



BAPTIST FOUNDATION OF ILLINOIS

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Taxing Matters: a brief guide to Illinois Baptist church essential governing, registration, and incorporation documents

“We’ve got a sales tax exempt letter. Does that mean we’re a 501c(3)?” Or, “I know we’re incorporated as a church, but when we went to apply for a bank account, the bank couldn’t find us as a registered corporation with the Secretary of State.” This and dozens of other statements expressing puzzlement over the years suggests the truth of the matter: understanding the proper registration, incorporation, tax exemption, and governing documents for an Illinois Baptist church is *not* an easy thing.

Further, there are at least four governing authorities involved in the life of the church — and they seldom talk to each other or compare notes! This means that care needs to be exercised to ensure that all registration matters are consistent and trouble free, and the church is freed to do the main purposes of the church without distraction.

I. Deciding to incorporate.

In Illinois, there are two options for incorporating a church. The first is under the Religious Corporation Act. This law is much older (1872)¹ and was the way churches became incorporated until the legislature passed the Illinois General Not For Profit Act in 1943². To register under the Religious Corporation Act, a church merely has to complete an affidavit noting the election of trustees and file the same with the local County Recorder.

The second option is the one that Baptist Foundation recommends — registering under the General Not For Profit Act with the Secretary of State. Although this involves a few more steps in the initial registration and an annual filing requirement, it helps ensure the continuity of the organization and, just as importantly, is the most accepted way to do corporate business such as a land purchase or sale. Registration can occur online at cyberdriveillinois.gov or by submitting form NFP-102.10 available at http://www.cyberdriveillinois.com/publications/pdf_publications/nfp10210.pdf. If printing and

¹ The law was updated by the General Assembly in 805 ILCS 110.

² This is now the General Not For Profit Corporation Act of 1986

submitting the form in hard copy form, you can also submit your by-laws as a “further provision” (article 5).

A complete resource in this area is published by the state at http://www.cyberdriveillinois.com/publications/pdf_publications/c165.pdf. This is a very readable and concise guide that walks through an understanding of your articles of incorporation, registered agent, and the **online form to complete annually** to keep your status current.

The most important part of registering with the Secretary of State is your articles of incorporation. Even though you don't have to *expressly* register with the IRS as a 501(c)3 organization (more on this later). The church should organize their articles to be consistent with this standard charitable organization type. Further, articles of incorporation are to be consistent with the **bylaws** and **constitution** adopted by the church.

2. Constitution and By-Laws

Most churches think of a “Constitution and By-laws” first when beginning to organize. That's a great impulse, because it informs the membership how the business of church will be conducted, what constitutes membership and the circumstances for their dismissal (a huge issue), what officers (by position) are elected and can act for the church, and there's even an article covering the dissolution of the church if it ever becomes necessary. BFI also publishes specific language for the dissolution clause that describes a positive way for the church to dissolve without the rancor and unforeseen animosity that can occur when a church finds itself in such an extreme situation.³

First Baptist Church of Petersburg, IL recently completed a major revision to its constitution and bylaws. Although it may not address every need your particular church has, it does cover several bases and I've linked it here with their permission for your reference: <https://www.dropbox.com/s/vo2gbovhnp1qzv2/Constitution%20Revise%20Draft%202018%20%28FINAL%29.pdf?dl=0> Again, we recommend filing the By-Law section with the Articles of Incorporation (above) so that the documents of the church are consistent with internal governing documents.

3. EIN Registration

³ Allowing for the adjustment of style, suitable language would include: “In the event of a motion to dissolve the corporation, the assent of 3/4 of the then available active members voting in a special called business meeting is required for passage. In such an event, the church will utilize the services of the Church Legacy Program of the Baptist Foundation of Illinois, transferring all remaining assets into a Church Legacy Fund whose charitable objectives have been previously identified by members voting to dissolve. Baptist Foundation of Illinois is a 501(c)3 public charity and is a ministry of the Illinois Baptist State Association.”

All US based employers must register for a Federal Employer Identification Number with the IRS. This number will track through on almost all paperwork and is perpetual until the corporation is dissolved⁴. A church is a specific type of corporation identified by the IRS and can be registered using their automated site at <https://www.irs.gov/businesses/small-businesses-self-employed/employer-id-numbers>.

About the time a church is applying for their first EIN, they may be asking general questions about internal financial management. There are some great resources that can be accessed, including the Church Financial Guidebook by contacting the Church Resources Team at IBSA by email MarkEmerson@IBSA.org. You can also download the excellent Minister's Tax Guide for free at <https://www.guidestone.org/LearningCenter/Ministry/MinistersTaxGuide.aspx> and every year the IBSA sponsors a Minister's Tax conference lead by an Illinois Baptist tax professional.

4. 501c(3)?

All properly constituted churches are recognized by the Internal Revenue Service as 501(c)3 organizations. Unfortunately, many organizations with whom the church does business may wish to see the evidence of this classification. After all, it's this classification that ultimately allows for gift income to be classified as tax deductible for contributors under section 170 of the Code.

For *cooperating IBSA churches* (i.e. they give to the Cooperative Program and complete an Annual Church Profile annually), this classification can be automatic (and free) and the church can be listed as covered under IBSA's group exemption, potentially saving considerable costs in time and expense in procuring a separate 501c(3) determination letter. You may email JeffDeasy@IBSA.org or call 217-391-3104.

5. Sales Tax Exemption

Churches are permitted to purchase items for church use without paying Illinois Sales Tax. This status, however, is not automatic and there is an application process with the IL Department of Revenue. You can complete the STAX-1 form at this link: <https://www2.illinois.gov/rev/businesses/nonprofits/Pages/default.aspx>. Notice that the IL Department of Revenue also requests your articles of incorporation AND by-laws — yet another reason to be consistent with all documents. Finally, note that the IL Department of Revenue also requires a copy of your 501(c)3 determination letter — a problem easily addressed through IBSA affiliation noted in item four above.

⁴ For assistance with dissolving a corporation, notice of dissolution must be filed with various authorities depending on the incorporation type. Finally, notice must be filed with the IRS even though the church is a non-tax filer. For more assistance, contact BFI directly at 217.391.3116.

Sales tax exemption expires periodically (every five years) and the church must reapply for continued status. This renewal can be done online at <https://mytax.illinois.gov/>.

6. Purchasing or transferring property — Real Estate Property Tax Exemption

Most all Illinois Baptist Churches either own property or will at some point. Taking the right steps to establish and maintain property tax exemption is essential. It should be noted that only property that is owned by the church that expressly furthers its religious purpose is subject to such an exemption.

First, when purchasing property, the P-Tax 300 R form must be submitted with the transfer. This form is filed with the local assessor's office in the county where the property is located. They review the application along with all requested information and ultimately recommend it to the IL Department Revenue for ultimate approval.

The form (<https://co.sangamon.il.us/Portals/0/Departments/Supervisor%20of%20Assessments/Docs/Forms/PTAX-300-R.pdf>) details all the attachments that must accompany the application (again the pattern of document consistency — incorporation with articles of incorporation, 501(c) status, bylaws, etc.). Exemption status needs to be periodically re-affirmed by the local review board, ensuring the property is still in use for religious purposes and the ownership status is unchanged.

This brief statement is only intended as a “you must pay attention to at least these six areas” sort of document. There are many other business or legal issues a church may encounter from time to time. When those questions arise, BFI and IBSA stand ready to serve as a willing resource. When we don't have the answers readily available, we'll make sure we connect you with the best possible advice for the unique ministry of our Illinois Baptist churches.

For His Unfolding Kingdom,



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