

December 12, 2023

Senator Chuck Grassley  
The Joint Committee on Taxation  
502 Ford House Office Building  
Washington, D.C. 20515

Sent via email to [JCTInfo@jct.gov](mailto:JCTInfo@jct.gov)

Re: Closing Loopholes in the Church Audit Procedures Act

Dear Senator Grassley

I am a pastor of God's Storehouse Topeka Church ("GSH"), a nondenominational church in Kansas, and have served as a Christian pastor for more than 37 years. Our church has been under what we believe to be an improper and politically motivated IRS examination since 2021, which was triggered by the Freedom from Religion Foundation. The case is currently on appeal in the Tenth Circuit.

I am writing to draw your attention to current IRS tactics to sidestep the protections established in the Church Audit Procedures Act ("CAPA") by exploiting loopholes in the Tax Code. I ask that the Joint Committee on Taxation address this loophole for the sake of churches across the United States before the church audit procedures are made obsolete.

GSH shows Christ's love to Topeka by creatively meeting community needs. In addition to regular worship activities, GSH operates a thrift store which receives donated goods and provides clothes and household items to victims of domestic violence, people experiencing homelessness, the formerly incarcerated, and others in need. In 2020, I decided to run for the Kansas legislature alongside my role as pastor of GSH. On signs purchased by my campaign, I identified myself as the 'Founder of God's Storehouse' so that potential voters knew my connection to the church and the thrift store. I asked Kansas State Governmental Ethics Commission to approve my signs, and it concluded that the signs provided voters with valuable biographical information. However, in a local newspaper article, my political opponent speculated that GSH may have violated the Tax Code because its name appeared on the signs. Then, the Freedom from Religion Foundation made an identical complaint to the IRS, alleging that GSH engaged in impermissible political campaign intervention because its name appeared on the campaign signs. Even though this allegation is inconsistent with federal tax law, the IRS initiated a church tax inquiry and church tax examination to discern whether GSH had engaged in political campaign intervention and whether it was operating as a thrift store rather than as a church. We have tried to cooperate with the IRS throughout the investigation. We voluntarily provided the IRS with more than 100 pages of documents and even offered a meeting with GSH's pastoral staff and board. Despite our cooperation, the IRS continues to assert that GSH may not be a church. Throughout the inquiry and examination, the IRS has circumvented the Church Audit Procedures Act in two key ways.

First, the IRS did not receive the approval of an appropriate, high-level Treasury official before launching the examination. When you and your colleagues drafted CAPA, you required an appropriate, high-level Treasury official—specifically, a Regional Commissioner of the IRS—to approve all church inquiries and



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examinations. The Regional Commissioner position was eliminated during the IRS's 1998 reorganization. Since then, Treasury has not updated its regulations to officially delegate the approval authority to an appropriate, high-level Treasury official. Instead, the IRS continues to vest the authority in various positions through a series of informal delegations. The official who approved the GSH examination, the Commissioner of the Tax Exempt and Government Entities Division, is not analogous to a Regional Commissioner and is not an appropriate high-level Treasury official.

Second, and more important, is the IRS's strategy to use third party summons to avoid the requirements of CAPA entirely. After the IRS launched its examination of GSH, it requested fourteen separate categories of documents from the church, including its bank records. GSH asserted that the IRS had not received proper approval from an appropriate, high-level Treasury official and did not establish that the bank records were necessary to its investigation, as required under the Act. Rather than summoning the bank records from the church, the IRS issued a third-party summons to the church's bank. By requesting those same records from a third-party, the IRS now argues that it does not have to comply with any of the protections in CAPA. It also asserts that CAPA provides no protections or remedies to a church so long as the IRS conducts its examination with third party records. But if third-party summons are excepted from all of CAPA's requirements, the exception will swallow the Act entirely.

GSH has petitioned to quash the third-party summons in federal court, and the Tenth Circuit will hear an oral argument in the case on January 16, 2024. There, GSH will continue to assert that the IRS cannot summons a church's bank records pursuant to a church tax examination without complying with the audit procedures that you and your colleagues developed to protect churches' constitutional rights. If the Government prevails before the Tenth Circuit, the IRS will be permitted to freely summons churches' records from third parties without complying with any church audit procedures.

We value your work to defend the constitutional rights of churches and religious organizations in Congress and would appreciate your support of GSH. We urge you and the Joint Committee on Taxation to exercise oversight over the IRS to protect churches' rights.

Please let us know if you would like to meet to discuss this important issue and how it impacts churches. In addition, the Tenth Circuit briefs are available here: <https://www.dropbox.com/sc/fo/w8n24jffds2hy7p09lher/h?rlkey=xngr1xrgkhcbw5jhy11kb7qua&dl=0>

Sincerely,



Pastor Rick Kloos

cc: Sen. Jason Smith, Chairman, Joint Committee on Taxation  
Sen. Ron Wyden, Vice Chairman, Joint Committee on Taxation  
Sen. Roger Marshall (KS)  
Sen. Jerry Moran (KS)



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