**Federal Laws preventing IRS molestation of Corporations Sole**

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I am going to make the bold and unambiguous statements that a Corporation Sole is the most legally solid and peaceful form of organizing a religious society, and that a Corporation Sole can consist of people that are primarily made up of your family and your extended family group.

In spite of some recent publicity to the contrary, the laws are still in place and enforceable that compel the federal and state governments and their agencies to recognize and accept a legally formed and operated Corporation Sole. Included among the agencies that must recognize and accept Corporations Sole is the Internal Revenue Service [IRS].

You will learn in this short article just where to find support for the legal protection for your Corporation Sole. The people who are enjoying the legal usage of Corporation Sole documents prepared by the author are encouraged to make maximum use of the citations of law in this article.

Corporations Sole are very unique in the world of asset management entities, and are very often misunderstood by people who attempt to “***buy***” some kind of protection. Beginning in about 1990, there were a growing number of multi-level and other aggressive marketers who promoted Corporations Sole without bothering to study or understand the laws and history, and in some cases, they even tried to make up their own laws and history. The IRS and Department of Justice became involved and removed some of the more unscrupulous marketers, so for the past few years the Corporation Sole, ***as an organization form,*** has not been attacked as it had been in previous years.

I will re-state for the record that as of this time, I have not been informed that any of the Corporations Sole documents that I have prepared have ever being taken to court by the IRS.

The laws are quite clear on how the states can recognize Corporations Sole, and also clear on the powers that can be exercised by the officer in charge of the Corporation Sole. In our workshops, we discuss several documents and the laws that are critical in helping you understand how solid and safe a Corporation Sole is, compared with living trusts, Charitable Remainder Trusts, Common Law Trusts, and other forms of estate preservation.

Because of the shortness of this article, you may have to find a local law library so you can look up some definitions for some of the critical words that I'm using, but I will type in the definitions here so all you have to do is verify my own work. The ultimate source for legal definitions will be **American Jurisprudence, 2nd Edition (AmJur2d)**, which defines all words and phrases by quoting court decisions on the definitions of those words. I do not have that set of volumes, but I do use **Black’s Law Dictionary, Fifth Edition, 1979 (Black’s 5th)**. Black’s 5th is a good dictionary as long as we use its definitions that are based upon court rulings. Other than AmJur2d or Blacks 5th, Webster’s unabridged or Encyclopedia Britannica can also be used in court. I will present copies of the pertinent portions of some laws and other government documents, and also give you links to them on the Internet, so you can verify that my conclusions are legally solid. In order to emphasize the court decisions and citations, I put them in **bold**, and **underline the name of the court case**.

First of all, I should cite **Genesis 1:27 & 28**, and other biblical cites that show that **YHWH** created man **and** woman, and commanded **them** to multiply and fill the earth. Also, there is no indication in the biblical law that **YHWH** has vacated His mandate that we are responsible to teach our own families the law from the time we get up in the morning, when we travel, work, and eat until we go to bed at night. (**Deuteronomy 11:18-21**)

**WHO can form a Corporation Sole?**

Not just anyone can file a Corporation Sole. One must ***already*** ***be*** an existing officer in an existing religious society (such as your family). I cannot **SELL** you a corporation sole. Nobody can. You are either an officer in an existing society, or you are not. But, I can assist you in filing solid, tested, Articles of Incorporation.

In accord with [Montana Code Annotated 35-3-201](http://data.opi.state.mt.us/bills/mca_toc/35_3_2.htm) we see that:

**35-3-201. When corporation sole may be created.** Whenever the rules or discipline of any religious denomination, society, or church permit or require the **estate, property**, temporalities, and business thereof **to be held in the name of or managed by a bishop, chief priest, or presiding elder**, it shall be lawful for such bishop, chief priest, or presiding elder of such religious denomination, society, or church to become a corporation sole in the manner herein prescribed.

**WHAT is the purpose of a Corporation Sole?**

Because we are trying to establish that the Corporation Sole enjoys an extremely high level of ***civil*** legal protection for one’s family and family holdings, we must examine what the law says about ***who*** may form a Corporation Sole. Then, because laws are made using legal definitions for words, not “street definitions,” we need to follow the meanings of the words in each law, and relate them back to Corporations Sole, religious societies, and your family’s holdings.

These Montana Statutes also tell us **why we** may form a Corporation Sole, and **how** such Corporation Sole is to be filed for recognition by Montana. Wyoming, Colorado, and Arizona statutes are similar.

We find in this law that a ***religious society*** has the very same right and power of forming a Corporation Sole as does a recognized denomination or ***church***.

**35-3-202. Articles of incorporation.** (1) The articles of incorporation must set forth:

(a) the **name** of the corporation;

(b) the **period of duration**, which may be **perpetual**;

(c) the **name of** the religious denomination, **society**, or church **creating the corporation sole**;

*(d) through (h) redacted*

**Our next question is, “*What is a Religious Society?*”**

The secular law basis for using the Corporation Sole for protecting your extended family's holdings begins with the fact that ***your family*** meets the qualifications of a religious society. **Black's 5th**, page **1247**, defines Society as:

***Society.*** *An association or company of persons (generally* ***unincorporated****) united together by mutual consent, in order to deliberate, determine, and act jointly for some common purpose. In a wider sense, the community of public; the people in general.* ***Gilmer v. Stone, 120 U.S. 586, 7 S.Ct. 689, 30 L.Ed. 734.***

*Term “****society****,” loss of which is recoverable element in death action under general* ***maritime law****, embraces broad range of mutual benefits each* ***family******member*** *receives from other’s continued existence, including love, affection, care, attention, companionship, comfort and protection’ thus, widow, parent, brother, sister, or child may be compensated for loss of society.* ***Consolidated Machines, Inc. v. Protein Products Corp., D.C.Fla., 428 F.Supp. 209, 228.***

*[This means the case can be found in the* ***428****th volume of* ***F****ederal* ***Supp****lement cases, which begins on page* ***209****, with the specific reference being found on page* ***228****.]*

*Within rule that* ***husband is entitled to damage for loss of wife’s “society”*** *through wrongful injury, means such capacities for usefulness, aid, and comfort such as a wife as she is possessed at the time of the injuries.* ***Homan v. Missouri Pac. R. Co., 335 Mo. 30, 70 S.W.2d 869.*** *See also* ***Consortium****.*

One must always remember that when laws are written, the legislative body uses the legal definitions for the words in the laws. The House and Senate hire specially trained legal departments to assure that the wording in all of the laws are as specific as possible.

**So, as the most basic religious unit, *the family* qualifies under secular law as a society as well as it does under biblical law.**

So, what is a **Religious Society**? Black’s 5th ***does*** define “**Society**,” but they do not use various court cases in defining “Religion” *tied in with* the word “society” for defining “***religious society.***” There are no surprises in Black’s definition for the word “religion,” so I will not take up space in this article on this definition. For “***Religious Corporation***,” the only note is to “**see: Corporation.**”

**26 USC § 7701(n) Convention or association of churches**

**For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.**

Black’s 5th, pages 307 – 310 lists many definitions for many kinds of corporations. Under the heading of “Classification,” it says on page 307 that:

According to the *accepted definitions and rules, corporations are classified as follows:*

***Public and private.*** *A public corporation is one created by the state for political purposes and to act as an agency in the administration of civil government, generally within a particular territory or subdivision of the state, and usually invested, for that purpose, with subordinate and local powers of legislation; such as a county, city, town, or school district. These are sometimes called “political corporations.” See* ***Municipal corporation.***

***Municipal corporation*** is found on page 917 of Black’s 5th. It is longer than the other definitions, so I will use portions of the definition that are defined by court cases.

***Municipal corporation.*** *A legal institution formed by charter from sovereign (i.e. state) power erecting a populous community of prescribed area into a* ***body politic******and corporate*** *with corporate name and continuous succession and for the purpose and with the authority of subordinate self-government and improvement and* ***local administration*** *of affairs of state. A body corporate consisting of the inhabitants of a designated area created by the legislature with or without the consent of such inhabitants for governmental purposes,* ***possessing local legislative and administrative power****, also power to exercise within such area so much of the administrative power of the state as may be delegated to it and* ***possessing limited capacity to own and hold property*** *and to act in purveyance of public conveniences.*

***Municipal corporation*** *is a* ***body politic******and corporate****, created to administer the* ***internal*** *concerns of the district embraced with its corporate limits, in matters peculiar to such place and not common to the state at large.* ***Tribe v. Salt Lake City Corp., Utah, 540 P.2d 499, 502.***  *A municipal corporation* ***has a dual character, the one public and the other private,*** *and exercises correspondingly twofold functions and duties—one class consisting of those acts performed by it in exercise of* ***delegated sovereign powers for benefit of people generally****, as arm of state, enforcing general laws made in pursuance of general policy of the state, and the* ***other consisting of acts done*** *in exercise of power of the municipal corporation* ***for its own benefit****,* ***or for the benefit of its citizens alone,*** *or citizens of the municipal corporation and its immediate locality.* ***Associated Enterprises, Inc. v. Toltec Watershed Imp. Dist., Wyo., 490 P.2d 1069, 1070.***

In this definition, we see that a **body politic** has the legal power of doing things that are ***ONLY*** for the ***internal*** benefit of their own citizens, or in the case of a religious society, only for the benefit of the members of the religious society. While the Corporation Sole has the power of doing good works on behalf of all mankind, ***they are under no legal obligation to do so.***

In Black’s 5th, on page 159, we find a definition for the terms “**body politic** or **corporate**:”

***Body politic*** *or* ***corporate****. A social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good.* ***Uricich v. Kolesar, 54 Ohio App. 309, 7 N.E.2d 413, 414.*** *Also a term applied to a municipal corporation, school district, county or city. State or nation or public associations.* ***Utah State Building Commission, for Use and Benefit of Mountain States Supply Co., v. Great American Indemnity Co., 105 Utah 11, 140 P.2d 763, 767.***

**So, what is a Corporation Sole?**

We can look in **Black’s 5th**, again, on pages **309**, first, then on page **308**.

***Corporation sole.*** *Unusual type of corporation consisting of only one person whose successor* ***becomes the corporation*** *on his death or resignation; limited in the main today to bishops and heads of dioceses. See also Aggregate and sole, supra.*

Unfortunately, there are no court citations accompanying this definition in Black’s.

Now, we can look at **Aggregate and sole**, on page **308**.

***Aggregate and sole.*** *A* ***corporation sole*** *is one consisting of one person only, and his successors in some particular station, who are incorporated by law in order to give them some legal capacities and advantages,* ***particularly that of perpetuity****, which in their natural persons they could not have had. In this sense,* ***the sovereign in England is a sole corporation****, so is* ***a bishop****, so are some deans distinct from their several chapters,* ***and so is every parson and vicar****.*

**HOW secure is a Corporation Sole?**

Next, we will look at some of the Montana Corporation Sole Statutes, and see how much protection they provide. They are found in **Montana Statues, Title 35, Chapter 3, Sections 201 through 210**. The relevant portions of the Corporation Sole statues are copied here:

**35-3-202. Articles of incorporation.** (1) The articles of incorporation must set forth:

(a);

(b);

(c)

(d) the **name of the** bishop, chief priest, or **presiding elder** whose office is incorporated under this chapter, together with a **designation of the boundaries of the territory over which that person presides or over which that person's jurisdiction extends and the facts authorizing the incorporation**;

You can see in Section ***35-3-202*** that a religious conference, or other ecclesiastical body ***having jurisdiction*** over its members, has the power of extending its ***spiritual jurisdiction*** and charities with recognition by the state by filing in the prescribed manner.

**IMPORTANT: The state *recognizes* that this spiritual jurisdiction pre-exists the filing with the state, and makes no attempt to *regulate* the jurisdiction, only seeking *notification* in order that the state can *recognize* the jurisdiction.**

**35-3-205. Powers of corporation sole.** Every corporation sole organized under the provisions of this chapter, for the purpose of the trust described in this section, has power:

(17) **to have and *exercise all powers necessary or convenient* to effect ANY OR ALL of the purposes for which the corporation is organized**.

Also, in Section **35-3-205(17)** we see that the state is recognizing that the manager, administrator, or Trustee of this Corporation Sole has the legal right and power to do whatever is ***incident and necessary*** for carrying out the objectives of the society. This statute says that the officer has all of the rights that are now provided by law, **PLUS** “**have and *exercise all powers necessary or convenient* to effect ANY OR ALL of the purposes for which the corporation is organized.***”* This is a virtual “**blank check**” that grants power *in advance* to make your own law that is internal to your religious society. Like any other **Body Politic** (municipal corporation), the Corporation Sole only has this power when operating ***within its own jurisdiction*** (in this case, ***spiritual*** jurisdiction) over people who have consented to the jurisdiction of the Body Politic. The City of Butte, Montana, does not govern the City of Missoula, Montana. The Catholics do not govern the Seventh Day Adventists.

We also saw in section **35-3-202(c)** that the recognition under this Montana Statute is extended to all ***religious societies*** as well as organized churches. This can include your family.

**Is there also Federal protection for Corporations Sole?**

So, that is what it says in the Montana Statutes. But this is only ***state*** law. What weight does this have when compared with Federal law? Good question! I’m glad that you ask? Let’s look at a Federal Code that has been enacted by congress into “***positive law***,” so we do not need to look further to find the enforceable law. Let’s look at **Title 28 United States Code, Section 1652**:

*TITLE 28 US Code, PART V, CHAPTER 111, § 1652*

## *§ 1652. State laws as rules of decision*

***The laws of the several states****, except where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide,* ***shall be regarded as******rules of decision*** *in civil actions in the courts of the United States, in cases where they apply.*

**link:** <https://www.law.cornell.edu/uscode/text/28/1652>

A “***rule of decision,***” also called “***stare decisis***,” is a supreme Court ruling that has been challenged and upheld enough times that it is extremely unlikely that it will ever be overturned.

Because the **first amendment** to the U.S. constitution guarantees ***free exercise of religion***, we are not going to find an Act of Congress that restricts free exercise of religion. Treaties are between foreign nations, and will not restrict free exercise of religion inside of the USA. Therefore, federal statutes are saying that the state laws of Montana, regarding the powers of a Corporation Sole, are to be given the same weight as a settled supreme Court decision.

And in the U.S. constitution, we find:

### *Article IV, Section 1.*

1. ***Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.***

I can think of no meaning for the word "full," other than "***FULL***." Your Corporation Sole that is filed with Montana laws must be given **full** faith and credit by the civil authorities in your own county and state, as well as by the IRS.

This is interesting, but what does it really mean? How can this knowledge help my religious society in case the IRS wants to examine our books?

**What does the Internal Revenue Manual say?**

This is what the **Internal Revenue Manual** (**IRM**) has to say about the relative importance of Montana’s laws that protect your religious society.

**4.10.7.2.8.8 (01-01-2006)** **Importance of Court Decisions**

1. Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.
2. Certain court cases lend more weight to a position than others. **A case decided by the US Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The IRS must follow Supreme Court decisions.** For examiners, Supreme Court decisions have the same weight as the IRC.
3. **Decisions made by lower courts, such as Tax Court**, District Courts, or Claims Court, **are binding on the IRS only for the particular taxpayer and the years litigated.** Adverse decisions of lower courts do not require the IRS to alter its position for other taxpayers

<https://www.irs.gov/irm/part4/irm_04-010-007#idm139859648364704>

(you may have to scroll up a little bit)

When we tie these laws together, we see that because of **28 USC 1652**, we can substitute the words “**Montana’s Corporation Sole Statutes**” every time we see the words “**Supreme Court**” or “**Supreme Court Decision**” in the section of the Internal Revenue Manual that expounds on the Importance of Court Decisions.

The law is solid that your Corporation Sole is a ***bona-fide Body Politic*** that is filed with Montana. As such, you have the same rights and powers as any City, Township, County, State, or Federal district to ***create your own court*** for implementing the Religious Law that you stipulated in the Articles of Incorporation that you filed with and were accepted by the state. You have the statutorily-recognized ***right*** touse Trusts and Trust Funds to receive and set aside specific funds for specific beneficiaries and purposes. You also have the ***right*** to be free of molestation by civil authorities as long as you remain within your **spiritual jurisdiction** and are not a clear and present danger to the public health, safety, and morals.

This has been a short primer on ***why*** the legitimate, ***well-written*** Corporation Sole documents, operated by legitimate, ***knowledgeable***, peaceful people on behalf of their religious societies (including their extended families) *will continue to be left alone* by the IRS.

Yes, there have been Corporations Sole that have been “hit” by the IRS in the past, but if they had simply followed the easily-understood laws as they are written, then they would have not only enjoyed the right of peaceful assembly and practice of their own religious beliefs, but they would also have enjoyed the absence of molestation by the IRS.

