BENEVOLENCE PROGRAMS THAT WORK
How churches can meet the ever-increasing needs for financial assistance effectively.
By Elaine L. Sommerville, CPA

In churches and other nonprofits, benevolence programs are established to identify and meet the needs of underresourced individuals—people who are unable to meet essential needs for themselves or their families. Benevolence programs stem from a church's desire to do good to others, show goodwill, extend kindness, and extend charity to those in need. While benevolence is most commonly considered in light of finances, any program that provides resources is a benevolence program. In the majority of circumstances, no matter the method of meeting a need, there are financial considerations involved.

The concept of a charitable class
For a benevolence program to fall within the parameters of a church's tax exempt status, the program must serve a "charitable class." There are several acceptable charitable classes, including children, the elderly, the poor, distressed, or underprivileged. A charitable class must be comprised of either an indefinite or sufficient size to avoid benefiting private interests. For example in Private Letter Ruling 201205011, a nonprofit organization formed to aid children with special needs was denied exemption because all of the children belonged to the same family. While the target group—children with special needs—qualified as a charitable class, the size of the group was too small to constitute a valid exempt program.

If a program does not serve a charitable class, then more than likely, it does not meet the test for being a recognized exempt-purpose program. While churches may operate programs for several charitable classes, most benevolence programs are aimed at providing relief to those suffering a financial hardship or experiencing an unusually stressful situation.

Structure of a benevolence program
The key to operating a successful benevolence program is in the structure of the program. The more structured a benevolence program, the easier it will be to operate, and the more successful it will be. In order for a program to be in accordance with the exempt status of the church, it must operate according to a formal structure. (Church in Boston, 71 T.C. 102 & PLR 201235022) Additionally, a well structured program protects the church's employees from being caught in the middle of a person in need and the church's decision to provide assistance.

Successful benevolence programs provide the following:
1. A method of verifying the person is a member of a valid charitable class, that a need exists and the applicant does not have available resources to meet his needs. Candidates for benevolence funds should be required to submit an application and interview with a church leader. The application and interview process will also document:
   a. the church's decision to make the payment;
   b. proof that the payment is within the guidelines established by the church; and
   c. proof that the payment fulfills the church's exempt purposes.
2. A set of guidelines so church staff members have the tools to operate the plan. Some common items that
are addressed in a benevolence policy include:

a. Who has the authority to approve the request, and how much can they approve?
b. What types of needs will be considered, and what needs will not qualify?
c. What type of third party confirmation will be required to confirm the existence of the need?
d. What proof of other resources will be required?
e. Who is the targeted group that will be considered—just church members, or is it available to the general community?

CAUTION: Do not link approval of a benevolence request to a person’s tithing records. This could jeopardize their charitable contribution receipt.

f. Are there certain situations that will disqualify an applicant?
g. What does the applicant have to do to qualify for the assistance? Some churches require recipients who are not members of the church to watch an educational video or attend financial counseling before granting a request. The church may not require the recipient to perform any services for or on behalf of the church.

h. What are the rules regarding meeting the need? For example, some churches provide cash directly to the applicant, while others make payments to a third party, such as the electric company or the landlord.
i. How will multiple requests for assistance from the same person be handled?
j. How will requests from employees and their family members be handled?
k. What is the process for making the requests?

3. A manner of reviewing the above information by persons independent or disinterested from the person making the request.

SAMPLE BENEVOLENCE FUND POLICY

By Richard R. Hammar

Here is sample wording for a church benevolence fund policy:

First Church, in the exercise of its religious and charitable purposes, has established a benevolence fund to assist persons in financial need. The church welcomes contributions to the fund. Donors are free to suggest beneficiaries of the fund or of their contributions to the fund. However, such suggestions shall be deemed advisory rather than mandatory in nature. The administration of the fund, including all disbursements, is subject to the exclusive control and discretion of the church board. The church board may consider suggested designations, but in no event is it bound in any way to honor them, since they are accepted only on the condition that they are merely nonbinding suggestions or recommendations. As a result, donors will not be entitled to a return of their designated contributions on the ground that the church failed to honor their designations.

Donors wishing to make contributions to the benevolence fund subject to these conditions may be able to deduct their contributions if they itemize their deductions on their federal income tax return. The church cannot guarantee this result and recommends that donors who want assurance that their contributions are deductible seek the advice of a tax attorney or CPA. Checks should be made payable to the church, with a notation that the funds are to be placed in the church benevolence fund.

The Official Board
First Church

This sample was taken from Richard Hammar’s annual Church & Clergy Tax Guide, available on YourChurchResources.com.

Areas requiring caution

Discretionary Funds

Many churches maintain a discretionary fund for a minister’s use for various business items. It is not uncommon for these funds to be used for benevolence assistance outside of a church’s established program.

The benevolence paid out of this fund should be limited in a dollar amount and must still meet the documentation requirements mentioned above. If the recipient of the benevolence funds does not complete the necessary application, then the minister should complete it for them. This should not be used as an avenue to avoid the church’s formal benevolence program.

Repeat Requests

While most benevolence plans are designed primarily to address short-term needs, churches should consider how they will handle situations that require long-term assistance. Some people encounter extended illnesses or circumstances that prohibit them from working and providing for their families. These situations should be cautiously supported by the church. The church should take the following steps:

1. Have the appropriate committee/board approve the situation;
2. Perform regular reevaluations of the situation to document that the need continues to exist; and
3. Assist the recipient in exploring other sources to meet a continued need.

Designated Gifts

The most common questions regarding benevolence usually center on the subject of designated contributions. It is not acceptable for a church to accept a contribution that is earmarked for an individual, even one with a need, and pass it through outside of the normal processes of the church. The church is allowed to solicit the congregation for additional funds for its benevolence program, but it is not allowed to raise unlimited or undefined funds for a specific individual.

Example. The Smith’s house burned and the family has lost everything. The church should not raise funds for the Smith family. It should inform the congregation that it is raising money
for the benevolence fund in order to be able to assist the Smiths as well as continue to assist others at this time.

The church should have a gift acceptance policy that states repeatedly that any designation is considered a “suggestion” and the final use of all funds is at the discretion of the governing body, such as the finance committee, board of directors, or elders. (I cover this topic in the article, “When Gifts Come with Strings Attached” (Church Finance Today, December 2012).

Employee Benevolence

Benevolence is not taxable to the recipient according to Internal Revenue Code Section 102, which provides an exclusion for true gifts. However, it specifically states that the gift exclusion is not available to amounts paid to an employee. For this reason, benevolence assistance to an employee should be approved as additional income. This income is also subject to employment taxes if the employee is not a minister.

Example. Reverend Jones has been diagnosed with a medical condition requiring expensive treatments. Reverend Jones meets all the criteria to receive assistance from the benevolence fund. The committee meets and determines that he is entitled to $1000 of assistance. Since Reverend Jones is an employee of the church, the $1,000 must be added to his Form W-2 issued by the church.

Special Issues with Employee Benevolence

- Employees Considered as Disqualified Persons—This is a special class of people defined by Internal Revenue Code Section 4958, which includes certain employees as well as nonemployees. In general, these are people who are in positions of control and authority. Since all of their income is required to be “reasonable” and “approved in writing,” it is imperative that any additional payments to this group of employees be carefully documented. Failure to follow the correct procedures could result in the assessment of penalties to the employee ranging from 25 percent to 200 percent of the amount of the assistance.

- Family Members of Employees—Benevolence to family members of employees is also considered to be income to the employee, if the employee is responsible for the care of the family member. There are times that the relationship may not trigger income to the employee as long as the employee is not a disqualified person. Assistance to family members of disqualified persons is virtually always attributed to the disqualified person.

- Exceptions under IRC Section 139—IRC Section 139 was enacted to provide assistance to people involved in a natural disaster. It allows an employer to make assistance payments to employees on a tax-free basis. The disaster must be identified by the IRS. Family members of the employees, as well as major donors, are also eligible as long as they meet a charitable class and are objectively chosen by an independent selection committee.

Benevolence programs give churches a way to provide urgent care to individuals or groups of people facing extreme need. By following a structured policy for the program, churches will be able to maximize resources for the greatest benefit to those in need.

Elaine L. Sommerville is licensed as a certified public accountant by the State of Texas. She has worked in public accounting for the past 25 years, primarily focusing on tax compliance aspects of nonprofit organizations. Currently, Elaine is the sole shareholder of the firm Sommerville & Associates, P.C., and she serves as an editorial advisor for the Church Law & Tax Group of Christianity Today.

WHAT TO DO WITH A NONDEDUCTIBLE DONATION

Best practices for church treasurers

By Richard R. Hammar

What should church treasurers do when a member attempts to contribute a check for a specified benevolence recipient and it is clear that the contribution is not tax-deductible? A number of alternatives exist, including the following:

Refuse to accept the check. This is the conclusion reached by the IRS in Publication 3833, which states, “Donors cannot earmark contributions to a charitable organization for a particular individual or family.” Church treasurers should keep this example in mind when church members want to make contributions to the church for the benefit of a specific needy person or family. Since such contributions are not tax-deductible by the donor, the church should not receive them.

Note that a contribution can be earmarked for a specified individual without that person’s name being identified on a donor’s check. Common examples include the following: (1) an offering is collected for a specific individual; (2) a donor informs the church treasurer that the check is to be used solely for a specified person or family; or (3) a donor’s check is accompanied by a note or letter directing the church to use the contribution solely for a specified person or family. The possibility in such cases is that the donor will deduct the contribution and that the IRS would not be able to question the deduction because the check is made payable to the church (without any reference to the designation).

Accept the check but stamp it “NONDEDUCTIBLE” on its face in red ink. This would prevent the donor from using the canceled check to substantiate a charitable contribution deduction. Churches that choose this alternative should have an appropriate stamp made by a local office supply store. They also should be certain not to list the check as a contribution on the summary of contributions provided to the donor.

Place an asterisk by nondeductible contributions on the summary of contributions that the church provides to donors. This alternative is not sufficient for contributions of less than $250, since donors can use canceled checks to substantiate these contributions without any written acknowledgment or receipt from the church. If a donor’s designation does not appear on a check and the check is accepted by the church and not stamped “NONDEDUCTIBLE,” it is possible for the donor to claim a deduc-
Honoring every donor "recommendation" If a church routinely honors every "recommendation" made by donors regarding the individual recipient of their contributions, this strongly suggests that the church does not exercise sufficient control over those contributions for them to be treated as charitable contributions. The IRS Exempt Organizations Continuing Professional Education Technical Instruction Program for 1996 contains the following statement: "In circumstances where the organization is directing all, or close to all, donor contributions to the use of individuals specifically preferred by those donors, a review of the facts should ... determine whether the organization is in control of the funds. If control is not in the hands of the organization, it may be appropriate to refer the [matter to the IRS national office]."

Reviewing the church charter If your church has established a benevolence fund, you may wish to review your corporate charter or other organizational documents to be sure that your statement of purposes includes "charitable" as well as "religious" purposes. Some legal precedent suggests that benevolence activities are more properly characterized, for tax purposes, as charity rather than religion.

Here's a tip. One way to determine whether a person or family is sufficiently needy to qualify for benevolence assistance is to see if they fall below the poverty guidelines published each year by the U.S. Department of Health and Human Services (HHS). These guidelines are published on the HHS website. Obviously, a church can make a persuasive case that persons or families below the federal poverty guidelines are needy and can receive distributions from a church's benevolence fund. However, this conclusion has never been adopted by the IRS or any court.

To learn more about how to establish an effective benevolence program at your church, see the digital resource, Benevolence Fund Basics, available on YourChurchResources.com.

Q: We just began accepting credit card donations via a national processing service. We were told that the full amount of each contribution is tax deductible, even the portion that the service takes out for credit card processing fees. Should we record the full contribution from the donor, and then record a "negative contribution" to account for the amount of the expense for each transaction so it reflects what actually comes into our bank accounts? Plus, how do we track this for auditing purposes?

A: The acknowledgment to the donor (receipt or giving statement) should reflect the full amount of the gift. The merchant processing fee is a cost or expense to the church that is necessary for accepting such gifts. In reality, it is little different (other than the amount) from the charges many banks assess for processing deposits of checks. The most appropriate accounting treatment for such costs is to recognize them as operating expenses of the church. You can track them in a separate account for management and analysis purposes if that is helpful. It would be rare to account for such costs as "negative contributions." Of course, depending on the significance of the amounts involved, the accounting treatment you choose may not be material to your financial reporting, in which case you should choose the method (for internal financial reporting) that your leadership finds most helpful and informative.

To submit a question for consideration in a future Q&A, email: CFEditor@ChristianityToday.com.