

Would Affect Discriminatory Schools

IRS Tax Method Draws Heavy Fire

By JOHN NOVOTNEY
(RNS Correspondent)

Washington, D.C. (RNS) — Deluged with the largest outpouring of letters (more than 115,000) on any of its proposed revenue procedures, the Internal Revenue Service held public hearings here on a ruling that would affect religion-related schools.

Subject of the hearings was a revenue procedure proposed by the IRS three months ago which would "establish guidelines for determining whether certain private schools claiming tax exemption have a racially non-discriminatory policy as to students," as IRS Commissioner Jerome Kurtz put it in his opening remarks at the hearing.

More than 200 persons requested to be heard, about 130 affiliated with identifiable religious organizations, the others being senators, representatives, government officials and representatives of non-sectarian organizations.

An IRS spokesman said all of the 15 senators and congressmen speaking at the hearing registered strong opposition to the proposed procedure, as did "99 per cent" of the others.

In his remarks, Kurtz said the IRS is "very concerned about schools that claim to have special facts and circumstances not covered in the proposed procedure."

The proposed procedure states private schools will lose their tax-exempt status unless they enroll a percentage of minority students equal to 20 per cent of the percentage of minority school age population in their community.

Kurtz said the IRS "will be reviewing the procedure to determine whether it applies unfairly to schools, such as certain religious schools that may face special conditions in attracting minority students."

"We recognize," he continued, "that efforts have been made by many sectors of the religious community to eliminate discrimination in education. It is not our intent either to impede these efforts or to hinder the educational programs of these organizations. We want to make every reasonable effort to avoid hardship to schools whose practices and policies are genuinely non-discriminatory in character."

"At the same time,

however, we believe we are required under the law to enforce the well-settled federal policy to deny exemption from tax under the Internal Revenue Code Section and the deductibility of contributions under the code section to any private school practicing racial segregation."

The IRS Commissioner pointed out this procedure is a "proposal, not a decision. Our minds are open."

Among persons presenting testimony at the hearing was George Reed, general counsel of the U.S. Catholic Conference, as a spokesman of by far the largest religiously-affiliated elementary and secondary school system in the country.

Pointing out the USCC is "in full accord with the ultimate objective of the Internal Revenue Service to eliminate discrimination in the non-public schools," Reed said "our concern is with the method."

"We submit that the proposed revenue procedure is overly broad, unnecessarily burdensome and completely unrealistic in its application to the parochial school system of the Catholic Church."

The spokesman said there is "an abundance of evidence in the files of the IRS dating back at least to 1971 attesting to the fact that our schools do not discriminate. This is not a 'paper policy' but a principled position predicated on moral precepts," he asserted.

Nathan Dershowitz spoke on behalf of the American Jewish Congress, National Jewish Community Relations Advisory Council, American Association for Jewish Education, Council of Jewish Federations and Synagogue Council of America.

He said the organizations he represented are "wholly sympathetic to the concerns that prompted the Internal Revenue Service to propose more definitive guidelines to identify those schools that in fact operate on a discriminatory basis even though they claim to have racially non-discriminatory policies."

"Nevertheless," he said, "we believe that the techniques employed in the proposed revenue procedure, by failing to recognize the unique and special considerations which affect Jewish religious schools, cast their

net too broadly; that they misapply the approach of the federal courts and by improperly and unfairly burdening Jewish religious schools will seriously impinge on the religious rights of American Jews."

Dr. Robert Lamborn, executive director of the Council for American Private Education, said his organization "supports the civil rights purpose" of the proposed procedure, but finds it "seriously flawed" and "ill-advised."

"They could unfairly jeopardize a school's tax status and its very existence," said Dr. Lamborn, whose 15 member organizations represent 15,000 private schools enrolling about 90 per cent of all children attending private schools.

The proposed procedure may "unfairly jeopardize a school's financial support" by exerting a "chilling effect" on the flow of charitable contributions if they are not tax-deductible, he said.

Dr. Lamborn said his organization "believes that the revenue procedure should provide sufficiently precise guidance to identify schools which may discriminate, but that the guidance should be appropriate to the conditions

under which private schools operate."

Thomas Crumpler of Wilmington, Del., representing the Christian Legal Society (comprised, he said, of 2,000 lawyers), said the "issue is how to establish what kind of school is discriminatory."

The proposed IRS procedure "does not follow rules set down by the Supreme Court," which, he said, has stated, "in many cases" that the "intent to discriminate must be established."

He reiterated a statement made by a number of persons, namely that the proposed procedure in effect makes private schools, "guilty until proven innocent" of discriminating on the basis of race.

The Rev. Charles Bergstrom, executive director of the Lutheran Council Office for Governmental Affairs, in urging the IRS to withdraw the proposed procedure, asserted it would have an "adverse impact on church schools innocent of racial discrimination."

Lutheran elementary and secondary schools "uphold a policy of non-discrimination on the basis of race," he said.

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