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## Mysterious Ways

by Brigid McMEnamin

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LOS ANGELES ACCOUNTANT Michael Sklar was shelling out \$24,000 a year to send his four children to Jewish day schools in 1994 when a four-line Internal Revenue Service ruling caught his eye.

The November 1993 edict declared "obsoleted" the IRS' 1978 ruling barring members of the Church of Scientology from deducting the "fixed donations" they paid for religious education and "auditing"--a practice in which Scientology ministers ask members probing questions to identify areas in need of spiritual work.

Sklar wondered: If Scientologists can deduct their form of religious education, why can't I deduct mine? The Orthodox Jew decided to write off 55% of his tuition bills, based on the proportion of time his children's schools said was spent on religious courses.

No dice. In April U.S. Tax Court Special Trial Judge Larry L. Nameroff ruled that Sklar hadn't shown he was in the same position as members of the Church of Scientology. He was denied all his religious-education deductions, including the \$75 he paid for a special after-school class in the Talmud. Sklar is appealing.

Former IRS commissioner Sheldon S. Cohen doesn't give him much chance, in part because his kids went to a school that mixed religious and secular education. But the case does point out a glaring inequity that has existed since 1993, when the IRS cut a controversial deal with the Church of Scientology, a 46-year-old Los Angeles-based religion that claims 3 million U.S. members, including actor John Travolta and composer Isaac Hayes.

The agreement made the group tax-exempt and allowed its members to deduct fees not just for auditing, but also for such religious courses as "Success Through Communication" and "The Anatomy of the Human Mind."

Note that in 1989 the Supreme Court had upheld the IRS' refusal to allow deductions for auditing and Scientology classes. In that decision the Court even noted that if these deductions were allowed, it could open the door for taxpayers to claim deductions for parochial school. Big dollars are at stake,

since Americans pay an estimated \$11 billion a year for parochial schools and religious education.

After the Scientology deal Cohen appealed to the IRS to issue clear rules about what religious education was now deductible. It never did.

"The IRS realizes that giving in to Scientology was a mistake, and they don't want to extend that mistake," says former IRS commissioner Donald C. Alexander. "The result is most taxpayers are unfairly treated."

Sklar couldn't afford a lawyer in Tax Court. But he briefed and argued his own case, with a little volunteer help from a tax lawyer acquaintance. "My main concern is to get equal treatment," says Sklar, who adds he has no beef with Scientologists. "If it were any religious group I'd have the same problem. I blame the government."

Advice? Alexander thinks non-Scientology religious classes aren't deductible, although he suspects many taxpayers write off the fees and get away with it.

Cohen, on the other hand, argues that taxpayers who send their children to purely religious after-school training can rightfully claim the deduction in light of the IRS' deal with Scientology.

For now, non-Scientologists who want to deduct religious studies just have to pray that Cohen is right.

Or convert.

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