

CHARITY FUND GUIDELINES

Financial Management Committee

December 14, 2020

OVERVIEW

The Bible teaches us to help the poor and needy (Gal 2:10, Jas 1:27). The church must also abide by tax rules designed to prevent abuse. The purpose of this guideline is to provide guidance on how to fulfill both the biblical teachings and the tax rules.

Charity funds typically are established by churches to assist individuals in need. The income tax regulations define *charitable* to include “relief of the poor and distressed or of the underprivileged” and *needy* as

“being a person who lacks the necessities of life...as a result of poverty or temporary distress. Examples of needy persons include:

- A person who is financially impoverished as a result of low income and lack of financial resources,
- A person who temporarily lacks food or shelter (and the means to provide for it),
- A person who is the victim of a natural disaster,
- A person who is the victim of a civil disaster,
- A person who is temporarily not self sufficient as a result of sudden and severe personal or family crisis.”

(Treas. Reg. § 1.170A-4A(b)(2)(ii)(D))

A person “do[es] not have to be totally destitute to be needy.” Rather, “merely lacking the resources to meet basic necessities” qualifies. The church should carefully review every distribution to ensure that all recipients of the charity fund meet this definition and that the assistance provided to each recipient is not substantial or regular. The church should keep adequate records to support the basis upon which assistance is provided.

HOW TO

Fund Setup

The church council may set up the charity fund without congregational approval if the distribution amount for each gift under the charity fund is limited to an amount within such church council’s spending limit. If the church council wishes for the distribution amount of any gifts under the charity fund to exceed such church council’s spending limit, the charity fund must be approved through a congregational meeting.

Administering Body

The church council is the default administering body for the charity fund.

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Record Safekeeping

The safekeeping of the accounting and administrative records of the charity fund should be assigned to the relevant church council department(s).

Purpose and Naming of the Fund

The purpose and name of the charity fund ought to be broad (e.g., Church Charity Fund) and not be tied to a specific event or type of disaster (e.g. "COVID-19 Fund"). See explanation in the "Charitable Class" section.

Contributions

Contributions may be made directly to the charity fund by indicating the name of the local church's charity fund on the donation. The local church should not accept any contributions that are earmarked for a specific event such as a particular disaster or emergency hardship (e.g., Contribution checks should not reference "COVID-19" but can note donation to "Church Charity Fund"). See explanation in the "Charitable Class" section. Under federal law, an existing qualified charity generally must be given full control and authority over the use of donated funds. As such, the local church should not accept any contributions that are earmarked for the benefit of a particular individual or family. Subject to meeting these contribution requirements, such contributors may be eligible to claim federal income tax deductions for their contributions if they file itemized tax returns.

Charitable Class

The charity fund policy ought to spell out who is eligible to properly receive assistance from the charity fund (the "charitable class"). The IRS requires that a charitable class must be either large enough that the potential beneficiaries cannot be individually identified, or sufficiently indefinite that the community as a whole, rather than a pre-selected group of people, benefits when a charity provides assistance. It further provides that if the group of eligible beneficiaries is limited to a smaller group, such as members of our church, the group of persons eligible for assistance is deemed to be sufficiently indefinite if all members of our church who are victims of all disasters, present or future, are eligible to receive assistance from the charity fund.

Needy/Distressed Test

The administering body of the charity fund must make a specific assessment that a recipient of assistance is financially or otherwise in need. Individuals do not have to be totally destitute to be financially needy; they may merely lack the resources to obtain basic necessities (such as food, clothing, housing, transportation, and/or medical assistance). The church's decision about how its charity funds will be distributed must be based on an objective evaluation of the applicant's needs at the time the assistance is provided. Financial need and/or distress may arise through a variety of circumstances. Examples include individuals who are:

- temporarily in need of food or shelter when stranded, injured, or lost because of a disaster; or

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- in need of long-term assistance with housing, childcare, or educational expenses because of a disaster; or
- unemployed, suddenly or catastrophically ill, accident victims, or victims of violent crimes.

Distribution Cap

Distribution cap amounts for any assistance made under the charity fund ought to be determined and set forth in the charity fund policy. The amount provided to any applicant of the charity fund must be limited to the needs of the applicant, and the local church should avoid substantial or regular aid to any beneficiaries, as this may jeopardize the church's tax-exempt status.

Income Tax

Payments that individuals receive from a charity fund as a result of a disaster or emergency hardship are considered to be gifts and are excluded from the recipient's gross income (IRS Publication 3833; IRC Section 102). Where the need or hardship arises due to any qualified disasters, relief payments reimbursing or paying any individuals' specified expenses in connection with such qualified disasters are not taxable as income, and further, are not subject to the gift tax (IRC Section 139). See below for the definition of "qualified disaster." For non-qualified disasters or emergency hardships, the IRS regulation is silent on if churches need to pay a gift tax on gifts exceeding the annual gift tax exclusion.

Fund Policy

The local church ought to develop a policy to administer its charity fund based on these guidelines.

Qualified Income Calculation

Per a resolution at the 24th NCC (1999, Proposal F-3), charity funds are considered special contributions that are excluded from the Qualified Income calculation and contribution to the General Assembly. There is a separate line item on the annual Qualified Income report for charity fund contributions.

Fund Transfer

It is not advisable to transfer money from the general fund into the charity fund, even when initially setting up the charity fund. If there are insufficient monies in the charity fund, charity fund gifts may be distributed from the general fund. However, any monies in the charity fund should not be transferred back into the general fund. This is because any contributions made to the charity fund are exempt from Qualified Income calculation, and thus, once any amounts are included in the charity fund, those amounts should not be transferred back into the general fund. Additionally, in the event the local church accepted any contributions that were restricted to the

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charity fund, the local church cannot move such contributions to the general fund. *Charity fund distributions made from the general fund are not exempt from Qualified Income calculations.*

QUALIFIED DISASTER RELIEF (SPECIAL PROVISION)

Special provisions apply where a charity fund disbursement is for a qualified disaster:

- A qualified disaster is defined in IRS Code section 139 as a disaster that:
 - results from terrorist or military actions,
 - results from an accident involving a common carrier,
 - is a Presidentially declared disaster, or,
 - is an event that the Secretary of the Treasury determines is catastrophic.
- Qualified disaster relief payments within the meaning of IRS Code section 139 include payments received (regardless of the source) for the following expenses:
 - reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,
 - reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence due to a qualified disaster (a personal residence can be a rented residence or one you own), and,
 - reasonable and necessary expenses incurred for the repair or replacement of the contents of a personal residence due to a qualified declared disaster.

SPECIAL CIRCUMSTANCES

Assistance to Members of the Administering Body and Church Council Members

There are special considerations when a church council member or his/her family members requests assistance from the charity fund. The IRS considers these individuals as “disqualified persons” because they are deemed to have significant influence on the church and its decisions. IRS Code Section 4958 imposes excise taxes on excess benefit transactions between disqualified persons and tax-exempt organizations except in certain limited situations, such as where the payment is made to a “charitable beneficiary.” As such, the church should be very careful in documenting the needs of these individuals.

This limitation pertains to current church council members and their family members as well as any church council members who served in the last 5 years (lookback period) and their family members.

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If any applicant to the charity fund is a current church council member or a family member of a current church council member, such current church council member should recuse himself/herself from evaluating such application.

For the purposes of this section, family members include spouse; brothers or sisters (by whole or half blood); spouses of brothers or sisters (by whole or half blood); ancestors; children; grandchildren; great grandchildren; and spouses of children, grandchildren, and great grandchildren. (Treas. Reg. § 53.4958-3(b)(1))

The references to the church council in this section also apply to members of the administering body of the charity fund if the church council uses a separate administering body to administer the charity fund.

Employees

Employees of the local church may be able to receive charity fund aid, but those distributions are generally considered by the IRS Code section 102 to be taxable income and must be reported on the employee's W-2. The same rule applies regardless if the aid is given directly to the employee or to pay for the employee's need, such as paying rent or a hospital bill on behalf of the employee. Charity fund aid to the employee's immediate family is also considered by the IRS to be taxable income to the employee.

One exception to the employee rule exists if the employee suffers a loss as a result of a qualified disaster. In the case where the employee suffers a loss from a qualified disaster, charity fund aid reimbursing or paying the employee's specified expenses in connection with such qualified disaster is not subject to employment taxes or withholding (IRS Code section 139). See above for the definition of "qualified disaster."

APPLICATION & DOCUMENTATION

The church must maintain adequate documentation to show that the charity fund recipients served are needy or distressed, and that it has made distributions to individuals after making appropriate needs assessments.

Application Form

To facilitate the collection of the necessary and relevant information, please see a sample application form the church may use or reference in **APPENDIX A**.

A separate application should be submitted for each request for assistance.

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Church Decision Document

According to IRS Publication 3833, the church should maintain the following documentation:

- a complete description of the assistance provided,
- costs associated with providing the assistance,
- the purpose for which the aid was given,
- the church's objective criteria for disbursing assistance under each program,
- how the recipients were selected,
- the name, address, and amount distributed to each recipient,
- any relationship between a recipient and officers, directors, or key employees of, or substantial contributors to, the church, and
- the composition of the church council or administering body approving the assistance.

The church should retain the application form(s) (with supporting documents) and church decision document(s) at least three calendar years after the decision was made. All documentation should be kept confidential and stored securely.

TAX FORM

To the extent that a charity distribution is made directly to a charity recipient and represents a legitimate charitable distribution by the church (not in exchange for services performed), no Form 1099-MISC would be required (IRS Letter Rulings 9314014, 200113031).

Charity payments distributed to third parties (e.g., landlords) on behalf of a charity recipient may trigger a requirement for the church to issue a Form 1099-MISC. To avoid the necessity of filing Form 1099-MISCs, the church may want to make charity payments directly to the charity recipient rather than to a third party on behalf of the recipient. Please refer to Instructions for Form 1099-MISC for filing requirements if the church chooses to make charity payments directly to third parties.

DISCLAIMER

This guideline provides general information about issues that should be considered or addressed when setting up each local church's charity fund. This guideline is not a substitute for the need to seek legal counsel. Additionally, state and local non-profit laws should be considered when determining each local church's charity fund policies to ensure compliance with state and local laws.

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REFERENCES

IRS Publication 3833

IRC Section 102

IRC Section 139

IRC Section 4958

IRS Form 1099-MISC Instructions

APPENDIX A

CHARITY FUND APPLICATION

True Jesus Church in _____

ALL required supporting documents must be sent together with your application form.
Incomplete applications will not be processed. Please make sure your application is legible.

Applicant Personal Information

Legal name (include non-English name if applicable)	
Date of birth	
Drivers' license (State) or other government-issued ID #	
Marital status; number and names of dependents	
Home address	
Telephone (home, cell or work)	
Email address	

Religious Affiliation

Which True Jesus Church do you currently attend?	
Baptism	Date: _____ Location: _____
How long have you attended True Jesus Church? Specify other TJC locations, if any.	
How frequently do you attend services at True Jesus Church?	

Employment

Current employment status:	
Annual household income:	
List the last three employers,	1. _____

years on the job and positions held:	<p>2.</p> <p>3.</p>
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Financial Need Request

Reason for the need for assistance:	
Financial needs calculation:	<p>1. Total amount of need:</p> <p>2. Financial aid from other sources:</p> <p>3. Financial support from family and friends:</p> <p>4. Estimated shortage:</p>
Requested amount:	
Intended use of the assistance:	
<p>Please provide any additional information that supports your application.</p> <p>(Please attach bills and invoices if applicable)</p>	

Applicant Signature

Application Date