

Hawaii Pacific Baptist Convention
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**Basic Business Practices
 in the Church**
 Session #1 – Entity Setup and Governing Documents



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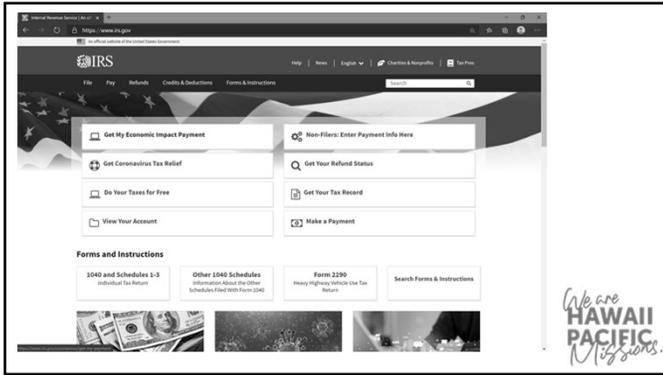
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Reference Documents

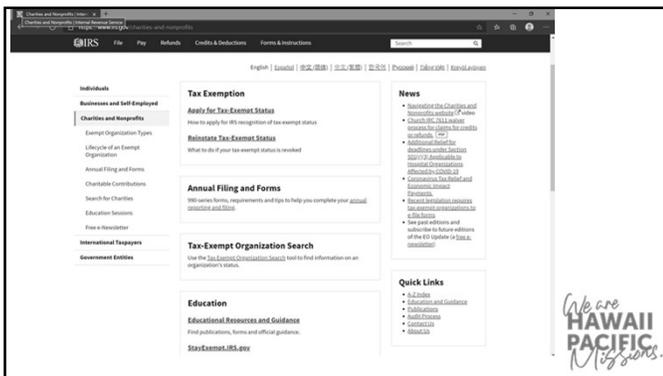
Internal Revenue Service (IRS) – www.irs.gov
 Helpful IRS Publications regarding churches:
 IRS Publication 1828 – Tax Guide for Churches & Religious Organizations
 IRS Publication 557 – Tax Exempt Status for Your Organization
 IRS Publication 4573 – Group Exemptions
 IRS Publication 526 – Charitable Contributions
 IRS Publication 1771 – Charitable Contributions: Substantiation and Disclosure Requirements
 IRS Publication 517 – Social Security and Other Information for Members of the Clergy and Religious Workers



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Reference Documents

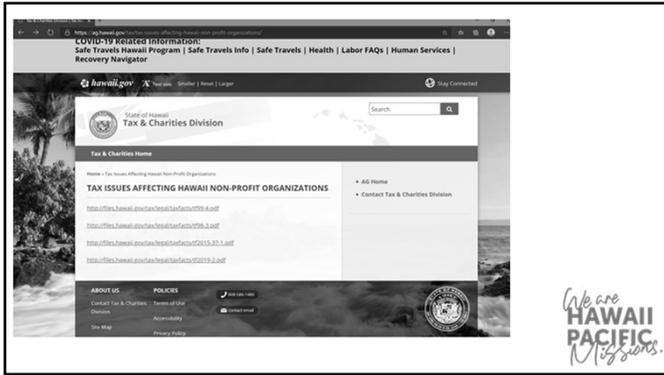
Department of Hawaii – <https://ag.hawaii.gov/tax-issues-affecting-hawaii-non-profit-organizations/>

Helpful Documents

- Department of the Attorney General Tax and Charities Division Frequently Asked Questions (FAQ)
- State of Hawaii Tax Facts 98-3 – Tax Information for Nonprofit Organizations
- State of Hawaii Tax Fact 37-1 – General Excise Tax (GET)
- State Tax Information Release No. 2011-04 – General Excise Tax Reporting Requirements for Nonprofit Organizations
- State of Hawaii Tax Facts 2019-2 – General Excise Tax Information for Churches and Ministers
- Hawaii Revised Statute 414D – Hawaii Nonprofit Corporation Act - https://www.capitol.hawaii.gov/hrscurrent/Vol08_Ch0401-0429/HR0414D/HR_0414D.htm

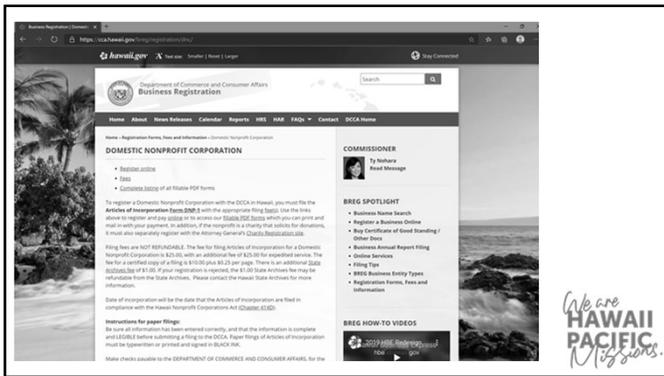
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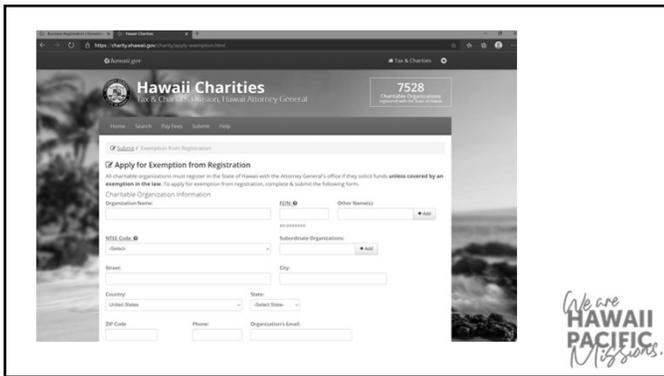
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What is a Church?

A church is a spiritual body that is designed to evangelize the lost and edify the believer.

A church also interacts with the world that has practical, legal, and financial responsibilities and accountabilities.

In most countries, especially the United States and its territories have held the importance of churches to the fabric of society and its relationship to government.

As an organization in respective areas, we are commanded to follow the law and understand how the governing documents (i.e.- the US Constitution, laws passed by the government, etc...) affect our relationship with those outside the church.



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What is a Church?

Even though Congress and the IRS hasn't clearly defined "church", the IRS uses these 14 criteria to determine if a religious organization is a "church":

- Distinct legal existence
- Recognized creed and form of worship
- Definite and distinct ecclesiastical government
- Formal code of doctrine and discipline
- Distinct religious history
- Membership not associated with any other church or denomination
- Organization of ordained ministers



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What is a Church?

Even though Congress and the IRS hasn't clearly defined "church", the IRS uses these 14 criteria to determine if a religious organization is a "church":

- Established places of worship
- Literature of its own
- Ordained ministers selected after completing courses of studies
- Regular congregations
- Regular religious instruction of the young
- Schools for preparation of its ministers



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Tax Exemption Advantages of Church

- Internal Revenue Code (IRC) allows churches several advantages:
- Its givers can be offered the benefit of a tax deduction for charitable contribution
 - Special standard nonprofit mail rates
 - May qualify for exemption from FUTA in certain situations
 - Employees may participate in 403(b) tax-sheltered annuities.
 - Favored position to seek funding from other 501(c)3 organizations.
 - Eligibility for possible grants only allowable to entities exempt under 501(3)



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Tax Exemption Limitations of Church

- Internal Revenue Code (IRC) specifies some strict requirements associated with churches:
- Organizations must comply with annual IRS reporting requirements.
 - Organizations must be engaged "primarily" in qualified charitable, religious, educational, and other like endeavors.
 - There are limitations on the extent to which they may engage in substantial legislative activities or political activities.
 - Organizations may not engage in unrelated business activities or commercial activities to an impermissible extent.
 - There is a prohibition against private inurement or private benefit.
 - Upon dissolution, organizations' assets must be distributed for one or more exempt purposes.



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Entity Structure

Key Rule –

Any organization that is formed as an entity is done at the

**STATE,
US TERRITORY,
OR FOREIGN GOVERNMENTAL LEVEL
AS DETERMINED BY THE COUNTRY
(I.E.- NGO OR NPO'S IN JAPAN AND PHILIPPINES)**

For exemption associated with taxes – it is done at the

FEDERAL LEVEL



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Steps Associated with Legal Setup

Key steps for the organization and recognition of a church:

1. Church meets together and decides in a meeting (votes to incorporate) to form a church that is a legal body.
2. The church verifies that its name is a name that no one else is incorporated by.
3. The church files the articles of incorporation (under the corresponding state statute) with the respective state agency (for Hawaii the DCCA). It will include the exact corporate name by which the church is identified.
4. Once a church has incorporated, it falls under the specific state (or respective governing body) laws in maintaining its status as an entity.



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Steps Associated with Legal Setup

Key steps for the organization and recognition of a church:

5. The church will start to work on other key documents (later discussion) to further the mission and purpose of the church.
6. The church will apply for an Employer Identification Number (EIN) that will be its unique number associated with the church. The church will be able to use this number for all items including opening a bank account and filing documents for the church.
7. Please note that churches that complete these first six steps are considered by law – already tax-exempt because of being organized as a religious, educational, and charitable.



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What is Being Tax-Exempt Look Like for a Church?

The most important item to know about church's tax exemption comes from IRS Publication 1828,

"Churches that meet the requirements of Internal Revenue Code (IRC) section 501(c)(3) are automatically considered tax exempt and are not required to apply for/obtain recognition of tax-exempt status from the IRS." Churches are also exempted from the annual filing of IRS "Form 990 - Return of Organization Exempt from Income Tax"

This is already automatic for the church!!!

Also, please note that being tax-exempt does not mean being exempt from all taxes!



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What is Being Tax-Exempt Look Like for a Church?

All other nonprofit organizations must go through a process to obtain recognition for tax exemption.

This process can take up to 27 months and is done through the filing of IRS Form 1023 – Recognition for Exemption.

When approved, they will be listed under IRS Publication 78 (an online tool).



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What is Being Tax-Exempt Look Like for a Church?

Churches may voluntarily apply for official IRS recognition of their tax-exempt status by filing Form 1023, Application for Recognition of Exemption with the IRS.

If a church wishes to obtain its own 501(c)(3) determination letter from the IRS, the first step is to establish the church by officially constituting or incorporating.

The organizing documents must be included in the application for tax-exempt status.



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What is Being Tax-Exempt Look Like for a Church?

What if I am a church that is part of a bigger organization (i.e.-Hawaii Pacific Baptist Convention).

What does it mean to be part of a group exemption?



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What is Being Tax-Exempt Look Like for a Church?

If a church does not wish to have their own 501(c)(3) determination letter, they may still be identified as a nonprofit organization if they are affiliated with a parent or central organization that has a 501(c)(3) Group Exemption Letter Ruling from the IRS. (See Publication 4573).

Churches that are affiliated with a specific Baptist State Convention often can request to be included in the Convention's group ruling (umbrella) and obtain a letter from the Convention if they meet specific membership requirements.



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What is Being Tax-Exempt Look Like for a Church?

A couple common questions after all this –

What is 501(c)3? 501(c)3 refers to the section that identifies organization that are considered to be tax-exempt.

What doesn't my church show up as being approved on the IRS website as tax-exempt if I am tax-exempt?

What does a letter of good standing have to do with being tax-exempt?

Is a church outside the United States but associated with Hawaii Pacific Baptist Convention still eligible to give tax-deductions for U.S. citizens?



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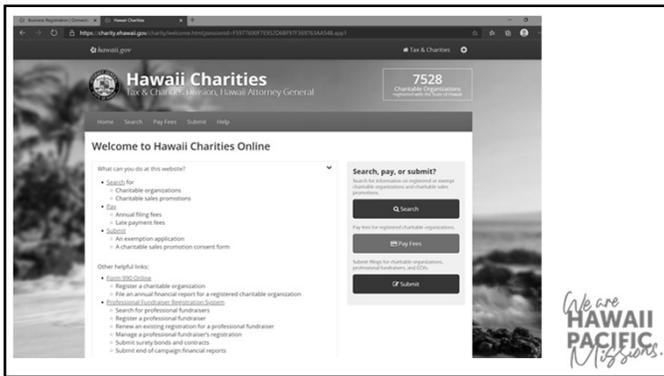
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What are Key Takeaways?

1. Do you have copies of your articles of incorporation and important documents (i.e.-constitution, by-laws, etc...)
2. Is all initial documents filed with the proper governmental agencies?
3. For churches in Hawaii, have you filed your G-6 with Hawaii Attorney General for exemption from filing GET?
4. Do you understand the legal setup and both the benefits and limitations of being a church?



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Key Documents for A Church

- 1. Articles of Incorporation – identifies organization as a legal entity
- 2. Constitution and By-Laws – Core elements of a church for business purposes – must contain legal name, nonprofit status, statement of purpose, statement of religious belief, membership policy, officers and staff of the church, finances, (along with fiscal year), dissolution clause (especially no private inurement), and how amendments are adopted)



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Key Documents for A Church

- 3. Robert Rules of Order, Revised – In the constitution and by-laws, a parliamentary (way to conduct business) order is identified. Most churches refer to this set of rules for governance
- 4. Operational Manual – governance within day to day operations
- 5. Personnel Manual – governance of employees
- 6. Finance Manual – governance of documents, financial matters
- 7. Other Manuals, Documents – Other important items – conflict of interest policy, whistle-blower, any harassment or risk management areas (i.e.-volunteers working with children), social media guidelines, etc...



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Any Questions?



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