

“Internet Church” Must Have Real Congregation, According to IRS

In today’s increasingly digital world, the line between virtual reality and physical reality is often blurred by advances in technology that seem to be making interpersonal contact obsolete. A recent ruling from the Federal Circuit Court of Appeals, however, draws a clear line in physical reality for religious organizations seeking “church” status under the tax code. In *Foundation of Human Understanding v. United States*, the Court of Appeals affirmed that a religious organization that primarily disseminated religious teachings through broadcasts over radio and the Internet did not qualify as a church for purposes of section 170 of the Internal Revenue Code.

Although the Foundation had been granted church status in 1987, this status was revoked following an IRS audit covering three years of Foundation activities.¹ The Foundation challenged the revocation in the Court of Federal Claims, lost its challenge, and appealed. In affirming the trial court, the Court of Appeals applied the associational test, which defines a church as a religious organization that, as a principal means of carrying out its religious purpose, holds regular religious services for a regular, cohesive body of believers to associate with one another and to engage in communal worship.

Although the Foundation once held “regular religious services for established congregations ... served by an organized ministry,” by the mid-90s, its primary activity was disseminating its religious message through print and broadcast media over radio and the Internet. The Foundation argued that it met the associational test by gathering a “virtual congregation” of believers when its members listened to sermons broadcast over radio and the Internet at scheduled times. The Foundation’s “electronic ministry” also included a call-in show, allowing members to call and interact directly with the clergy.

The Court of Appeals agreed with the trial court that the electronic ministry did not pass the associational test, stating that “[t]he fact that all the listeners simultaneously received the Foundation’s message over the radio or the Internet does not mean that those members associated with each other and worshipped communally.” Even the call-in show “[did] not provide individual congregants with the opportunity to interact and associate with each other in worship.” The court stated that any in-person services held during the three years were merely “incidental” to the Foundation’s activities.²

The court’s ruling in the case gives guidance – and warning – to churches that use newer technologies to broadcast sermons and other religious messages to reach a wider, and perhaps younger, audience. To maintain “church” status with the IRS, churches that take advantage of technological advances should ensure they are holding regular communal worship services for congregations that are physically present, and that such communal worship is not merely incidental to virtual activities.

¹ Following revocation of church status, the Foundation remains a tax exempt religious organization. Loss of church status, however, means it is required to file a Form 990 return with the IRS annually, a requirement from which churches are exempt.

² During the relevant time period, the Foundation also held meetings and seminars in various locations around the country, totaling twenty-one seminars in the three-year period.