

# IRS DENIAL OF EXEMPTION SHOWS WHY USING BUSINESS JARGON IN A NONPROFIT CAN BE PROBLEMATIC

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## IRS Denial of Exemption Shows Why Using Business Jargon in a Nonprofit Can Be Problematic

By Mike Batts, CPA

Business-savvy leaders of nonprofit organizations sometimes use business jargon to describe activities and efforts of their organizations. A recent IRS denial of exemption for a nonprofit religious organization shows why doing so can be problematic. In a denial letter released March 8, 2013, the IRS addressed the application for 501(c)(3) exemption by a religious organization that described itself as having three divisions: a Ministry Division, a Consulting Division, and a Merchandising Division.

*While some aspects of the activities carried out by the organization's divisions as described in the ruling are common among religious nonprofits, the terminology used to describe them is not.*

While a variety of facts formed the overall basis for the IRS's denial, we believe it can be reasonably inferred from the language in the denial that the IRS was particularly put off by the organization's use of business jargon in describing its activities. For example, the IRS chose to put in quotation marks a number of the business jargon terms used by the organization, including the terms "divisions," "branches," "brands," and others. Following is an excerpt of the ruling:

In addition to your frequent references to Taxpayer, Church, and Website as "brands," you described the majority of your activities in the context of business models, supply chains, marketing strategies, and other, typically business-oriented approaches.

The IRS and courts have applied a "commerciality doctrine" in determining whether nonprofit organizations qualify for exempt status under Section 501(c)(3). The doctrine, which is loosely defined and not found in the Code or Regulations, generally holds that operating revenue-generating activities in a highly commercial manner may indicate lack of an exempt purpose.

*While the overall facts are typically evaluated to determine whether an organization's activities are "commercial" in nature, the use of business jargon in describing the activities will not be helpful to an organization's argument that they are not commercial.*

Semantics are not a basis for loss or denial of exemption under federal tax law. However, excessive use of business terminology in describing an organization's activities can create an impression that the organization's purposes are commercial in nature. We encourage our clients to exercise caution in using such terminology in their operations. Using terminology that may be perceived as crassly commercial can create significant disadvantages when interacting with tax or regulatory authorities, especially when an exemption of some type may be at stake.

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