

## Chapter 10: Contributions by Donors

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## 10.100: Introduction

Since the 19th century, the United States has been recognized as a nation in which private individuals, rather than the government, provide charities with the necessary funds to perform social and religious functions and services for the benefit of the general public. In recognition of this fact, the federal tax laws allow income, estate and gift tax deductions for contributions made to charities.

This chapter will touch briefly on the tax aspects of charitable giving to churches. It is not intended by any means to be an authority for contributions, but it is an outline of general information for congregational treasurers and financial officers. The chapter addresses only contributions to churches or parochial schools. In cases where additional information is needed, it is suggested that an accountant, attorney or the district or synodical office be consulted.

The Department of Stewardship of the LCMS annually publishes a packet of stewardship materials designed to assist congregations in bringing a biblical stewardship message to their people. Included in this packet is a Bible study, various tracts and materials for use on personal visits or in meetings, and resources to conduct a financial appeal. The districts also offer various resources including workshops and seminars.

## 10.200: What Is a Contribution?

### 10.205: Definition

To be deductible, a contribution must satisfy several requirements:

1. It must be a gift of cash or other property.
2. It must be made before the close of the tax year for which the contributor is claiming a deduction.
3. It must be unconditional and without material personal benefit to the contributor.
4. It must be made to or for the use of a qualified organization.
5. It must not be in excess of the amount allowed by law.

### 10.210: Services

The value of services, including professional services (accounting, legal, janitorial, etc.), rendered to a charity does not qualify as a charitable contribution deduction.

*A church member who donates his/her labor in helping to construct a church is not entitled to deduct the value of his/her labor.*

## 10.215: Out-of-Pocket Expenses of Donors

Although a deduction is not allowed to charitable donors for the contribution of services, unreimbursed out-of-pocket expenses incurred while performing volunteer services may qualify for a charitable-contributions deduction. Such expenses must be attributable solely to the rendition of gratuitous services and must not be primarily for the personal benefit of the taxpayer.

For example, the tax court has ruled that the costs of traveling to and from church to participate in practices and to sing with the choir during services does not qualify as a contribution since participation in the choir is deemed a form of worship that primarily benefits the member and only indirectly benefits the church.

Out of pocket expenses of \$250 or more must be substantiated. Substantiation requires a written acknowledgement from the congregation describing the donor's expenses in connection with his or her services and whether the donee provided any goods or services in exchange for these.

### 10.220: Travel Expenses

Unreimbursed travel expenses incurred by an individual in serving a qualified donee are deductible as charitable contributions. Travel expenses include amounts spent on food and lodging if spent while en route or away from home overnight. The basis for automobile expenses can be the IRS standard mileage rate of 14 cents or actual records of all maintenance, operating and repair costs directly attributable to use of the automobile for charitable purposes.

### 10.225: Convention Delegates

Individuals sent as delegates to a church convention may deduct unreimbursed costs of attending such conventions. However, the individual must attend the convention as a delegate or representative of the church, not merely as an individual member of the church attending on his or her own.

### 10.230: Child Care

Expenses incurred by individuals in caring for their children while performing gratuitous services for a church or school do not qualify as charitable contributions.

### 10.240: Benefit-to-Donor Rule

To be deductible by the donor, the contribution must be unconditional, that is, the donor must irrevocably divest himself/herself of title and control over the gift, and the donor must not receive a benefit for the contribution. Contributions that are earmarked or restricted by the donor are deductible and can be accepted by the donee

as long as the contribution is for the tax-exempt purpose of the organization and the organization has full control of the donated funds and the discretion as to their use (see 10.700).

In the case where the donee offers books, tickets, admission to events or other promotional material to donors as a means of soliciting contributions, the donor may deduct as a charitable contribution only the amount by which the contribution exceeds the fair market value of the merchandise he or she receives in return for his or her contribution. Organizations offering promotional gifts to contributors should be careful not to imply that such contributions are “fully deductible” (see 10.520 and 10.525).

Another situation in which the benefits-to-donor rule applies is to tuition paid on behalf of children attending parochial or church-sponsored schools. Such tuition payments are not deductible (see 9.205).

Also, the cost to purchase a raffle ticket is not deductible.

## **10.300: Timing of the Contribution**

A charitable contribution deduction by an individual is allowed only in the year in which the contribution is actually paid or the gift is given, regardless of whether the donation is on a cash or accrual basis and regardless of when the cash contribution was pledged. However, the amount of a contribution to a qualified donee made by a charge to a bank credit card is deemed paid at the time the amount is charged, regardless of when the bank is repaid.

If payment of the contribution is made by check, the contribution is deemed made on the date the check is mailed or delivered to the donee, provided the check subsequently clears the bank. However, if the check is subsequently dishonored upon presentation to the bank, there is no payment and a contribution deduction will be allowed only in the year in which the check is actually paid or sufficient funds are deposited to cover the check. Similarly, if the donee agrees not to cash the check until the year following delivery, the check will be considered paid in the later year.

## **10.400: Qualified Organizations**

Only contributions to qualified organizations or their authorized agents are deductible, and the Internal Revenue Code defines qualified organizations to include, among others, a corporation, trust or fund:

1. Created or organized in the United States or in any United States possession;
2. Organized and operated exclusively for religious, educational, or other charitable purposes;
3. No part of the net earnings of which inures to the benefit of any private individual;
4. Not disqualified for tax exemption under Section 501(c)(3) by reason of attempting to influence legislation, and which does not participate or intervene in any political campaign on behalf of any candidate for public office.

Requirements of state law determine whether a lawful agency relationship exists between a qualified charitable organization and a for-profit entity engaged to solicit donations, accept, process or liquidate donated assets, and provide each donor with substantiation of his or her gift.

*All synodical congregations and their auxiliary organizations and schools are exempt as Section 501(c)(3) organizations and are included in the Synod's blanket tax exemption, GEN 1709, (see 8.410) and thus are qualified organizations.*

A list of eligible donees and an organization's tax-exempt status may be confirmed by calling 1-877-829-5500 or by using the link to “Exempt Organizations Select Check” found on the internet at [irs.gov/charities-&-Non-Profits/Exempt-Organizations-Select-Check](http://irs.gov/charities-&-Non-Profits/Exempt-Organizations-Select-Check) and also searching in the Exempt Organizations Business Master File Extract (EO BMF).

## **10.405: Contributions Earmarked for Foreign Charitable Organizations**

**Generally speaking, contributions earmarked for a foreign charitable organization (*nonqualified*) are nondeductible. If a synodical congregation and their auxiliary organizations and schools receive contributions for this specific purpose, a receipt should be given to the donor stating that the contribution is nondeductible.**

On the other hand, a qualified organization that transmits some of its general funds to a nonqualified charitable organization can do so without jeopardizing the deductibility of its members' contributions. The deduction is preserved because the use of such funds is subject to control by the church. The church, however, must not have entered into an agreement with the nonqualified organization to conduct a solicitation campaign that represents to prospective contributors that the raised funds will go to the nonqualified organization. Refer to Revenue Ruling 63-252, for more detailed information.

An exception is made for a domestic organization and its own tightly controlled foreign subsidiary. In this

case, contributions solicited by the domestic organization for the specific purpose of carrying out its charitable activities in the foreign country are deductible.

## 10.500: Reporting Contributions

### 10.505: Introduction

All charities, including congregations and other synodical organizations, provide certain information to donors for certain types of donations. Cash and noncash contribu-

tions of \$250 or more may no longer be substantiated by the donor's canceled checks or other records. Rather, the IRS now requires that they be substantiated by statements or receipts prepared by the organization and maintained by the individual. The IRS also requires that these statements or receipts contain certain prescribed information. An organization that knowingly provides false written substantiation to a donor may be subject to the penalties for aiding and abetting an understatement of tax liability under Section 6701 of the Code. Substantiation requirements are applicable to one-time contributions of \$250 or more when made through payroll deduction or bank debit, the same as if made by cash or check.

IRS Required Substantiation for Contributions			
Contribution Type and Amount	Required Substantiation	Prepared/Maintained by	
		Congregation	Donor
Cash less than \$250	Substantiation receipt/statement	Prepared	Maintained
	Canceled checks/bank record	No	Maintained
Cash/noncash of \$250 or more	Substantiation receipt/statement	Prepared	Maintained
	Property records	No	Prepared Maintained
Cash/noncash quid-pro-quo of \$75 or less	Substantiation receipt/statement	Prepared	Maintained
	Canceled checks	No	Maintained
	Property records	No	Prepared Maintained
Cash/noncash quid-pro-quo of more than \$75	Disclosure receipt/statement	Prepared	Maintained
	Property records	No	Prepared Maintained
Noncash less than \$250	Receipt	Prepared	Maintained
	Property records	No	Prepared Maintained
Noncash less than \$500 AND \$250 or more	Disclosure receipt/statement	Prepared	Maintained
	Property records	No	Prepared Maintained
Noncash \$5,000 or less AND more than \$500	Disclosure receipt/statement	Prepared	Maintained
	Property records	No	Prepared Maintained
	Individual's IRS Form 8283	No Signed-No	Prepared Signed-Yes
Noncash more than \$5,000	Disclosure receipt/statement	Prepared	Maintained
	Property records	No	Prepared
	Individual's IRS Form 8283	No Signed-Yes	Filed Prepared Signed-Yes
	Congregation's IRS Form 8282	Prepared Signed—Yes if within two yrs.	No Signed-No
Out-of-Pocket expenses of \$250 or more	Acknowledgement describing services related to volunteer	Prepared	Maintained
	Property records/receipts	No	Maintained

In addition, new requirements now exist for certain “Quid-Pro-Quo” (*something for something exchange*) contributions. The IRS defines a quid-pro-quo contribution as a payment made partly as a contribution and partly for goods or services provided. Cash and non-cash quid-pro-quo contributions of more than \$75 now require the organization to provide the donor certain disclosure information. The only exceptions to this are when the goods or services provided to the donor are intangible religious benefits or when they are considered insubstantial in value or insignificant in cost according to IRS guidelines. For more information about what the IRS considers to be of insubstantial value and insignificant cost, see Section 10.525. If an organization is required to make these disclosures and does not, it is subject to IRS penalty. The penalty is \$10 per contribution with a maximum of \$5,000 per fundraising event or mailing.

Of course, these new requirements must be met in combination with existing ones. A summary of the current substantiation requirements for each type of contribution is provided on the previous page. In addition, each type of contribution is discussed in a separate section with examples of various types of receipts and statements.

### **10.510: Cash Contributions Less Than \$250**

Cash donations less than \$250 may still be substantiated by the individual’s canceled checks or bank records. Also acceptable as substantiation would be a receipt or statement from the organization. Donors cannot claim a deduction for cash donations without proper substantiation.

### **10.515: Cash/Noncash Contributions of \$250 or More**

Donors must obtain substantiation from the charity, i.e. all congregations or other synodical organizations, for any donations of \$250 or more to be deductible. This substantiation must meet the following requirements.

1. It must be in writing. (Can be computer generated, even email — need not be signed.)
2. It must identify the donor by name.
3. For contributions of noncash property valued by the donor at \$250 or more, it must describe the property. No value should be stated.
4. It must show separately each individual contribution of cash or noncash of \$250 or more.
5. It must state whether or not the church provided any goods or services to the donor in exchange for a contribution or, if the only goods or services the church provided were “intangible religious benefits,” it must contain a statement to that effect.
6. It must be received by the donor on or before the earlier of the a) date the donor files a tax return claiming a deduction or b) the due date for filing the return.

Exhibit 10-A is an example of a quarterly detailed statement, meeting IRS requirements by inserting certain wording in the message block of the statement. This message appears to the right of the donor’s name and address. As required, it indicates that nothing of value was provided to the donor other than intangible religious benefits and items defined by the IRS to be of insignificant or insubstantial value. If other types of donations are made, such as noncash or quid-pro-quo, it would be necessary to provide the donor additional information by issuing separate receipts.

It is possible to develop and use a statement that includes the noncash and quid-pro-quo contributions. Exhibit 10-B is an example of such a statement.

(Go to Page 10-8)

**Statement of contributions**  
**4/01/20XX to 6/26/20XX**

First Lutheran Church  
 2743 Concordia Drive  
 St. Louis, MO 63122

Envelope Number: 130  
 Statement Date: 6/26/20XX  
 Total for 20XX 2,825.00

Dick Jones  
 Shirley Jones  
 4566 Sunny Lane  
 St. Louis, MO 63146

CR 67 No goods or services were provided to the donor other than intangible religious benefits.

<u>Week of</u>	<u>General Fund</u>	<u>Sunday School</u>	<u>Youth Fund</u>	<u>Smith Memorial</u>	<u>Organ Fund</u>
4/01/XX	25.00	10.00			35.00
4/03/XX	257.00	25.00	10.00		
4/10/XX	50.00	10.00			
4/17/XX	259.00	12.00		45.00	
4/24/XX	315.00	25.00		10.00	20.00
5/01/XX	75.00	10.00			
5/08/XX	279.00	12.00	15.00		
5/15/XX	75.00				
5/22/XX	255.00	15.00		25.00	
5/29/XX	55.00		15.00		
6/05/XX	254.00		15.00		25.00
6/12/XX	80.00		35.00		
6/19/XX	267.00			25.00	
6/26/XX	75.00			10.00	
Period	2,321.00	119.00	90.00	115.00	80.00

**Other Contributions**

4/17/XX	Technology Fund	20.00	5/08/XX	Jones Memorial	20.00
5/29/XX	Jones Memorial	10.00	6/12/XX	Technology Fund	50.00

**Total Contributions for Period (all funds): 2,825.00**

**Pledged Status**

<u>Fund</u>	<u>Effective Dates</u>	<u>Pledged to date</u>	<u>Given to date</u>	<u>Ahead/ (behind)</u>
General Fund	1/01/XX - 12/31/XX	3,000.00	2,789.00	(211.00)
		3,000.00	2,789.00	(211.00)

**EXHIBIT 10-A**

**Example of Statement with Noncash and Quid-Pro-Quo Contributions**

St. John Lutheran Church  
 345 First Street  
 St. Louis, MO

John Smith  
 456 Country Lane  
 St. Louis, MO

DATE	GROSS CONTRIBUTION	VALUE OF GOODS OR SERVICES	NET CONTRIBUTION
1/13/XX	\$ 50.00		\$50.00
2/5/XX	400.00		400.00
3/12/XX	100.00	25.00(A)	75.00
"	75.00		75.00
"	525.00		525.00
"	215.00		215.00
12/20/XX	325.00	15.00(B)	310.00

**Noncash Property Received:**

50 shares of General Motors received on June 14, 20XX.  
 2004 four-door Impala, 52,350 miles, VIN 1GBN4P685DS725

**Value of Goods or Services Provided:**

The following items were provided to you in consideration for certain cash donations referenced above:

- (A) Value of meal provided at Annual Endowment Dinner      \$25.00
- (B) Value of Christmas music CD's                                      \$15.00

All other goods or services provided to you were either intangible religious benefits or those defined by the IRS to be of insubstantial value or insignificant cost.

The amount of your contribution, which is deductible for federal income tax purposes, is limited to the excess of any money (*and the value of any property other than money*) contributed by you over the value of goods or services provided to you.

**EXHIBIT 10-B**

## 10.520:

### Cash/Noncash Quid-Pro-Quo Contributions of \$75 or Less

As previously stated, the IRS defines quid-pro-quo contributions as payments made partly as contributions and partly for goods or services. For such cash donations of \$75 or less, there is no required disclosure to be made by the charity to the donor. The individual should maintain his/her own documentation to substantiate such a deduction. The basic rule for quid-pro-quo donations of any size is that donor deductions are allowed only to the extent that the payment exceeds the fair market value of the goods or services received.

For a cash contribution, the donor maintains a canceled check and other information from the organization, including the donation amount and the value of the item(s) received by the donor. For a noncash contribution, the organization should provide its name and location, the date of the contribution, and a reasonable description of the property donated to it.

## 10.525:

### Cash/Noncash Quid-Pro-Quo Contributions of More Than \$75

As previously stated in Section 10.505, the IRS requires all charitable organizations that receive such contributions of more than \$75 to provide the donor a certain written disclosure or they will be subject to a penalty. The only exceptions to this requirement are when the goods or services are considered intangible religious benefits or of insubstantial value or insignificant cost as determined by the IRS.

The IRS generally considers the goods or services to be insubstantial when the value is the lesser of \$109 or 2 percent of the contribution amount. Items are considered insignificant if they qualify as token items and their aggregate cost does not exceed a designated amount. To qualify as a token item, it is required that the item bear the name or logo of the organization. Examples include bookmarks, calendars, key chains, mugs, posters, T-shirts, etc. The designated amount that cannot be exceeded for token items was \$10.90 for 2018.

When the disclosure is required, it must inform the donor that the amount of the donation that is deductible is limited to the contribution less the fair market value of the goods or services received by the donor. The disclosure must also contain the value of the nondeductible portion of the contribution. The disclosure may be provided either in conjunction with the solicitation or at the time of receipt. Examples of receipts for both a cash and noncash contribution follow.

## Cash Contribution

January 15, 20XX      First Lutheran Church  
2743 Concordia Drive  
St. Louis, MO 63122

(Cash Contribution)  
John Smith  
456 Country Lane  
St. Louis, MO

Received on March 12, 20XX, \$100 for which you received a dinner at the Annual Endowment Dinner that had a fair value of \$25. Therefore, the amount of your contribution that is deductible for federal income tax purposes is \$75, which is the excess of the money donated over the value of goods and services provided to you.

## Noncash Contribution

January 15, 20XX      First Lutheran Church  
2743 Concordia Drive  
St. Louis, MO 63122

(Noncash Contribution)  
John Smith  
456 Country Lane  
St. Louis, MO

The amount of your contribution that is deductible for federal income tax purposes is limited to the value of the item you donated less the value of the item you received. Received on July 7, 20XX, a two-year-old 10-speed Schwinn bicycle, model S398752 for our annual auction in exchange for which you received a Bible Concordance that has a fair retail value of \$8.95.

## 10:530:

### Taxpayer's Required Records for Noncash Contributions

The individual taxpayer is required to keep reliable written records for each item of donated property. A summary of these records is provided below.

1. Name and address of the organization to which you contributed.
2. Date and location of the contribution.
3. A description of the property in reasonable detail. For a security, keep the name of the issuer, the type of security, and whether it is regularly traded on a stock or over-the-counter market.
4. The fair market value of the property at the time of the contribution and how you figured the fair market value. If determined by appraisal, a signed copy should be kept.
5. The cost or other basis of the property.
6. The amount you claim as a deduction for the tax year.



For contributions less than \$5,000 but over \$500, the following additional records are required.

1. How the property was obtained, i.e., purchase, gift, bequest, inheritance or exchange.
2. The approximate date you received the property or, if created, produced or manufactured by or for you, the approximate date the property was substantially completed.
3. The cost or other basis, and any adjustments to the basis of property held less than 12 months and, if available, the cost or other basis of property held 12 months or more. This requirement does not apply to publicly traded securities.

For noncash contributions of \$5,000 or more, you must maintain all of the above records plus you must generally obtain a qualified appraisal by a qualified appraiser. The cost of such appraisal is not deductible as a charitable contribution; however, it is a miscellaneous itemized deduction on Schedule A.

For more information about these recordkeeping requirements, refer to *IRS Publication 526, Charitable Contributions*. For more information about determining the value of donated property and how to obtain a qualified appraisal, refer to *IRS Publication 561, Determining the Value of Donated Property*.

### **10.535: Noncash Contributions Less Than \$250**

Noncash contributions valued by the donor at less than \$250 that are not quid-pro-quo are substantiated by the person obtaining a written receipt from the organization and maintaining the individual records previously discussed. A sample of such a receipt is provided below.

#### **Noncash Contribution**

January 15, 20XX      First Lutheran Church  
2743 Concordia Drive  
St. Louis, MO 63122

(Noncash Contribution)

John Smith  
456 Country Lane  
St. Louis, MO

Received from John Smith on March 22, 20XX, a two-year-old Dell personal computer, model 1525, serial #RT4567987.

### **10.540: Noncash Contributions of \$5,000 and Less But More Than \$500**

As mentioned in Section 10.515, all noncash contributions of \$250 or more are required to be documented on a receipt or statement prepared by the organization in conformity with requirements established by the IRS.

The individual must also maintain the records described in Section 10.530. In addition, if the person's total deduction for all noncash contributions for the year is more than \$500, he/she must complete and sign Section A of Form 8283. Failure to complete this form can cause the IRS to disallow a deduction. A blank IRS Form 8283 is provided in the forms section of this manual. You may wish to duplicate it and make these forms available to such donors.

### **10.545: Noncash Contributions of More Than \$5,000**

If a person is claiming a deduction for more than \$5,000 for a contribution of one item of noncash property or a group of similar items, he/she must:

1. Obtain the appropriate substantiation receipt or statement.
2. Maintain all the records described in Section 10.530, including obtaining an appraisal from a qualified appraiser.
3. Complete and sign Section B of Form 8283.

The organization receiving the property also must complete and sign Part IV of Section B of Form 8283. In addition, if within three years after the date of receipt of the noncash contribution, the organization sells, exchanges, transfers, or otherwise disposes of the property, the organization must complete an information return, Form 8282, "Donee Information Return," and send a copy to the donee and file a copy with the IRS. A copy of Form 8282 is provided in the forms section of this manual.

### **10.546: Clothing and Household Items**

A donor may not claim a tax deduction for clothing and household items given to a qualified charitable organization unless they are in good used condition or better. However, an exception to this rule applies to any item of this type that has been appraised for more than \$500. Regardless of its condition, the appraised value may be deducted if the qualified appraisal is included with the donor's individual income tax return. Also, the donor must complete a Form 8283 because the item is a noncash contribution of more than \$500 (see previous 10.540).

### **10.550: Donated Vehicles**

A donor may not claim a tax deduction for a vehicle given to a charity and valued in excess of \$500 unless a receipt of the transaction containing all the information prescribed by IRS is attached to his or her tax return (IRS Form 1098-C, Copy B). **Furthermore, it is now the responsibility of the charity to provide this receipt in a complete and timely manner to the donor and IRS**

**(IRS Form 1098-C, Copy A) or be subject to possible penalties.** You may order IRS forms by calling 800-829-3676.

Each receipt must contain at least the name and taxpayer identification number of the donor (Social Security Number or Employer Identification Number), the vehicle identification number (VIN) and the date of contribution. It must also state whether or not the church provided any goods or services to the donor in exchange for the automobile or, if the only goods or services the church provided were “intangible religious benefits,” it must contain a statement to that effect. To be considered timely, it must be given to the donor within 30 days of either receiving the vehicle or disposing of it. The additional information required on the receipt depends on how the charity uses or disposes of the vehicle. The three scenarios and their unique handling are as follows:

If the donated vehicle is sold without significantly using it to further a religious, educational or charitable purpose or without adding any material improvements to it, then the receipt must also include the sale date, gross proceeds of the sale, certification that it was sold in an arm’s length transaction between unrelated parties and a statement to the donor that the deductible amount is limited to the gross proceeds from the sale.

If the charity intends to significantly use the vehicle itself or make material improvements to it before turning it over for sale, the receipt must certify and detail the intended use or improvement. It must also certify that the vehicle will not be sold anytime before completion of such usage or improvement.

Finally, special language must be included on a receipt relative to any vehicle that a charity intends to sell to a needy individual at significantly below fair market value or gratuitously transfer to a person. It must certify that “[the charity] will make a transfer or sale of the vehicle in direct furtherance of its charitable purpose of relieving the poor and distressed or the underprivileged who are in need of a means of transportation.”

The only instance in which the receipt will contain a dollar amount is when the vehicle is sold in an arm’s length transaction without a significant intervening use or material improvement. The donor’s deductible claim in this case is limited to the proceeds of the sale reported by the charity on the receipt. In the other situations, the donor is limited to claiming the vehicle’s fair market value at the contribution date. However, the donor must be able to substantiate his or her claim. If the vehicle’s value is over \$5,000, a qualified appraisal is needed for proper substantiation. Otherwise, the measure of a vehicle’s fair market value is limited to the price listed in a used vehicle pricing guide for private party sales or similar vehicles.

For a contribution of a qualified vehicle with a claimed value of at least \$250 but not more than \$500, do not use Form 1098-C. Instead, prepare a receipt to give the donor following the rules under 10.515.

For more details, refer to IRS Publication 4302, “A Charity’s Guide to Car Donations” and IRS Publication 4303, “A Donor’s Guide to Car Donations.”

## **10.600: Gifts of Securities**

Gifts of securities, i.e., stocks or bonds, pose some unique issues for the congregation and its treasurer. Generally, if the donor would simply sell the security and donate the proceeds, he/she would have to pay income taxes on any increase in value. However, by donating the security itself, the donor is able to avoid paying such taxes and is also generally eligible to deduct the full value of the security at the date of donation. Because this can be a source of significant giving, the following section was developed to provide you with guidance in this area. If you have any questions about any aspect of this type of gift, simply contact your local District Gift Planning Counselor (see Chapter 22) or call the Synod’s Gift Planning Services toll-free, 800-325-7912.

If a congregation accepts publicly traded stocks or bonds and desires to sell these assets, it may do so on its own, perhaps with the help of a broker who is a member of the congregation. Another alternative is for the congregation to contact the LCMS Foundation. The Foundation would be happy to assist the congregation in this area for the appropriate transaction charge.

A congregation should exercise extreme caution before accepting securities of a closely held company or any company that is not publicly traded.

There may be few, if any, persons willing to purchase such securities. A number of adverse consequences may arise simply from holding such assets. You should address these issues with the congregation’s legal counsel before accepting such a donation.

Generally speaking, the donor’s deduction is based on the date the security is donated and the corresponding value at that time. Publicly traded stocks and bonds are relatively easy to value. If a congregation member delivers without any conditions a properly endorsed stock certificate to the congregation, the date of the gift is the date of delivery. If it is mailed and received through the regular mail, the date of the gift is the date of the mailing. However, if the individual requests that the corporation transfer the shares or the bonds to the congregation, then the date of the gift is the date that they are transferred on the books of the corporation.

Once the date of the gift is determined then the value of the stocks or bonds on the date of the gift may be determined based on the average of the highest and lowest quoted selling prices on the valuation date. For more information regarding valuation, see *IRS Publication 561, Determining the Value of Donated Property*.

## 10.700:

### Benevolence Funds

Many churches have established benevolence programs to help individuals in need. Since a contribution must be “to or for the use of” a tax-exempt charitable organization, contributions to individuals, no matter how needy, are not tax deductible by the donor.

The general rule is that contributions to a church benevolence fund are deductible by donors who do not designate a recipient or beneficiary of their contributions.

To assure the deductibility of the contributions to such a fund and avoid confusion for the congregation, the congregation should have a clearly established benevolence fund and policy. The congregation’s articles of incorporation and constitution should also clearly state that the church’s statement of purpose includes “charitable” as well as “religious” purposes. Some precedent suggests that benevolence activities are more properly characterized, for tax purposes, as charitable rather than religious.

#### ■ Undesignated contributions

If the church establishes a benevolence fund and allows only undesignated contributions, the contribution ordinarily will be deductible. Donors, as well as any other church members, are free to make anonymous recommendations (in writing) to the church board regarding desired recipients. The board could appoint a committee to receive written or oral recommendations from the church membership regarding benevolence fund candidates and to make recommendations to the church board. If the committee is not apprised of the identity of donors to the fund and all church members are free to make recommendations to the committee regarding recipients of the fund, then donor contributions may be deductible.

#### ■ Designated contributions

A contribution to a benevolence fund that designates a desired recipient will not be deductible since the intent of the donor is to make a transfer of funds directly to a particular individual rather than to a charitable organization.

However, IRS revenue rulings and private letter rulings suggest that contributions to a benevolence fund can be deductible even if the donor mentions a beneficiary, if the facts demonstrate the following:

1. The donor’s recommendation is advisory only.
2. The church retains full control of the donated funds and discretion as to their use.
3. The donor understands that his or her recommendation is advisory only and the church retains full control over the donated funds, including the authority to accept or reject the donor’s recommendation.

## 10.705:

### Benevolence Fund Policy

To eliminate confusion and establish facts that benevolence fund contributions, whether designated or undesignated, are deductible, the congregation should establish a benevolence fund policy. The policy should be available to all persons wanting to make a contribution, especially a designated one, to the fund.

The sample policy in the next paragraph addresses both designated and undesignated contributions. The congregation may want to delete any language that permits designated contributions if the congregation agrees by policy not to accept them.

## 10.710:

### Sample Benevolence Fund Policy

First Lutheran 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 may feel free to suggest beneficiaries of the fund or of their contributions to the fund. However, such suggestions shall be 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 council. The church council 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 mere suggestions or recommendations. Donors wishing to make contributions to the benevolence fund subject to these conditions may be able to deduct their contributions. Checks should be made payable to First Lutheran Church, with a notation that the funds are to be placed in the benevolence fund.

The Church Council  
First Lutheran Church

Note: Major portions of 10.700-10.710 were taken from the article “Benevolence Funds,” March/April 1988 edition of *Church Law and Tax Report*, Christian Ministry Resources, Matthews, N.C.

## 10.715:

### Reporting

A question commonly raised is whether benevolent payments are reportable to IRS on Form 1099-MISC. These are considered tax-free gifts to the recipients (not employed) and are therefore not reportable for tax purposes regardless of the aggregate amount paid. However, such payments provided to an employee must be reported by the employer as taxable on the employee’s Form W-2 and subject to tax withholding (if applicable).

## **10.800: Receipting Contributions for Other Entities ("A Caution")**

Occasionally, congregations receive certain donations that are earmarked for certain purposes. When these purposes involve another organization that is not tax-exempt, great care must be exercised by the congregation. For example, consider a congregation that has, as part of its ministry, an outreach to the homeless through various programs, including donating a portion of its general funds to certain homeless shelters. It appears that the congregation could certainly make donations from its general funds to any homeless shelter, whether or not it was tax-exempt.

But, what if its members and other people make contributions to the congregation which are earmarked for a homeless shelter that is not tax-exempt? The IRS could determine that this is an improper function of the congregation, i.e., acting as a conduit in moving tax-deductible donated funds from a tax-exempt organization to one that is not a tax-exempt organization and as such this action could jeopardize the congregation's tax-exempt status.

## **10.900: Gifts from Persons Who Later Declared Bankruptcy**

A law allows churches and other charitable organizations to keep donations made in good faith by persons who later declared bankruptcy. It shields personal contributions of up to 15 percent of the debtor's gross income made in the year before the declaration. Contributions larger than this percentage will also be protected as long as they are consistent with the person's past giving patterns. Bankruptcy attorneys who attempt to recover contributions from religious or secular organizations that are tax-exempt under sections 170(c)(1) or (c)(2) of the Internal Revenue Code can now be fought in court. The law addresses a growing problem in bankruptcy cases in which attorneys have, in recent years, attempted to recover donations from churches for as long as 10 years prior to the giver's bankruptcy.