**Summary of our Status as an Unincorporated Church or FBO**

We are often asked what kind of organization we are.  The simple answer is we are a church.  However, some people remain confused about what legal status a church has in the USA, for example we are occasionally sent requests similar to the below example;

*“Please send us a copy of a document confirming your status as a non-profit organization.  Examples include 501c3 determination letter, declaration made to the Prefecture de Police, and proof of registration with Charity Commission for England.”*

Strictly speaking, a church is not a “non-profit organization” (i.e. a charity) as some assume, so it is factually incorrect to place churches and charities in the same category as they are substantially different types of bodies.  Churches do often engage in secondary benevolent activities and missions, but this not the reason churches are excluded from taxation under the laws of the United States.  Churches are primarily religious bodies and religious activity, religious association, and religious worship are protected from regulation, including taxation, by federal and state laws in the United States.  This seems to confuse many people who are used to working with charitable groups.  They often lump churches and charities together.  It may help to think of it in terms of fundamental rights.  In the United States organizing for charitable purposes is not a protected right; it is a privilege that can be, and is, regulated by government.  But organizing for religious purposes ***is*** a protected right and government is prohibited under the First Amendment of the United States Constitution and related legislation from regulating or interfering with religious exercise.  Taxation is considered a form of regulation and is therefore prohibited where religion and churches are concerned.

**How is a Church Different than a 501(c)(3) Non-profit Charitable Organization?**

 A church is an ecclesiastical body with an exclusively religious function.  Churches in the United States have an exceptional and unique tax status.    This has been true since the First Amendment of the Bill of Rights of the U.S. Constitution was ratified in 1791. The First Amendment includes language that protects the free exercise of religion.  It mandates:

*“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”*

Pursuant to the above -- Section 508(c)(1)(A) of the Internal Revenue Code as enacted by Congress provides that churches are not required or expected to apply for recognition of Section 501(c)(3) status in order to be recognized as free from federal taxation or to receive tax deductible contributions.

Now let us look at what the federal government says about churches and taxation more closely:

**Churches are Not Expected to Apply for 501(c)(3)Exemption**

In order to be considered for tax-exempt status by the IRS an organization must fill out and submit IRS Form 1023 (*Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*).  However, note what the IRS says regarding churches, in Publication 557:

*“Some organizations are not required to file Form 1023. These include:*

*“Churches, interchurch organizations of local units of a church, conventions or associations of churches, or integrated auxiliaries of a church ... These organizations are exempt automatically if they meet the requirements of section 501(c)(3). “*

**Churches Are Automatically Tax-Exempt**

According to IRS Code **§ 508(c)(1)(A)**:

*“Special rules with respect to section 501(c)(3) organizations.*

*(a) New organizations must notify secretary that they are applying for recognition of section 501(c)(3) status.*

*(c) Exceptions.*

*(1) Mandatory exceptions. Subsections (a) and (b) shall not apply to—*

*(A) churches, their integrated auxiliaries, and conventions or associations of churches. “*

 This is referred to as the "mandatory exception" rule. Thus, we see from the IRS’ own publications, and the tax code, that it is unnecessary and unexpected for any church to apply for 501(c)(3) tax exemption.  In the IRS’ own words a church is “exempt automatically” from federal tax laws.

**Churches Are “Automatically Tax-Deductible”**

And what about tax-deductibility?  Doesn’t a church still need to become a 501(c)(3) so that contributions to the church can be taken as a tax deduction?  The answer, as we will see is No.  According to IRS Publication 526 “Charitable Contributions”:

*“Organizations That Qualify To Receive Deductible Contributions*

*“You can deduct your contributions only if you make them to a qualified organization. To become a qualified organization, most organizations other than churches and governments, as described below, must apply to the IRS. “*

*“Examples. The following list gives some examples of qualified organizations.*

•*Churches, a convention or association of churches, temples, synagogues, mosques, and other religious organizations.”…*

IRS Publication 526 states again in ‘Table 1’ that contributions made to churches are deductable:

*“Examples of Charitable Contributions… Use the following lists for a quick check of contributions you can or cannot deduct.*

*Deductible as Charitable Contributions:*

*Money or property you give to:*

*• Churches, synagogues, temples, mosques, and other religious organizations.”…*

In the IRS’ own words a church is automatically tax-deductible.

**Churches Have a Mandatory Exception from Filing**

Churches are not expected to seek 501(c)(3) status.  In the words of Steve Nestor, IRS Sr. Revenue Officer (ret.):

*"I am not the only IRS employee who’s wondered why churches go to the government and seek permission to be exempted from a tax they didn’t owe to begin with, and to seek a tax deductible status that they’ve always had anyway”; “Churches are in an amazingly unique position".*

The IRS again states:

*“a church, its integrated auxiliaries, or a convention of churches is not required to file Form 1023 [“Application for Recognition of Exemption Under Section 501(c)(3)”] to be exempt from federal income tax or to receive tax deductible contributions "* -- (Tax Exempt Status for Your Organization, IRS Publication 557).

And according to the Federal Tax Code under the heading “Charitable, etc., contributions and gifts”:

*“Any charitable contribution to—*

(*i) a church or a convention or association of churches, …*

*shall be allowed to the extent that the aggregate of such contributions does not exceed 50 percent of the taxpayer’s contribution base for the taxable year. “*-- United States Code, Title 26, **§ 170(b)(1)(A)(i)**.  [Notice the word “*shall*” is used to indicate that the deduction is mandatory, and not discretionary.]

The reason why churches enjoy this exceptional tax status is stated in IRS Publication 1828,

*“Congress has enacted special tax laws applicable to churches, religious organizations, and ministers in recognition of their unique status in American society and of their rights guaranteed by the First Amendment of the Constitution of the United States. Churches and religious organizations are generally exempt from income tax and receive other favorable treatment under the tax law.”*

**Income Taxes at the State and Local Level:**

Neither the county nor the city where the Church of America’s Central Rectory is located have income tax ordinances in place.

The State of Florida does not have a personal income tax:

*“Florida does not impose personal income, inheritance, gift taxes or intangible personal property taxes”.*-- Florida Department of Revenue, Tax Information for New Residents, Page 2 (Doc. No. GT-800025 - R. 10/09).

**Conclusion**

The Church is automatically excepted (i.e. "generally exempt") from federal income tax, and contributions to the Church are automatically tax deductible under existing federal law.   No documentation is required for a church tax exemption at the federal, state or local level, so none exists, except a possible award letter of EIN as a 508c1a entity, which is not a requirement, but if you wish to make a formal request, the Church or Faith Based Organization can provide you with an affidavit on Church letterhead signed by the Church's, or Faith Based Organizations Trustees or appointed leadership indicating that the Church or organization is a *bona fide* church or established Faith Based Organization and the creation date and including a copy of the relevant sections of the Internal Revenue Code that apply to churches.  This is usually enough proof of the Church’s tax status to satisfy any legal requirements for documentation that you may encounter.