

## **THE EFFECTS OF ANTI-TERRORIST LAW ON CHURCHES**

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The American church is famous for not only sending missionaries around the world, but also sending American dollars to support them. These men and women perform many good works, such as establishing hospitals and orphanages. American churches help to buy homes for the homeless, food for the hungry and create healthy drinking water. The American church has been involved in these good works for over one hundred and fifty (150) years. The American church sends millions of dollars to over one hundred countries around the world.

Non-Christian religions do many of the same good works. Some of these religions have established American charities to raise funds for their projects outside the United States. After September 11, 2001, the Department of Treasury, Internal Revenue Service told Congress that many of the non-Christian charities spent the American funds supporting terrorist organizations. As a result, the U.S. government has successfully shut down several non-Christian charities and seized their assets.

In Announcement 2003-29, the IRS began looking for ways to stop such charities in the U.S. In some cases, the donors were unknowingly supporting terrorists. In other cases, the charities are clearly a front for their terrorist activities. In any event, the anti-terrorist measures that U.S. government and the IRS are imposing may create new hurdles for the American church and their foreign missions efforts.

The American churches typically support missionaries two ways: (1) they fund the individual missionaries and their work, or (2) they fund missions' organizations. The church must approach each scenario differently.

### **FUNDING INDIVIDUAL MISSIONARIES**

Many churches are unaware of all the rules that govern foreign missionary efforts. As a result, they can subject their church and its officers to criminal and civil sanctions.

When the American church spends money outside the United States, the IRS requires the church to (1) retain control and discretion over the use of the funds, (2) maintain records establishing that the recipient used the funds exclusively used for exempt purposes, and (3) limit spending to specific projects that exclusively further the church's exempt purposes. In sum, the church must maintain records that equal what is required if the money was spent domestically. This means that the church should establish a bank account in the host country and disburse funds only upon presentation of a receipt for a qualifying, pre-approved expense. The church may never send funds to the individual missionary without adequate documentation.

In addition, the church must check the intended payee against the United States list of suspected terrorists. If the payment is to a company, then the church must identify the owners and determine whether they are on the list. The most current list is always at <http://www.ustreas.gov/offices/eotffc/>. If the church transfers funds to anyone on the list, the

church and its officers may have criminal charges brought against them. Worse, the IRS could add the church and its officers to the suspected terrorist list.

If the church makes the payment to the individual missionary, the church must maintain more records than required above. The church must keep on file (1) the name and address on the recipient, (2) the amount of each payment, (3) the specific purpose of each payment, (4) the manner in which the church selected the recipient, and (5) whether any church members, officers, trustees, donors or businesses controlled by parties related to the recipient participated in the decision making. If the missionary is a U.S. citizen and the church sends the missionary more than \$600.00, then the church must issue and file Form 1099-MISC. If the missionary is a U.S. citizen and the church is the missionary's sole support, then the church should consider whether Form W-2 reporting is appropriate.

In many countries, receipts are hard to demand. Checks are rare in many third world countries. In some cases, the missionaries are serving without official identification by the host country as missionary. In sum, complying with the tax laws governing foreign activities can be very difficult. The church should require detailed accounting for all funds, monthly activity reports and pictures of the activities. If possible, a church representative should annually visit the actual site of the work and prepare a written and visual report.

#### SUPPORTING MISSIONS ORGANIZATIONS

The United States is home to many, but not all, missionary organizations. These organizations assume all the duties discussed above in exchange for small administrative charge to the missionary. Due to the difficulty complying with the rules discussed above, the church should support its missionaries through such an organization when possible. Still, not all missionary organizations are qualified to receive the church's mission money. The church has a duty to qualify the organization before sending American funds.

The church should never support a non-American missionary organization unless the missionary organization has a permanent presence in the United States. The church may determine whether it has a permanent presence by searching the IRS database listing of all United States recognized charities. The database is located at [www.irs.gov/charities/](http://www.irs.gov/charities/). Go to the bottom of the left hand side of the page and click on search for charities. If it is not listed in the database, then do not send money.

The rules are similar for American missionary organizations. You should ask the missionary organization for a copy of its IRS determination letter. You should request that they also send you a letter once per year affirming that their IRS determination letter is still valid. If your church supports missionaries through your denominational missions' agency, then you can usually rely on your annual report instead of requiring an annual affirmation.

Sending money through qualified missions' organizations assists the church in continuing to fulfill its exempt purposes around the world and decreases the hazards discussed above.