

EXHIBIT

IRS REPORT OF EXAMINATION
AND EXPLANATION

Exempt Organizations - Report of Examination (Proposed Status Changes)

1. Form No. 990	2. Area Office TEGE:EO:Financial Investigations Unit	3. Date of Report October 22, 2013
4. Name and Address of Taxpayer Inter-Religious Foundation for Community Organization Inc. 418 West 145th Street New York, NY 10031		5. Employer Identification No. 13-2590548
		6. Tax Period(s) Ending 12/31/09
		12/31/10
7. Report Preparer's Name Dawn Goldberg / Employee ID #699296		8. Agreement Secured Yes <input type="checkbox"/> No <input type="checkbox"/>
9. Findings Discussed with (Name and Title) Martin R. Stolar, Power of Attorney		10. Agreement Date
11. Current Foundation Status Classification (Enter description and IRC reference.) Educational Organization / 501(c)(3)		

12. Nature of Proposed Status Change (*"X"* applicable line, enter IRC ref., & effective date)

X	Revocation of exemption under IRC Section 501(c)(3), effective (date) 01/01/2009
	Modification of exempt status from IRC Section 501(c)() to 501(c)() effective (date)
	Modification of foundation status from current classification shown in item 11 above, to a private non-operating foundation (IRC Section 509(a)), effective (date)
	Modification of foundation status from current classification shown in item 11 above, to an operating foundation (IRC Section 4942(j)(3)), effective (date)
	Modification of foundation status from current classification shown in item 11 above, to an organization described in IRC Section 509(a)(), effective (date)
	Modification of foundation status from current classification shown in item 11 above, to an organization described in IRC Section 509(a)(1) and 170(b)(1)(A)(), effective (date)

13. Remarks

Based on our examination of Inter-Religious Foundation for Community Organization Inc. (IFCO), we have determined that IFCO does not qualify for exempt under section 501(c)(3) of the Code effective on the date of years examined - January 1, 2009

14. Attachments:

Form 886-A, Explanation of Items

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit Page 1 of 32
Name of taxpayer Inter-Religious Foundation for Community Organization Inc.	Tax Identification Number 13-2590548	Year/Period ended 12/31/2009- 12/31/2010	

ISSUE:

Whether Inter-Religious Foundation for Community Organization Inc. is operated exclusively for exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

FACTS:

The Inter-Religious Foundation for Community Organization Inc. (herein referred to as "IFCO") was incorporated on December 23, 1966 in the state of New York as a membership corporation. Current New York State Department of State/Division of Corporations reports that IFCO is a Domestic Not-For-Profit Corporation.

The initial Certificate of Incorporation filed with New York State Department of State states the purpose for which IFCO was formed was as follows:

"To implement common programs and strategy among religious groups for the development of community organizations among the poor and others, as part of the urban mission, ministry and program of such religious groups; to conduct research and develop educational materials in connection with the building of such program and strategy; to determine the area of highest priority in the development of such community organizations; to commission evaluation of projects of such community organizations; provided, however, that the Corporation shall be organized and operated exclusively for charitable, religious and educational purposes and shall neither have nor exercise any powers not in furtherance of such purposes."

"The Corporation shall not be conducted or operated for profit and no part of the net proceeds of the Corporation shall inure to the benefit of any member, director, officer of the Corporation or any individual; although reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes."

The same purpose statement was included in IFCO's bylaws.

IFCO filed Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, in August 1967. To be exempt under section 501(c)(3), an organization must be organized and operated exclusively for exempt purposes set forth in the section, and none of its earnings may inure to any private shareholder or individual. In addition, it may not be an *action organization*, i.e., it may not attempt to influence legislation as a substantial part of its activities, and it may not participate in any campaign activity for or against political candidates. The information requested on the Form 1023 is evaluated by the Service to determine if the applicant's organization and operation is in furtherance of a purpose stated in section 501(c)(3).

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IFCO's Form 1023 included, in part, the following information concerning its operations:

Form 1023, Line 8(j) of Form 1023 asks if the applicant was then or planning to be affiliated in any manner with any organization(s). IFCO responded by stating "Yes" and IFCO provided a written statement about the affiliations which they referred to as "Participating Organizations". In reviewing IFCO's Form 1023 and bylaws, the "Participating Organizations" were the groups which made up the membership of IFCO. This included religious groups, mission groups, charities, etc.

Section 9 of IFCO's bylaws stated:

"An organization shall be eligible for designation as a Participating Organization if it (a) is a religious, charitable or educational organization, (b) is committed to the purposes of the Corporation, (c) contributes not less than one thousand dollars (\$1,000) per year to the operating budget of the Corporation, and (d) shall have been approved for membership at any meeting of the members of the Corporation at which a quorum is present by a two-thirds vote of those present but in any event not less than a majority of the total members named by Participating Organizations...."

Form 1023, Line 10(f) requests the applicant to provide a brief statement of the specific purposes for which the organization was formed. IFCO provided an attachment which stated:

"The purposes for which the corporation has been formed are: to assist in developing viable programs for the building of community organizations among the poor in, largely, urban areas; to assist in the formation of local organizations by residents of urban neighborhoods, in order to improve the physical, economic and social conditions under which such residents live; to sponsor and carry out research and produce and distribute training materials in connection with community organization programs; to make appropriate grants for particular community organization programs and to engage in the evaluation of community organization programs."

Form 1023, Line 10(g) requests the applicant to provide a statement explaining in detail each fund-raising activity and each business enterprise that the applicant was engaged in or planned to engage in.

In response to this line item, IFCO provided a list of organizations that had contributed or committed to contribute a specific amount of funds. The listing included churches, ministries and religious organizations.

IFCO attached a statement to the Form 1023 stating the following concerning its fundraising:

- *"Each of the organizations listed above having made payments or commitments is a Participating Organization within the meaning of the by-laws of the corporation. As indicated in the by-laws, a Participating Organization has the right to designate certain members of the*

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corporation. The relationship between the corporation and its various Participating Organizations is entirely as set forth in the by-laws."

- *"The corporation anticipates that future funds will be sought in the form of grants from foundations and from religious and religious-affiliated organizations."*
- *"The corporation does not presently anticipate engaging in any "business enterprise" and has not executed any agreements with respect to any "business enterprises".*

Form 1023, Line 10(h) requests the applicant to provide a detailed statement to describe the nature of each of the current activities and proposed activities. IFCO's Form 1023 included an attachment to address Line 10(h) concerning activities. The response stated, in part, the following:

- *"As to present activities, the corporation is now completing its organizational phase and has not yet undertaken specific activities."*
- *"As to the proposed activities, it is anticipated that a major portion of the funds and time of the corporation will be spent in reviewing and responding to request for grants from local organizations involved in community organization and development."*
- *"The corporation will make grants only to tax-exempt organizations and only to those tax-exempt organizations whose purposes are consistent with those of this corporation as set forth in the certificate of incorporation and by-laws."*

On the basis of IFCO's stated purpose and planned activities reported to the Internal Revenue Service, IFCO was granted exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code on September 25, 1967. The determination letter issued stated that "[a]ny changes in operation from those described, or in your character or purposes, must be reported immediately" to the IRS "for consideration of their effect on your exempt purpose."

No changes/amendments to the original Articles of Incorporation, governing documents or operations were reported to/filed with the Internal Revenue Service (IRS). During the audit, oral testimony was provided that there were no changes to the documents and thus IRS was not notified of any changes to the operations.

Form 990, Return of Organization Exempt from Income Tax, is an annual information return required to be filed with the IRS by most organizations exempt from income tax. An examination was conducted on IFCO's Form 990 for periods ending December 31, 2009 (herein referred to as "2009 Form 990") and December 31, 2010 (herein referred to as "2010 Form 990").

The examination arose from a referral that alleged IFCO was raising funds on behalf of a non-exempt organization, Viva Palestina. The stated purpose was to provide funding to Hamas (an

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acronym for Harakat al-Muqawana al-Islamiya, aka "Islamic Resistance Movement"), a designated Foreign Terrorist Organization (FTO) pursuant to 8 U.S.C. 1189. The referral further stated that IFCO, through a "fiduciary partnership" with Viva Palestina (VP) was raising tax-deductible donations to "provide material support" to Hamas. Per Exempt Organization procedures, the information was sent to the Referral Committee which determined that an examination was warranted, and subsequently approved the 2009 Form 990 examination.

The examination confirmed that IFCO was the fiscal sponsor¹ of several non-exempt organizations (including Viva Palestina) in both years under examination. IFCO referred to Viva Palestina, and the other fiscally sponsored entities, as programs or projects. Based on oral testimony provided during the opening conference, Viva Palestina was said to be a fiscally sponsored program/project beginning in mid-2009 and continuing until at least 2011 when the audit began. Background and other information concerning the fiscally sponsored entities are discussed in further detail below.

The examination's opening conference was held with IFCO's representative, attorney Martin Stolar (herein referred to as POA Stolar), on March 29, 2011. Based on IFCO's non-exempt activities and lack of substantiation of expenses, the scope of the audit was expanded to include the examination of the 2010 Form 990 in March 2012.

IFCO's Operational Information:

From a review of the records, it was determined IFCO had three main activities:

- Caravan to Cuba in 2009 and 2010 (and in past and present years). According to IFCO's website, in years prior IFCO had other caravans to areas such as Honduras, Haiti, etc., but these were not conducted during the audit years.
- Administrators of the Medical Student Scholarship Program for the Latin American School of Medicine located in Cuba
- Fiscal sponsoring of several programs/projects not exempt under Section 501(c)(3) of the Internal Revenue Code.

Historically, IFCO also had other minor activities included raising and providing funds to Hurricane Katrina victims (in 2006 and 2007); raising and providing aid to Haiti Earthquake victims (2010); and sponsoring graduates from the Latin American School of Medicine program who provided medical care for Haiti Earthquake victims.

¹ Pursuant to Revenue Ruling 68-489, 196902 C.B. 210, a 501(c)(3) organization can be a fiscal sponsor of a non-501(c)(3) organization. In that ruling, the IRS held that a 501(c)(3) organization could distribute funds to a non-501(c)(3) organization if the funds are used for charitable purpose. See LAW section for more information.

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Caravan to Cuba in 2009 and 2010

The caravan program has been an on-going activity for IFCO since approximately 1988. Per IFCO's website, they *"successfully organized more than 50 caravans of aid to Nicaragua, El Salvador, Guatemala, Honduras, Chiapas (Mexico) and Cuba."*

In the audit years, this program primarily took humanitarian aid to Cuba via Mexico. The goods were collected into caravans comprised of buses, trucks, etc. traveling throughout the U.S. and Canada. The collected goods were to be delivered to Cuba via travel through Mexico.

None of the non-cash goods or money collected along the route was reported on IFCO's Form 990. Although IFCO sponsored the caravan and paid for the vehicles, drivers, etc. responsible for collecting the items, IFCO did not believe the items collected were reportable at FMV on the Form 990. POA Stolar stated he did not believe anyone took a tax-deductible donation for the items even though this was on a caravan sponsored by IFCO.

Since Cuba is a sanctioned country, contact was made to the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC). Information obtained from OFAC included:

- OFAC administers and enforces comprehensive economic sanctions against Cuba as set forth in the Cuban Assets Control Regulations, 31 C.F.R. part 515 (the "Regulations"), issued under the authority of the Trading With the Enemy Act, 50 U.S.C. App. §§ 1-44, and other statutes.
- The Regulations generally prohibit virtually all direct or indirect transactions of any nature with Cuba or Cuban nationals by any person subject to the jurisdiction of the United States, including any corporation, partnership, association, or other entity that is organized under the laws of the U.S. or any state of the United States, except as authorized by OFAC or exempted by statute.
- Travel related transactions to, from, and within Cuba by persons subject to U.S. jurisdiction are prohibited unless authorized either by a general license or on a case-by-case basis by a specific license for travel related to the activities described in § 515.560 of the Regulations.
- OFAC does not have licensing authority over exports of goods to Cuba. The Department of Commerce's Bureau of Industry and Security ("BIS") has jurisdiction for export and re-export licensing concerning Cuba.

In regards to OFAC's involvement with IFCO –

OFAC reports that IFCO has on multiple occasions made trips in violation of the sanctions on Cuba. OFAC reports that they first learned of IFCO through IFCO's publicity about a November 1992 caravan to Cuba that was subsequently characterized by IFCO as "Friendshipment Caravan I". IFCO collected goods in the Midwest United States for the stated purpose of donation in Cuba.