



<http://finance.senate.gov>
Press_Office@finance-rep.senate.gov

MEMORANDUM

To: Reporters and Editors
Re: Ministry responses
Da: Monday, July 7, 2008

On Nov. 5, 2007, Sen. Chuck Grassley, ranking member of the Committee on Finance, wrote to six media-based ministries, seeking information about various issues related to tax-exempt policy. The Committee on Finance has exclusive Senate jurisdiction over tax policy. On March 11, Grassley and Sen. Max Baucus, committee chairman, wrote follow-up letters to four ministries that had not provided information in response to Grassley's Nov. 5 letter. Grassley's staff has conducted numerous meetings and conference calls with representatives of the ministries and with various religious groups and leaders to answer questions and concerns about issues such as confidentiality of sensitive information and to discuss the purpose of Grassley's policy review. Here is an accounting of the responses so far:

Joyce Meyer Ministries provided extensive answers to all questions. Staff continues to review the materials submitted but generally is finding the responses to be in good faith and substantively informative.

Benny Hinn of World Healing Center Church provided extensive answers to all questions in a series of submissions. Staff continues to review the materials submitted but is finding the responses to be in good faith and substantively informative.

Randy and Paula White of Without Walls International Church provided only responses to the "general" and "real and personal assets" questions. Staff deems their submissions to be incomplete as a result and is engaged in dialogue with attorneys for the ministry to secure responses to the remaining questions.

Eddie Long of New Birth Missionary Baptist Church/Eddie L. Long Ministries submitted a response that contained only general information about the organization's operations as well as copies of articles of incorporation and bylaws (which the committee did not request) for the organization's affiliates and subsidiaries. Staff deems this submission to be not responsive as a result and is engaged in dialogue with attorneys for the ministry to secure responses to the remaining questions.

Kenneth and Gloria Copeland of Kenneth Copeland Ministries submitted partial responses to the majority of questions but did not provide a response to any of the compensation questions. Staff deems this submission to be not responsive and is hoping to engage the attorneys for the ministry in a dialogue to secure responses to all of the questions. However, since Kenneth Copeland has declared publicly that he will not submit responses even if a subpoena is issued, staff also is consulting with Senate attorneys about next steps.

Creflo and Taffi Dollar of World Changers Church International/Creflo Dollar Ministries have declined to provide any of the requested information. Staff has engaged the church's attorneys in a number of conversations but the attorneys have indicated that the church's decision not to respond remains the same. Staff has reached out to church officials directly to confirm the church's decision.

Here's a Sen. Grassley comment on the status:

"Joyce Meyer and Benny Hinn have engaged in open and honest dialogue with committee staff. They have not only provided responses to every question but, in the spirit of true cooperation, also have provided information over and above what was requested.

"Both Joyce Meyer and Benny Hinn have indicated that they are also instituting reforms without waiting for the committee to complete its review. Self-reform can be faster and more effective than government regulation and is the hallmark of my oversight of The Nature Conservancy, the Smithsonian Institution, American University and the American Red Cross. These organizations are all going strong and are arguably better off than they were before. I support voluntary, independent accreditation programs like those sponsored by the Land Trust Alliance and the Evangelical Council for Financial Accountability and encourage these ministries to pursue similar accreditation. The most successful non-profit organizations recognize the need for transparency about their operations and accountability to their donors and the taxpaying public. They appreciate that Congress has a responsibility to review the effectiveness and fairness of tax laws for taxpayers and tax-exempt groups alike.

"The ministries that continue not to cooperate appear to be heeding the advice of attorneys who are not familiar with congressional oversight in general and specifically the Finance Committee's oversight and legislative work in the area of tax-exempt organizations over the last seven years. These attorneys who aren't part of the ministries themselves have a natural incentive to prolong the process as long as possible."

Following is a background questions-and-answers document regarding the ministries inquiry.

Background Questions and Answers
July 7, 2008

Q: How does the tax code define a church?

A: While the term “church” is found in the Internal Revenue Code, the term is not specifically defined. It includes anything from religions with traditional brick-and-mortar buildings, such as churches, mosques and temples, to religions that are media or home-based. For practical purposes, the term “church” is used in its broadest sense to encompass all forms of worship just as “minister” is used to refer to pastors, priests, rabbis, imams, and other spiritual leaders.

IRS publication 1828, Tax Guide for Churches and Religious Organizations, contains additional information about the benefits and responsibilities of churches under the Internal Revenue Code. <http://www.irs.gov/pub/irs-pdf/p1828.pdf>

Q: What tax rules apply to churches?

A: Just like all other organizations described in section 501(c)(3) of the Internal Revenue Code, churches are generally exempt from income tax, able to raise funds through tax-exempt bonds, and eligible to receive tax-deductible contributions.

Unlike other 501(c)(3) organizations, however, churches are not required to file a Form 1023, Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code, and they do not have to file a Form 990, Return of Organization Exempt from Income Tax.

The following tax code rules apply to all 501(c)(3) organizations, including churches:

- a complete prohibition on inurement of net earnings to insiders;
- a complete prohibition on political activity;
- a tax on lobbying activity that is a substantial part of its activities;
- a tax on income earned from activities unrelated to its exempt purpose;
- employment taxes; and,
- charitable contribution deduction and substantiation rules.

An organization’s tax-exempt status can be revoked if it is found to violate the inurement or political activity prohibitions or if its lobbying or unrelated business activities are substantial.

Q: What tax rules apply to ministers?

A: Just like all individuals, ministers must pay individual income taxes and Social Security and Medicare taxes.

Ministers, like insiders of all other 501(c)(3) organizations, are subject to taxes on any “excess benefits” arising from transactions with the organization or a tax if they approve such transactions

Q: Why is Senator Grassley investigating churches?

A: Senator Grassley’s investigation of the ministries is consistent with his prior investigations because a church is subject to the same tax rules as all other charitable organizations. The differences are in how church tax compliance is documented. A church does not have to file a Form 1023 to notify the IRS when it starts up. A church also does not have to file a Form 990 every year. These differences make it harder for the IRS to enforce the rules with churches, even though all of

the same compliance and enforcement concerns applicable to other charitable organizations are applicable to churches.

As chairman, and now ranking member, of the Senate Committee on Finance, Senator Grassley has conducted numerous investigations of tax-exempt organizations. Since 2001, he has reviewed the American Red Cross, the Nature Conservancy, The Smithsonian Institution, the United Way, American University, foundation management, the use of supporting organizations, donor-advised funds, non-profit hospitals, and tax-preferred university endowments.

These investigations have examined the misuse of assets owned by the tax-exempt organization, abusive spending of an organization's funds by its leaders, and abuse of the tax break provided to those contributing to tax-exempt organizations. Here is a summary: www.senate.gov/~finance/press/Gpress/2007/prg112007a.pdf.

The scrutiny also has resulted in self-corrective measures by the non-profit sector. For example, the Land Trust Alliance significantly revised its *Land Trust Standards and Practices* and launched a voluntary accreditation program for conservation organizations. The Catholic Health Association is promoting new guidelines and accountability measures for charity care at its member non-profit hospitals. The Panel on the Nonprofit Sector, under the leadership of The Independent Sector, issued *Principles for Good Governance and Ethical Practice: A Guide for Charities and Foundations*.

Q: What are some the compliance and enforcement issues involving churches?

A: Abuse of Church Status: A church is not required to notify the IRS when it forms. As a result, anybody can claim to be church just to exempt from IRS scrutiny. Because this also enables them to claim audit protections under the Church Audit Procedures Act, it is harder for the IRS to review them. The use of state Corporation Sole statutes to evade taxes is one example of such abuse. More information is available about this abuse on the IRS website <http://www.irs.gov/newsroom/article/0,,id=136337,00.html>. Another example is an individual who organizes a church from his or her home and then solicits contributions over the phone or internet.

Inurement & Private benefit: Some churches, especially those not affiliated with a larger organization, do not have independent trustees or board members. Poor governance practices can lead to lax tax compliance especially in the areas of compensation and related party transactions, both of which have significant inurement and private benefit implications.

Related Entities & Corporate Income Taxes: A church is not required to file a Form 990, so the IRS is at a disadvantage in determining whether churches are properly reporting taxable income from related entities or from activities unrelated to their exempt purpose.

Employment Taxes & Parsonage/Housing allowances: A church is not required to withhold employment taxes on compensation paid to ministers even though the ministers are required to pay taxes on their compensation. Ministers also are permitted to exclude from their own taxable income the fair rental value of any parsonage provided to them or any amounts provided for a housing allowance provided certain conditions are met. Because "church" and "minister" are not defined, it is easy to claim that all employees are ministers so that they can be exempt from withholding by

the church and also eligible to take advantage of the parsonage or housing allowances.

Q: Why isn't the IRS conducting this investigation?

A: The IRS is responsible for administering the laws that are already on the books and making sure that organizations, including churches, are complying with the laws that apply to them. The IRS is responsible for enforcement of the tax laws. It has the power to assess and collect taxes and, in the case of tax-exempt organizations, revoke their tax-exempt status. The IRS must work with the tools it is given, while Congress can refine the tools with which the IRS works.

A separate branch of government under the U.S. Constitution, the Congress, and in particular the Senate Finance Committee, is responsible for oversight of the IRS and for considering whether existing tax laws are adequate. The Committee does **not** have the authority to assess taxes or revoke exemption. A congressional investigation to review tax policy and consider tax legislation is different from an IRS examination to determine tax compliance.

Q: Why shouldn't the Church Audit Procedures Act (CAPA) apply to the Finance Committee investigation?

A: As the previous chairman of the Senate Finance Committee's Subcommittee on Oversight of the Internal Revenue Service, Senator Grassley chaired the hearing on this bill on September 30, 1983. His support for this Act remains as strong today as it was at that time.

CAPA was enacted in response to concerns about the IRS auditing churches and that these churches were committing significant time and resources to these audits. CAPA was designed specifically to ensure that the IRS thought long and hard before auditing churches and to ensure that examination of religious doctrine was not the basis for an audit.

CAPA was not intended to be a shield for churches to put up in the face of legitimate IRS inquiries related to church tax liability, and this is supported by the testimony of Rep. Mickey Edwards and officials from the Treasury Department and the Internal Revenue Service during the hearing. Congressman Edwards, the sponsor of the original House bill, stated: "We don't mean in this legislation to try to protect delinquent churches from penalties that ought to be assessed."

CAPA does not govern investigations conducted by congressional committees, nor should it. Given the Committee on Finance's role in oversight, it is uniquely positioned to study the compliance and enforcement issues facing the IRS without actually initiating an enforcement action.

Senator Grassley's current investigation is not focused on what the churches are doing that is in violation of existing law – the committee is not conducting an audit of the organization. The committee is focused on the adequacy of the federal tax laws that govern the tax-exempt sector, including churches.

Q: How were the six churches who received letters selected?

A: Senator Grassley has conducted his investigations of tax-exempt organizations since 2001 based on information that he has received from constituents, whistleblowers, other insiders, and news reports. The same is true in this case. The information of concern that he received about these six churches led to these ministries receiving the November 2007 and March 2008 letters of inquiry.

Q: Will Senator Grassley write to any other churches?

A: That is possible, but it has not been determined. As in other investigations and reviews involving oversight of the tax laws, additional questions may be asked of additional churches or organizations based on review and study of the information that has been gathered and other information that might be provided.

Q: Doesn't the investigation raise constitutional issues because the six ministries preach the same doctrine?

A: Senator Grassley is a strong supporter of First Amendment protections for religious liberty. He was one of the champions of the Church Audit Procedures Act in 1983, which places a tremendous burden on the IRS to ensure that any audit is warranted. Separately, the U.S. courts have upheld the application of the tax code to churches in numerous instances.

Not all of the six ministries are “Pentecostal” or preach the “prosperity gospel.” When Senator Grassley first wrote to the six churches under review today, he was not aware of these terms and, most importantly, was not aware that some of them label themselves this way. The doctrine of the churches was not part of his inquiry in any way. He asked them for information based on concerns about application of the tax laws and is reviewing the responses for consideration of tax policy.

Some have construed certain of the senator’s comments as targeting the doctrine of the prosperity gospel. However, these comments are similar to comments he made in questioning the spending practices of leaders of other tax-exempt organizations:

“I am worried about what appears to be an “anything goes” culture by the Smithsonian Secretary and his staff that allow his champagne lifestyle to be subsidized by the taxpayer... I am shocked at what the Smithsonian is spending its money on when it comes to food, flowers, alcohol and other items ... I cannot explain to my constituents why they need to pay more taxes so that, to take one example, the Secretary and his direct reports can enjoy in September 2002 a dinner for \$1,368, eating off china and linen rented for the occasion for \$775.20 while enjoying a \$300 flower arrangement and alcohol of \$186.04 (Letter to Chief Justice John Roberts regarding spending at the Smithsonian Institution, February 21, 2007, as reported in The Washington Post, February 25, 2007 “Smithsonian Head’s Expenses Lavish, Audit Says)

“The report shows expenses that would make for a good episode of ‘Lifestyles of the Rich and Famous’ – a lifestyle paid for by AU students and their parents.” (Letter to Chair and Vice-Chair of the Board of Directors of American University, May 17, 2006, as reported in The Washington Post, May 18, 2006 “Senator Questions School’s Governance”)

“Charities shouldn’t be funding their executives’ gold-plated lifestyles.” (“Senator Rebukes Getty”, The Los Angeles Times, June 23, 2005.)

Q: What are some of the issues the investigation has uncovered so far?

A: Related Entities: Preliminary research conducted by staff indicates that there are almost 100 entities related to the six churches as well as the ministers. It is unclear whether these entities are

for-profit or nonprofit, whether they conduct activities directly with the churches, and if so, whether they are conducted on terms favorable to the church. For example, the tax laws do not allow for-profit entities to enrich themselves by overcharging non-profits that are controlled by the same people. It is also unclear as to whether any of these entities might also be claiming church status.

Inurement & Private Benefit: Aside from transactions with related entities, there are concerns about whether the churches are complying with the requirements of section 4958 of the Internal Revenue Code when determining compensation of the ministers as well entering into transactions with the related entities. Concerns are heightened by the fact that the churches share financial and legal advisors and by the fact that, in at least one case, a lawyer that raised section 4958 concerns may have been fired for raising these concerns.

Parsonage/Housing Allowances: There is concern that churches may be awarding minister status to employees for the sole purpose of making them eligible for tax-free housing benefits. Some ministers may also be claiming parsonage allowances for multiple personal residences across the country, as well as overseas.

Whistleblower Intimidation: Some of the churches have required employees to sign confidentiality agreements prohibiting employees from speaking about a church's activities. Some former employees have received phone calls reminding them of their confidentiality agreements and threatening lawsuits if the agreements are breached.

Overseas Activities: Some of the churches conduct activities overseas, including the collection of significant cash contributions which may not be tracked or recorded for tax purposes.

Q: Will the responses be considered confidential?

A: Senator Grassley and Senator Baucus have served as chairmen and ranking member alternately since 2001, and they have a proven record of conducting investigations in as open and public manner as possible, while also protecting the privacy rights of taxpayers and respecting sensitive information. Letters to organizations are made available to the public and the press. Responses to the letters, however, will not be made available until after staff has completed its review and analysis.

However, documents provided pursuant to a congressional investigation are generally a matter of public record. They can be released in the course of committee action such as a hearing or report. With respect to the committee's investigations of tax-exempt organizations, such as The Nature Conservancy and the American Red Cross, the committee has provided organizations the opportunity to review in advance the documents to be made public, including what information would be redacted.

Senator Grassley's staff have explained these practices to the ministries that have chosen to speak directly with his staff and, in turn, secured complete cooperation from those ministries. The churches not yet cooperating also have retained Washington, D.C., lawyers who stand to gain from dragging out response time to requests for information.

