



THE LEGAL ALERT

A Monthly Publication of the Christian Law Association

MARCH 2024



OUR LORD AND TAXES

Reading the four Gospels, we are constantly reminded of how the religious and political elites of Jesus' day constantly tried to trap Him. Instead of viewing Him as the promised Messiah, they saw Him as a rival who might have more influence and followers than they themselves had. Reading the accounts of their constant effort to entrap our Lord is one of the great testimonies to verify the sinfulness of mankind.

It should come as no surprise that the Pharisees and the Herodians tried to entangle our Lord on the issue of taxes. At the time, Israel was a nation that was under the political authority of the Roman Empire. Although Jewish religious leaders still had considerable influence, the ultimate political power rested with Caesar in Rome.

The Pharisees were undoubtedly proud of themselves for devising a tricky question. They thought, "If we can get Jesus to say that the Jews should pay tribute (tax) to the Romans, then Jesus will lose support among the Israelites because they will think that He is a Roman sympathizer disloyal to the Jewish state. If we can get Jesus to say that the Jews should not pay tribute to the Romans, we can inform the representatives of the Roman government that Jesus encouraged people to disobey the law of the land."

The Pharisees, intelligent though they were, were absolutely no match for Jesus Christ, the Creator of the universe. Our Lord cut through their nonsense with a statement that has become one of the most recognized verses in the New Testament when He told them, "Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's" (Matthew 22:21b).

In one simple statement, Jesus taught us that there is a way to obey the tax code and also maintain a fervent faith in the Lord. His teaching resonates perfectly with other passages in the New Testament, including Romans 13:1, 6, and 7, where the Apostle Paul, under inspiration of the Holy Spirit, wrote, "Let every soul be subject unto the higher powers...For this cause pay ye tribute also: for they are God's ministers, attending continually upon this very thing. Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honour to whom honour."

Most everyone, at one time or another, might feel that the tax code is too difficult to understand and too expensive to pay. Nonetheless, God's people are commanded to pay their fair share.

If government agencies, including the Internal Revenue Service, overstep their bounds and try to harm churches, the Christian Law Association will vigorously defend churches and provide them with every possible legal protection. But when government agencies, including the IRS, are simply and fairly following the law of the land, God's people have a duty to obey. We have a duty to follow the words of our Lord and "Render unto Caesar."

When we follow the law, we follow Christ. When we feel the difficulty of following the law, we are reminded of our need for prayer and our need for wisdom. These difficulties and struggles should remind us to make our way back to Christ, the beloved source of our strength. May the Lord help us to follow the way of the Lord, even when it proves to be inconvenient.

ARE "LOVE GIFTS" TO PASTORS CONSIDERED TAXABLE INCOME?



Many well-meaning people ask, "If we just pay our pastor a love offering each week and if there is no guaranteed salary, does the pastor still have to pay income tax on the money?" This question sometimes comes up when a church is between pastors and they want to provide financial support to members of the church who are filling the pulpit for a rather extended period of time.

"Love gifts" for pastors, gifts from the church collection plates, or gifts solicited by the church are generally taxable income to pastors; and such gifts must be reported on a W-2 or 1099-MISC Form. When donors give money this way, their gifts can count as tax-deductible contributions.

On the other hand, it is not considered taxable income for a pastor when he receives spontaneous or unsolicited gifts through a handshake or through money placed in a card. When money is given in this way, however, such a gift is not considered as a tax-deductible contribution.

Situations like these sometimes generate a multitude of questions. If you are unsure how to proceed with tax questions like these, contact our offices so our seasoned legal missionaries can guide you through the details of the tax code.

TAX

CHURCHES AND WITHHOLDING TAXES

Taxes can be confusing! While it is true that churches do not have to file annual income tax returns, they must, however, withhold payroll taxes and submit these to the IRS.

Suppose, for example, that Sonia works as the church secretary 20 hours each week. For ease of math, suppose she earns \$20 per hour. This means the church is paying her \$400 per week. If Sonia worked at a local store, her employer would subtract federal income taxes out of her check; and churches are required to operate the same way.

For some churches, the work of taking care of things like this is rather cumbersome. In order to streamline that work, they hire outside firms to take care of their payroll taxes. Hiring outside help is not mandatory, and churches who do so should carefully vet any firm they employ for this task. But regardless of whether it is done in house or hired out, churches are required to withhold federal income tax from their employees' checks and submit those funds to the IRS.

Another complication arises when Social Security and Medicare pay-

ments are considered. A church may not be legally required to pay Social Security and Medicare taxes when, for religious reasons, it opposes such taxes. But even if a church opposes paying these taxes itself, employees are not excused from paying these taxes. If the church does not pay the tax, then the employees must. This situation can become rather complicated. If you have questions, feel free to contact our offices at your earliest convenience.

PROPERLY HANDLING NON-CASH DONATIONS



When Jerry's mother died, he inherited a lovely grand piano. Although the piano had sentimental value to him and was a beautiful piece of furniture, Jerry himself did not play the piano; and he knew his church could use the instrument. After praying about the situation, he decided to donate the piano to his local church. Because the piano was quite valuable, Jerry wanted to use it as a tax deduction when he paid his federal income tax for that year. He approached the treasurer of the church about getting a receipt.

When churches receive non-cash items like this piano, they should give the person a document that describes the donation—but the church should not list the value of the donated item. For example, the church might say, “We received a 2017 Yamaha C3 grand piano in excellent condition,” but they should not say, “and the piano was worth \$16,000.” In situations like this, the church provides a description of the donation, but not a valuation of the donation. Remember, obtaining the valuation of donated property is the responsibility of the contributor, not the church who receives the donation!

Contribution receipts should include this information:

1. The name and address of the organization
2. The date the contribution receipt is written
3. The name and address of the contributor
4. The description of the contribution
5. The date the contribution was received
6. This statement: “No goods or services have been provided in exchange for this contribution.”
7. The signature of an officer of the organization

It is also important to note that the receipt must be given to the contributor before he files his tax return.

It is in a church's best interests to have a regular system of reporting contributions, and the receipts should be provided to the contributor at or near the time of the contribution. When churches provide such receipts using a consistent format, as opposed to randomly creating new forms from time to time, their records will better withstand the scrutiny of the Federal Rule of Evidence 803(6).

Please contact the Christian Law Association if you would like to obtain a sample contribution receipt for tangible property donations.



ARE CHURCHES LEGALLY REQUIRED TO OBTAIN 501(C)(3) STATUS?

Some confusion exists, especially among forming and relatively young churches, about whether churches must apply to the IRS to obtain 501(c)(3) status. This confusion is partly because of the official *IRS Publication 78*, in which the IRS lists all organizations that have filed the paperwork to be officially recognized as tax-exempt.

Publication 78 helps people in many different ways. For example, if donors are unsure whether or not a donation is tax deductible, they can determine whether the organization is officially listed in *Publication 78*. Another example of the benefit of being listed in *Publication 78* is that some organizations have policies allowing them to donate to only listed organizations. If churches are inclined to work with food banks, corporations that provide matching donations, or foundations that provide grants, being listed in *Publication 78* is sometimes required.

Having said that, a church is **not** legally required to apply for 501(c)(3) status with the IRS in order to be treated as tax-exempt federally. *Section 508(c)* of the Internal Revenue Code specifically states that churches are not required to apply for (*IRS Form 1023*) and obtain recognition of tax-exempt status from the IRS in order to be treated as tax exempt, provided they meet the requirements of section 501(c)(3) of the IRS Code. The general requirements are:

1. The organization is organized exclusively for exempt purposes (i.e., religious, charitable, educational purposes).
2. The organization is operated exclusively for exempt purposes.

3. None of the organization's net earnings inure to the benefit of any private individuals.
4. The organization does not engage in any substantial efforts to influence legislation.
5. The organization does not intervene or participate in political campaigns. A properly constituted Constitution (or Articles of Incorporation if the organization is incorporated) and Bylaws are also required.
6. The organization's purposes and activities may not be illegal or violate fundamental public policy.

At first glance, one might think, "Just fill out *IRS Form 1023* and be done with it." The problem is this: the IRS charges a \$600 filing fee for *Form 1023*, and the form is so legally complicated that almost everyone hires an attorney or tax professional to help with it. The fee for these services can be expensive.

When a church is just starting, having the resources to pay fees like these might be challenging. For churches basically receiving only tithes and offerings from their core group, it might not be necessary to seek recognition in *Publication 78*.

To summarize, (1) churches are **not** required to obtain official recognition of their tax-exempt status, but (2) it may sometimes be advantageous to do so.

If you have specific questions about how this applies to your situation, contact our attorneys. We have extensive experience in this area and would be delighted to assist you.

WHAT BENEFITS CAN BE LEGALLY PAID TO CHRISTIAN SCHOOL VOLUNTEERS?

By law, volunteers can be paid absolutely nothing in wages or compensation or benefits. They can be reimbursed only for out-of-pocket expenses such as travel expenses. If a ministry provides volunteers anything, including free tuition for their children, the ministry has just converted them to paid staff; therefore, the school must adhere to minimum wage and tax withholding laws.

It is sometimes difficult to comprehend how crucially important it is to keep volunteers as "pure volunteers." We have seen many cases where administrators with

the best of intentions provide little gifts or benefits to volunteers and open up a legal and tax nightmare by doing so.

Tax law and employment law can be tricky, even fraught with legal peril for a ministry. If you have any questions at all, we urge you to contact our offices immediately. We have worked with countless churches, Christian schools, and Christian non-profit organizations, and we would be happy to review your situation and provide you with the legal advice you need.





MUST CHURCHES FILE ANNUAL INCOME TAX RETURNS?

As tax season approaches, many churches and Christian organizations have questions about whether or not they are required to file annual tax returns, just like ordinary working people do. No, churches are not required to file annual income tax returns with the IRS. These organizations are exempt:

- A church
- An interchurch organization of local units of a church
- A church convention
- An association of churches
- An integrated auxiliary of a church
- A church-affiliated mission society if more than half of their activities are conducted in a foreign country or are directed at persons in a foreign country
- An exclusively religious activity by a religious order

However, some churches operate businesses to help them finance their ministry. For example, a church may own a house and rent it out to a local citizen. A cellular company may place a tower on top of a church and pay the church rent. Churches with ample land may lease a portion of their land to people who need it. These kinds of things are considered unrelated business income. Churches that generate a gross income of \$1,000 or more from this type each year are required to file Form 990-T and pay taxes on this unrelated business income.

In some cases, churches are unsure about whether all their activities are tax-exempt or not. If you are uncertain, you should contact a tax professional or an attorney. The Christian Law Association counts it a privilege to legally support when churches have such questions.

A MINISTRY OF LEGAL HELPS



Since 1969, CLA has been providing free legal assistance to Bible-believing churches and Christians who are experiencing difficulty in practicing their religious faith because of governmental regulation, intrusion, or prohibition in one form or another.

The Christian Law Association serves in the following ways...

- Free legal defense of those facing difficulties for the Biblical faith
- Free legal counsel to churches and Christians for their ministries
- Legal books and other resources to inform Christians of their rights
- Weekday radio program broadcast, *The Legal Alert*, on over 1,586 outlets around the world
- Publication of *The Legal Alert*, a monthly newsletter
- Free legal consulting to local, state, and federal officials and legislators to provide maximum religious liberty
- Intercessory prayer ministry for requests sent to the ministry offices
- Free legal help to homeschooling families
- Prayer initiative for our national leadership and government
- Legal seminars for ministries to help prevent lawsuits
- Preaching in churches across the country

CLA
CHRISTIAN LAW ASSOCIATION

PO BOX 8600
MASON, OH 45040
888-252-1969
CHRISTIANLAW.ORG



PLEASE JOIN US IN PRAYER

These requests are a small sampling of those we have received in recent weeks. We covet your prayers for these and hundreds of others that come to us on a regular basis.

CALIFORNIA: Pray for a Christian CLA is assisting regarding a religious accommodation to attend church.

MISSOURI: Pray for a pastor and his wife who contacted us for direction from our legal team after being approached by law enforcement regarding former church members.

NORTH CAROLINA: Pray for a pastor as our attorneys help him navigate a problematic situation involving the church's sports ministry and a volunteer.

WISCONSIN: Pray as we assist the director of a teen ministry as he works through a problem with one of the teenagers.

NEW JERSEY: Pray for a recovery ministry we are advising whose staff and residents are being treated unfairly and harassed by neighbors and the local township officials.

NORTH CAROLINA: Pray for a youth pastor our legal team is assisting regarding a Bible study he conducts at a local public school. Complaints from nonbelievers have put the Bible study under review regarding whether it can continue or not.

NEW MEXICO: Pray for a Christian seeking direction as she attempts to restart a Bible club in her local public school after it was shut down years ago.

OHIO: Pray for a pastor who contacted our attorneys for guidance as he works with law enforcement regarding three recent break-ins at the church.

NORTH CAROLINA: Pray for a pastor who has sought our help with the sale of unused church property to another ministry; the city is creating issues to block the sale.

FLORIDA: Pray for a pastor requesting counsel from us regarding leasing a portion of the church property.

MARYLAND: Pray for a Christian mother who reached out to us regarding public school staff not allowing her son to express his religious beliefs.

FLORIDA: Pray for a Christian business owner seeking guidance from CLA attorneys regarding the wisest course of action as he denies services for a project that goes against his Christian beliefs.

NORTH CAROLINA: Pray for a Christian mother needing CLA's counsel as she talks with her child's school officials regarding inappropriate material that was assigned for one of the classes.

MONTANA: Pray for a church trustee seeking advice after the church's Facebook page was hacked and Facebook has, thus far, offered no assistance.

NORTH CAROLINA: Pray for a church we are helping as they work with people in the community claiming to own plots in the church's graveyard but have no proof of ownership.

MASSACHUSETTS: Pray for a church asking for direction after the pastor received a random text saying a fence was going to be erected where the church is currently located.

OHIO: Pray for a pastor seeking guidance regarding the wisest approach to get a flag that goes against Christian beliefs removed from a local county facility.

FLORIDA: Pray for a pastor needing our assistance after conflict with a neighbor resulted in false accusations against the pastor being posted on social media in retaliation.

ILLINOIS: Pray for a Christian who reached out to us for help regarding a struggle with his employer over a religious accommodation to attend Sunday services.

FLORIDA: Pray for a chaplain who contacted us after being harassed and mistreated by hospital coworkers.

INDIANA: Pray for a Christian we are helping regarding his employer scheduling him to work on Sundays.

TEXAS: Pray for a church treasurer we are advising as he communicates with city officials regarding a new semiannual fee being levied against the city's churches.

TEXAS: Pray as we provide counsel for a Christian who was denied a work position because he could not work on Sundays.

NORTH CAROLINA: Pray as we guide a pastor dealing with a situation that occurred at his Christian school when a church staff member did not properly stow a weapon on the property. It is imperative that weapons on church or school property are always stored in a secure, safe, legal manner.

SOUTH CAROLINA: Pray for a pastor who is seeking direction regarding a church member who is under investigation.

INDIANA: Pray for a Christian asking for assistance as she seeks to start a Bible study in a local public elementary school.

LOUISIANA: Pray for a Christian school staff who contacted us about assisting a former student who was told her transcripts were not approved at a local community college.

KENTUCKY: A homeschool co-op is seeking CLA's assistance after being told by the state that they can no longer meet because the state considers them to be a childcare organization. Pray that the state will be reasonable as the co-op provides an explanation of their function as a homeschool co-op.

COLORADO: Pray for a conflict between a daycare and a grant foundation regarding one of the daycare's policies. CLA attorneys are providing guidance to find a mutually agreeable resolution.

KENTUCKY: Pray as our team seeks to help a pastor who is working diligently to start multiple Christian schools.

SOUTH CAROLINA: Pray for the board member from a men's shelter who, with our attorneys' counsel, is working to implement policies to uphold ministry beliefs.

CALIFORNIA: Pray for a pastor asking for our advice as he handles a delicate matter with a parent regarding a matter of school discipline.