. v. C.I.R.	T.C. Memo. 1985-162	Organization's primary activity was organizing a science fiction convention. Court concluded that one of the organization's primary purposes social and recreational and that it operated to the benefit of artists and vendors at the convention.
2-Mar-83	Synanon Church v. U.S.	557 F. Supp. 1329	Church's status was revoked for years prior to 1978 based on an IRS audit. The church sought a judgment as to years following 1978 but the court concluded that each year was a separate cause of action and that the church had to exhaust its administrative remedies as to subsequent years.
9-Feb-84	Synanon Church v. U.S.	579 F. Supp. 967	The Church's petition for declaratory judgment was dismissed on the grounds that it had systematically destroyed evidence and committed a fraud on the court.
17-Jan-80	Syrang Aero Club Inc. v. Commissioner of Internal Revenue	73 T.C. 717	Organization owns a plane that it offers at low cost rentals to its members. Although those members are attempting to improve their flying skills, the primary purpose of the organization is to serve the private interests of its members.
18-May-99	Tamaki Foundation v. C.I.R.	T.C. Memo. 1999-166	Organization was created after its founders attended a seminar held by William Tully, a promoter of tax-exempt entities. After correspondence with the IRS, which sought more detailed disclosures of its proposed activities, the Service denied its application. The court affirmed the denial, concluding that the answers to the IRS's questions were too vague to make a conclusion.
17-May-99	Tate Family Foundation v. C.I.R.	T.C. Memo. 1999-165	Organization was created after its founders attended a seminar held by William Tully, a promoter of tax-exempt entities. After correspondence with the IRS, which sought more detailed disclosures of its proposed activities, the Service denied its application. The court affirmed the denial, concluding that the answers to the IRS's questions were too vague to make a conclusion.
31-Jan-79	Taxation With Representation of Washington v. Blumenthal	43 A.F.T.R.2d (RIA) 679	501(c)(4) organization sought charitable status. The opinion seems to concede the fact that as a political group the organization cannot be exempt under 501(c)(3) so that it can move on to constitutional claims.
20-Nov-03	Thomas Kinkade Foundation Charitable Trust v. U.S.	92 A.F.T.R.2d 92-7210	The judgment merely states that the organization was concerned about future revocation by the IRS, which the IRS admitted was a possibility. The court granted a declaratory judgment and concluded that the organization was entitled to a favorable determination letter.
18-Mar-92	Tony and Susan Alamo Foundation v. C.I.R.	T.C. Memo. 1992-155	Foundation began as primarily a witnessing organization but blossomed into a million dollar business conglomeration including restaurants and clothing stores. The court found that contrary to claims that the founders were leading as Christians by "example" the primary activity of the organization was the wealth of its founders and members, and that it "was akin to a city of full-time workers, who also happen to pray together."
24-Jul-85	Triune of Life Church, Inc. v. C.I.R.	85 T.C. 45	A religious organization that practiced "spinology," a practice similar to chiropractic, as a sacrament was denied by the IRS. The Court agreed with the IRS that a substantial purpose of the organization was to train and practice "an art akin to chiropractic." The court also noted that it was not convinced that no private inurement would occur.
29-Apr-81	Truth Tabernacle v. C.I.R.	T.C. Memo. 1981-214	Church was an unincorporated organization. The court affirmed the IRS's denial of its status on the grounds that its assets were not dedicated to exempt purposes on dissolution, it failed to maintain sufficient records to show that it did not serve the private interests of its founder, and benefit inured to its founder and directors who lived on property owned by the church rent free.
19-Oct-81	U.S. CB Radio Ass'n, No. 1, Inc. v. C.I.R.	T.C. Memo. 1981-601	Organization was created to spread information about CB radios and provided newsletters, seminars, and inquiry centers. However, it also offered travel insurance, discount programs, and travel services to its members. The court agreed with the IRS that these amenities were a substantial nonexempt activity for the benefit of its members.
3-Jun-80	Unitary Mission Church of Long Island v. Commissioner of Internal Revenue	74 T.C. 507	Court found that fluctuating "parsonage allowances" to the minister, paid travel expenses of his family, and loans to the minister's employer were private inurement.
2-Dec-97	United Cancer Council, Inc. v. C.I.R.	109 T.C. 326	On appeal, the 7th Circuit reversed the Tax Court's determination that the organization's employment of a fundraising specialist resulted in private inurement.

29-Mar-93	United Libertarian Fellowship, Inc. v. C.I.R.	T.C. Memo. 1993-116	The IRS revoked the church's status after some members of the church were under criminal investigation by the IRS. The church provided very little of the requested information including no financial records. What was provided was vague and unresponsive. The court affirmed the IRS's revocation of exemption.
29-Oct-90	United Missionary Aviation, Inc. v. C.I.R.	T.C. Memo. 1990-566	Organization was originally created to fly missionaries and evangelize. Eventually, the organization started a successful mail-order cassette business, with the only religious activity being Bible verses in their catalogues. The court found that the revocation of the organization's status was appropriate because it was operating as a commercial enterprise and that retroactive revocation was not an abuse of the IRS's discretion.
23-Feb-88	Universal Church of Jesus Christ, Inc. v. C.I.R.	T.C. Memo. 1988-65	Church was operating four commercial activities at the time of tis application: Bureau of Collections Department, the Home Ambassadors, the Better Business Bureau of Calhoun and Etowah Counties, and the Christian Health Care Plan. The court found that the IRS properly denied and retroactively revoked the church's exemption to when the commercial activities began.
30-Aug-84	Universal Life Church, Inc. v. Commissioner of Internal Revenue	83 T.C. 292	The court affirmed the IRS's determination that the church was not tax exempt. What little information was presented indicated that many of the expenditures were for the personal needs of the church's founder. The church failed to provide evidence that it operated as a church at all, and the court noted that the church appeared to be a tax sham.
10-Nov-87	Universal Life Church, Inc. v. U.S.	13 Cl.Ct. 567	Church organization provided tax advice to its ministers and its founder often discussed its ability to make its ministers rich and to exploit the income tax laws. Although the court acknowledged that tax advice made up a small portion of its publications, it noted that it permeated its newsletters and that it constituted a substantial nonexempt purpose. The court also found that the church's relationship with Universal Harmony, an affiliate organization that was operated for tax evasion purposes, was sufficient to show that it was not in control and did not have knowledge regarding the activities of its congregation.
30-May-96	University Medical Resident Services, P.C. v. C.I.R.	T.C. Memo. 1996-251	After accreditation standards required more centralized organization when two hospitals cooperate to provide medical education. The IRS denied exemption on the grounds that the organization was providing administrative service and did not qualify under 501(e). The court agreed, holding that the organization did not advance education, did not lessen the burdens of government, and was not an integral part of the educational function of the hospitals but was merely incidental to that function.
26-Jan-81	University of Maryland Physicians, P. A. v. C.I.R.	T.C. Memo. 1981-23	Organization is the incorporation of a number of the University of Maryland Medical School's departments. The IRS denied exemption on the ground that the organization practices medicine and operates for the benefit of its members. The court disagreed, holding that Maryland law restricts the organization's practice to what is contained in its articles, that the disbursement of one dollar of par value of stock upon dissolution to its members is in compliance with Maryland law and so an "insubstantial and permissible disbursement," that charging fees does not make the organization commercial, that the stockholders were not paying themselves fringe benefits, and that the organization was not taxable solely because its predecessors were.
16-Sep-80	University of Massachusetts Medical School Group Practice v. Commissioner of Internal Revenue	74 T.C. 1299	Organization is comprised of physicians practicing at the University of Massachusetts Medical School. The IRS denied exemption on the grounds that the organization operated as a fee collecting entity. The court disagreed with the IRS and concluded that because the organization was created by the Massachusetts Legislature and operated by trustees it was organized for an exempt purpose. The court also held that the payment of reasonable compensation and administrative costs was not in furtherance of a nonexempt purpose

12-Nov-85	Virginia Educ. Fund v. C.I.R.	85 T.C. 743	Organization disbursed donated funds to schools, and there was evidence that the organization was created for the purpose of distributing funds to segregated schools. The organization claimed that it did not have the burden of determining whether its recipient schools had nondiscriminatory policies or not. The court agreed with the IRS that it did.
24-Jan-79	Virginia Professional Standards Review Foundation v. Blumenthal	466 F.Supp. 1164	PSRO created under the Social Security Act was denied by IRS on the grounds that they were promoting a common business interest by avoiding outside regulation and that the organization benefits the private interests of the profession. The court disagreed finding that any benefit was incidental and that denying exemption would be inconsistent with congressional intent in allowing the PSROs in the first place.
21-Nov-85	Washington Research Foundation v. C.I.R.	T.C. Memo 1985-570	Organization was created to support scientific research organizations in Washington State and to increase technology transfer between organizations. The organization planned to perform the latter activity by obtaining patent and copyright rights and licensing them to third parties. The IRS concluded that the organization had a substantial commercial purpose. The court agreed that the organization did not have an exempt purpose because the organization does not further "scientific" activities as it does not perform any itself, bringing industry leaders and researchers together does not further education, and that its activity is not charitable because it operates primarily for the benefit of Washington State business. It also concluded that it furthered a substantial nonexempt commercial purpose because it sought to provide universities a return on patents, it competed with commercial entities, it accumulated profits, and it did not receive contributions.
15-Sep-99	Wayne Baseball, Inc. v. C.I.R.	T.C. Memo 1999-304	Organization's principal activity is the sponsorship of an amateur baseball team. The team plays at a local high school field and no admission is charged. The IRS denied the application concluding that a substantial purpose is social and recreational. The court agreed, concluding that unlike Hutchinson, the organization here does not promote baseball in the surrounding community but merely operates and adult amateur team. The primary beneficiaries are the individual team participants. As such, there is not a community benefit and the organization is not entitled to exemption.
4-Aug-86	Wendy L. Parker Rehabilitation Foundation, Inc. v. C.I.R.	T.C. Memo 1986-348	Organization was formed to assist victims of comas. The IRS and court agreed that the organization failed due to private inurement because 30 percent of the organization's disbursements went to the benefit of Wendy Parker, the founder's daughter.
31-Oct-79	Western Catholic Church v. C.I.R.	73 T.C. 196	Founder of church donated extensive amounts of money for deductions and the church did not ever really operate at all. Through the church he made passive investments and also took out extensive loans. The court found that the church was not exempt and that it operated for private benefit.
14-Dec-83	World Family Corporation v. Commissioner of Internal Revenue	81 T.C. 958	Organization is a fundraising organization that provides grants and interest free loans to missionaries. A "subordinate" activity is providing grants and interest free loans to applicants that conduct scientific research regarding new energy sources and conservation. The organization offers a commission of 20 percent to encourage fundraisers rather than hiring solicitors. The IRS argued that the missionary support program was not described in sufficient detail, but the court disagreed concluding that the missionary support program was described adequately. The court also found that although the scientific research grants program was not described in sufficient detail, it was insubstantial and did not threaten the organization's tax exemption. The IRS argued that the commissions paid by the organization resulted in private inurement but the court disagreed, concluding that the compensation was reasonable.

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