

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit Page 13 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

In Part IV (Checklists of Required Schedules) IFCO incorrectly reported information for certain line items on the Form 990 that allowed them to answer "NO" to some of the questions in Part IV. In reality, if IFCO had correctly reported the information, the answer in Part IV would have been "YES" for the following Questions:

- #15) Did the organization report on Part IX, column (A), line 3, more than \$5,000 of grants or assistance to any organization or entity located outside the United States?
- #16) Did the organization report on Part IX, column (A), line 3, more than \$5,000 of aggregate grants or assistance to individuals located outside the United States?
- #21) Did the organization report more than \$5,000 of grants and other assistance to governments and organizations in the United States on Part IX, column (A), line 1?
- #22) Did the organization report more than \$5,000 of grants and other assistance to individuals in the United States on Part IX, column (A), line 2?
- IFCO made payments of more than \$5,000 to individual and organizations, both domestic and foreign. The total amount disbursed appeared to be incorrectly reported on Form 990 in Part IX, Statement of Functional Expenses, as "Project Expenses" on Line 24.

Part VIII (Statement of Revenue) – All \$2.1M received was reported on Line 1f as gifts, grants, not specifically listed in 1a through 1e. Lines 1a through 1e included Federated campaigns; Membership dues; Fundraising events; Related organizations; or Government grants (contributions). Substantial amount of IFCO's receipts were not from contributions, gifts, or grants. This is an inaccurate statement.

- Although some of the received revenue were gifts or grants to IFCO and should be reported on Line 1f of Part VIII, a significant portion of IFCO's revenue, approximately \$1.4 million, was from the fiscally sponsored entities. The income from the fiscally sponsored programs/projects should have been reported as Program Service Revenue on Line 2a of Part VIII.

2010 Form 990

The Form 990 for period ending December 31, 2010 was due on May 15, 2010. IFCO filed two extensions to extend the due date to November 15, 2011. The 2010 Form 990 was received by the Internal Revenue Service on December 19, 2011.

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On November 3, 2011, Information Document Request (IDR) #020 was issued to obtain information and clarification of IFCO's mission and program service activities. The IDR documented some of the problems noted from the review of the Form 990 and requested IFCO provide written statements to explain the errors. IFCO did not provide a written response nor was an oral explanation provided. Discussion was held with POA Stolar on this request multiple times. Although the POA claimed amended Form 990 would be forthcoming, an amended Form 990 was never filed.

On December 8, 2011, Information Document Request (IDR) #027 was issued to request information on how donations were solicited, processed and acknowledged. This IDR also asked IFCO to prepare and submit the required Schedule B, and to provide a written statement to address it was not included with the initial filing. IFCO did not provide a written response to this IDR.

Multiple problems were identified on the 2009 Form 990 and shared (verbally and in writing) with IFCO. When IFCO filed its 2010 Form 990 on December 19, 2011, some of the areas were corrected but others were not. Some significant errors on the Form 2010 Form 990 include:

- Part I (Summary), Line 1 (Mission or Significant Activities) of the 2010 Form 990 states: *"Providing Technical Assistance and support to community organizing efforts."* This is the same exact statement provided in Part III (Statement of Program Service Accomplishments), Line 1 (Mission) and in Part III, Line 4a.

Per instructions to Form 990, the following information should have been provided:

Part 1, Line 1 – Describe the organization's mission or its most significant activities for the year, whichever the organization wishes to highlight, on the summary page.

Part III, Line 1 – Describe the organization's mission as articulated in its mission statement or as otherwise adopted by the organization's governing body, if applicable. If the organization does not have a mission that has been adopted by its governing body, enter "None."

Part III, Line 4a – All organizations must describe their achievements for each of their three largest program services, as measured by total expenses incurred. The instructions state to be "clear, concise, and complete in the description". For each program service reported, IFCO should have described program service accomplishments through specific measurements such as clients served, days of care provided, number of sessions or events held, or publications issued.

- Part III, Statement of Program Service Accomplishments, Line 2 of the Form 990 asks: "Did the organization undertake any significant program services during the year which

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were not listed on the prior Form 990 or 990-EZ." IFCO responded by checking the "NO" box and still did not disclose specific activities, such as Viva Palestina, in Part III.

LAW:

Section 501(c)(3) of the Code exempts from federal income tax organizations organized and operated exclusively for charitable, educational, and other exempt purposes, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the regulations, organizational and operations tests, provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes, only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in IRC 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part inure to the benefit of private shareholders of individuals.

Section 1.501(c)(3)-1(d)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) of the regulations defines the term "charitable" for 501(c)(3) purposes as including relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

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The term "charitable" also includes the advancement of education. Section 1.501(c)(3)-1(d)(3)(i) of the regulations provides, in part, that the term "educational" as used in section 501(c)(3) of the Code relates to the instruction of the public on subjects useful to the individual and beneficial to the community.

The term "charitable" as used in Section 501(c)(3) is used in its generally accepted legal sense and therefore is not to be construed as limited by the separate enumerations in section 501(c)(3). See Redland Surgical Services v. Commissioner, 113 T.C. 47 (1999), aff'd per curiam, 242 F.3d 904 (9th Cir. 2001).

To be an organization described in Section 501(c)(3), the entity must be organized and operated exclusively for charitable, educational or other exempt purposes and may not permit any of its net earnings to inure to the benefit of any private shareholder or individual. The requirements are stated in the conjunctive and failure to satisfy any one requirement results in the organization failing to meet the requirements of section 501(c)(3). American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989).

The existence of a single nonexempt purpose, if substantial in nature, will cause failure of the operational test, regardless of the number or importance of truly exempt purposes. Better Business Bureau v. United States, 326 U.S. 279 (1945). See also Stevens Bros. Foundation, Inc. v. Commissioner, 324 F.2d 633, 638 (8th Cir. 1963), cert denied, 376 U.S. 969 (1964) (if there is present in an organization's operations a single noncharitable purpose substantial in nature, though it may have other truly and important charitable purposes, it is not entitled to be exempt).

In United States v. Wells Fargo Bank, 485 U.S. 351, 108 S. Ct. 1179, 99 L. Ed. 2d 368 (1900) the Supreme Court held that an organization must prove unambiguously that it qualifies for a tax exemption.

In Harding Hospital, Inc. v. United States, 505 F.2d 1068 (1974), the court held that an organization seeking a ruling as to recognition of its tax exempt status has the burden of proving that it satisfies the requirements of the particular exemption statute. Whether an organization has satisfied, the operational test is a question of fact.

An organization's purposes may be inferred from the manner in which it conducts its activities. See Living Faith v. Commissioner, 950 F.2d 365, 372 (7th Cir. 1991), aff'g T.C. Memo. 1990-484; B.S.W. Group v. Commissioner, 70 T.C. 352, 358 (1978).

An organization is not organized or operated exclusively for an exempt purpose unless it serves a public rather than a private interest. To meet this requirement, an organization must establish "that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests." TR 1.501(c)(3)-

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1(d)(1)(ii). Prohibited private interests include those of unrelated third parties as well as insiders. Christian Stewardship Assistance, Inc. v. Commissioner, 70 T.C. 1037 (1978); American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989). Private benefits include an "advantage; profit; fruit; privilege; gain; [or] interest." Retired Teachers Legal Fund v. Commissioner, 78 T.C. 280, 286 (1982).

In International Postgraduate Medical Foundation v. Commissioner, T.C. Memo. 1989-36, one individual controlled both a nonprofit that ran tours aimed at doctors and their families and a for-profit travel agency that handled all the nonprofit's tour arrangements. The nonprofit spent 90 percent of its revenue on travel brochures prepared to solicit customers for tours arranged by the travel agency. The tours were standard sightseeing trips, with little of the alleged medical education that was the basis for exemption. The Tax Court held the petitioner was not tax exempt. It was operated for the benefit of private interests, namely the founder's travel agency. The court found that a substantial purpose of the nonprofit was to increase the income of the travel agency. See also est of Hawaii v. Commissioner, 71 T.C. 1067 (1979)

Section 170(a) of the Code provides, subject to certain limitations, a deduction for charitable contributions as defined in Section 170(c), payment of which is made within the taxable year.

Section 170(c)(2) of the Code defines a charitable contribution to include a contribution or gift to or for the use of a corporation, trust, or community chest, fund or foundation which is (A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States; (B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals; (C) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and (D) which is not disqualified for tax exemption under Section 501(c)(3) of the Code by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 170(c)(2) of the Code further provides that a contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of paragraph 170(c)(2) only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph 170(c)(2)(B).

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Section 6001 of the Code states that "Notice or regulations requiring records, statements, and special returns," provides that every person liable for any tax imposed by this title (Title 26 of the United States Code, which is the Internal Revenue Code), or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

Section 1.6001-1(a) of the Procedure and Administration Regulations provides, in general, that any person subject to tax under subtitle A of the Code or any person required to file an information return with respect to income shall keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax or information.

Section 1.6001-1(c) of the regulations provides that for exempt organizations, in addition to such permanent books and records required by section 1.6001-1(a) with respect to the tax imposed by section 511 on the unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements.

Section 1.6001-1(e) of the regulations, Retention of records, provides that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Operational Test

Section 1.501(c)(3)-1(c)(1) of the regulations states that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

"Exclusively" in the statutory context is a term of art and does not mean "solely" or without exception, but the nonexempt activities must be incidental and insubstantial. Universal Life Church, Inc. v. United States, 13 Cl. Ct. 567 (1987). An organization is operated exclusively for exempt purposes if it engages in primarily exempt activities. An organization must not engage in substantial activities that fail to further an exempt purpose.