

## Basics for Income Tax Exemption

- ⦿ Churches are exempt under IRC Section 501(c)(3) of the Internal Revenue Code
- ⦿ Must always meet the following two tests:
  - Organizational Test
  - Operational Test
- ⦿ All churches must meet the organizational test:
  - Governing documents must
    - ⦿ Define purpose of church
    - ⦿ Prohibit private inurement
    - ⦿ Prohibit intervention in political candidate campaigns
    - ⦿ Allow for the proper distribution of the assets upon dissolution

Warning: It is possible for older churches to not meet this test. This failure should be corrected immediately!

- ⦿ All churches must meet the operational test and this includes:
  - Operating within exempt purposes
  - All assets are dedicated to exempt purposes
  - All prohibitions in the governing documents must be respected and
  - Adequate books and records must be maintained to prove the above
- ⦿ Certificate of Formation, Bylaws, Constitutions and other documents set the stage for how the church is required to operate and conduct business. Not operating within the rules set out in the governing documents can negate the actions of the church and cause revocation of its tax exempt status.
- ⦿ Certain actions can result in the state dissolving the church, therefore, this status should be reviewed every so often. A forfeiture of the charter by the state results in all the members becoming liable for the actions of the church.
  - Bylaws as a Defensive Tool
- ⦿ Easy to read bylaws
- ⦿ Operations should align with bylaws
- ⦿ Indemnity
- ⦿ Arbitration