# 12 Legal and Regulatory

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## 12.1 Archdiocesan Legal Counsel

The General Counsel for the Archdiocese of St. Louis is responsible for managing all legal affairs of the Archdiocese, its parishes, schools and agencies.

The Office of General Counsel is located at the Cardinal Rigali Center.

The General Counsel will handle legal questions and transactions that are frequently encountered by the Archdiocese, its parishes, schools and agencies. All legal questions and requests for assistance should be directed to the General Counsel who will either handle the matter or retain outside counsel for particular matters as needed.

## 12.2 Federal Tax Exempt Status

The following materials serve as documentation for the Federal tax exempt status of the Catholic Church in general, and the Archdiocese of St. Louis and its members in particular. The reader is encouraged to peruse these materials carefully in order to understand from which Federal taxes the parish is exempt.

Sub-section 12.2.2 contains the IRS annual determination letter for the Catholic Church. The Archdiocese of St. Louis and all of its members are listed in the Kenedy Official Catholic Directory, which is referred to in this letter. Any parish that needs a copy of a particular page may call the Finance Office for assistance.

## 12.2.1 Memo from USCCB General Counsel



Income Tax Issues

The accounting treatment for income taxes is specified in Statement of Financial Accounting Standards (SFAS) No. 109, **Accounting for Income Taxes**. Adherence to the guidance in SFAS No. 109 is required by generally accepted accounting principles (GAAP). The following is intended to provide general information about income tax issues (other than accounting treatment) that are relevant to dioceses in the United States.

**USCCB Group Tax Exemption Ruling**

Annually since 1946, the Internal Revenue Service (IRS) has issued to the United States Conference of Catholic Bishops (or, before the 2001 name change, the United States Catholic Conference) a group tax exemption ruling with respect to the Catholic organizations listed in *The Official Catholic Directory* (OCD) for a particular year ("Group Ruling"). The Group Ruling establishes (1) that organizations included in the OCD are exempt from federal income tax under section 501(c)(3) of the Code and from federal unemployment tax; and (2) that contributions to such organizations are deductible for federal income, gift, and estate tax purposes. The current Group Ruling is available on the USCCB website at *http://www.usccb.org/ogc/index.htm*. Inclusion in the Group Ruling has no effect on an organization's liability for any federal excise taxes, nor does it automatically establish an organization's exemption from state or local income, sales, or property taxes. For more information on the Group Ruling, see the annual Group Ruling explanatory memo issued by OGC, as well as further discussion in the second section of this "Income Taxes" chapter.

**Deductibility/Substantiation of Contributions**

One of the primary benefits of section 501(c)(3) exemption is deductibility of contributions for federal income (~ 170), estate (~ 2055), and gift (~ 2522) tax purposes. Cash contributions by individuals to organizations listed in the OCD generally are deductible up to *50%* of the donor's adjusted gross income (IRC § 170[b][1][A]), with a five-year carryover for any excess (IRC § 170[d][l]). Noncash contributions can have different limitations. Corporate gifts are deductible up to 10% of taxable income (IRC §170[b][2]), with a five-year carryover (IRC 170[d][2]).

## 12.2.1 Memo from USCCB General Counsel

**In order to be deductible,** a payment must first qualify as a *gift*, which is defined as a voluntary transfer of money or property without receipt of or expectation of a commensurate return benefit. Thus, for example, the payment of tuition, whether made directly to a school or to a church operating the school, is not deductible. In addition, payments made in various fundraising contexts may or may not be deductible, depending on whether goods or services are received in return. For example, payment for a purchase at a charity auction will be deductible only to the extent the payment exceeds the fair market value (FMV) of goods or services received in return. Payments for charity raffle tickets are not deductible, since the amount paid is not a gift, but rather payment for the chance to win whatever prize is being offered.

In response to abuses with respect to charitable contributions, in 1993 Congress enacted enhanced substantiation rules applicable to contributions of $250 or more. Section 170(1) (8) provides that no contribution of $250 or more will be deductible unless the donor obtains, prior to filing his or her tax return, written acknowledgment from the donee charity verifying the amount of the contribution and whether any goods or services were received in return. If so, such goods or services must be identified and must be valued by the donee charity. If the benefits received consist solely of intangible religious benefits, a statement to that effect must be included. Although the burden of requesting appropriate acknowledgment is placed on the donor and not imposed on the donee charity, charities that knowingly provide false written substantiation statements may be subject to penalties for aiding and abetting an understatement of tax liability under section 6701.

Certain payments are considered *quid pro quo* contributions—namely, they are made partly as a gift and partly in consideration for goods or services furnished to the donor.

An exception is provided for payments made to an exclusively religious organization in return for which the donor receives solely intangible religious benefits. Under section 6115, charitable organizations must inform donors in writing that *quid pro quo* contributions in excess of $75 are deductible only to the extent that they exceed the value of any goods or services provided by the charitable organization in return, and the organizations must provide a good-faith estimate of the value of such goods or services. This disclosure must be made either at the time of solicitation or upon receipt of the *quid pro quo* contribution. Penalties are imposed on any charity that fails to make appropriate disclosure under section 6115 at $10 per contribution, capped at $5,000 per particular fundraising event or mailing. Typical *quid pro quo* contribution situations include charity golf tournaments, auctions, dinner dances, and so forth, where part of the payment constitutes a contribution. In such situations, the disclosure statement may be placed in solicitation materials, in event programs or brochures, or on the face of event tickets— i.e., in any reasonable manner likely to come to the attention of the donor.

Additional substantiation requirements are imposed with respect to certain contributions. Contributors of noncash gifts valued at $500 or more must complete Form 8283 and attach it to Form 1040. Contributors of noncash gifts valued at $5,000 or more (other than gifts of publicly traded securities) must:

- Obtain a qualified appraisal and submit an appraisal summary with the Form 8283 attached to Form 1040, *and*
- Have the donee charity complete and return to the donor the "Donee Acknowledgment Section" (in doing so, the donee charity is *not* vouching for the appraised value)

The donee charity is required to report to the IRS on Form 8282 if such contributions are subsequently sold or otherwise disposed of within two years of receipt.

**Lobbying Activities**
Section 501 (c)(3) organizations may not engage in more than insubstantial lobbying activities. Lobbying includes contacting, or urging the public to contact, members of a legislative body for the purposed of proposing, supporting, or opposing legislation or advocating adoption or rejection of legislation (Treas. Reg. § 1.501[c][3j—1(c)(3)-1(iii)). Legislation includes any action by Congress, by a state or local legislative body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure (Treas. Reg. § 1.501 (c)(3)—1 (c) (3) (ii)). No distinction is made between "good" and "bad" legislative activity. (See Rev. Rul. 67-293, 1967-2 C.B. *185.)*

The IRS has never defined "insubstantial" in this context or identified a percentage safe harbor for legislative activities. Court cases suggest a 5 to 15% range, but the IRS comfort zone is at the lower end. See *Murray Seasongood v. Commissioner* (227 F.2d 907 [6th Cir. 1955]), which ruled that less than 5% time and effort is not substantial; and *Haswell v. US.* (500 F.2d 1133 [Ct. Cl. 1974], cert. denied, 419 U.S. 1107 [1975]), which ruled that 16 to 17% of a budget was substantial. A more specific elective lobbying standard was enacted in 1976 as section 501(h) of the Code. Churches, conventions of churches, and integrated auxiliaries at their own request were made ineligible (IRC §~ 501[h][5] and 491 1[f][2]).

**Political Activities**
A section 501 (c) (3) organization may not engage in any political campaign activity. Unlike the lobbying limitation, this is an absolute prohibition. The statute states that 501 (c) (3) organizations may not "participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office." The prohibition applies only to candidates for elective public office. Although very little additional interpretation is provided in the regulations, the penalties for violating the prohibition are severe.

In addition to loss of tax-exempt status and deductibility of contributions, two-tiered excise taxes may be imposed on the exempt organization (10% and 100%) and on the organization manager (2-1/2% and 50%) for political expenditures (1RC § 4955). In flagrant cases, the IRS may seek an injunction against further political expenditures (IRC § 7409[a]) and immediate determination and assessment of income and excise taxes (IRC § 6852). For more information, check the OGC website, *http://www.usccb.org/ogc/index.htm.*

**Intermediate Sanctions**
In 1996, Congress enacted section 4958 of the Internal Revenue Code, the so-called intermediate sanctions provisions, which were designed to provide the IRS with a sanction other than revocation of exemption for non-fair market value transactions with insiders, defined in section 4958 as “excess benefit” transactions. Section 4958 applies to transactions occurring on or after September 14, 1995 (with the exception of transactions pursuant to certain binding written contracts in effect before that date). In 1998, proposed regulations were issued to provide interpretive guidance under section 4958. Public hearings were held in March 1999. In January 2001, the IRS issued temporary regulations; and in January 2002, the IRS issued final regulations. Some of the major provisions of the final regulations are summarized below.

**Applicable Tax-Exempt Organizations**
Section 4958 applies to any organization that, without regard to any excess benefit, would be described in section 501(c)(3) or (c)(4) and exempt from tax under section 501 (a) (EO, or “exempt organization”), at any time during a five-year period ending on the date of the excess benefit transaction (“lookback period”). An organization is described in section 501(c)(3) for purposes of section 4958 only if it provides notice under section 508 (filing Form 1023), unless it is otherwise described in section 501(c)(3) and is specifically excluded from application of section 508. Accordingly, churches, their integrated auxiliaries, and conventions and associations of churches—which are statutorily excepted from section 508—are nonetheless subject to section 4958.

**Excise Taxes Imposed**
Section 4958 imposes excise taxes on any excess benefit resulting from an excess benefit transaction between the EO and a disqualified person (DP). Significantly, these taxes are not imposed on the organization. Rather, the DP is liable for a 25% first-tier tax, and for a 200% second-tier tax, if the excess benefit transaction is not corrected within the correction period. In addition, a tax equal to 10% of the excess benefit (up to a maximum tax of $10,000) is imposed on an organization manager (OM) who knowingly participates in an excess benefit transaction, unless participation was not willful and was due to reasonable cause. An OM will not be liable for tax if he or she opposed the transaction. If more than one person is liable for tax under section 4958, all such persons are jointly and severally liable.

### "Disqualified Person" Defined

Section 4958 defines a "disqualified person" as any person who was in a position to exercise substantial influence over the affairs of the organization at any time during a five-year lookback period ending with the date of the transaction. The term also encompasses certain members of the DP's family and certain 35%-controlled entities.

***Persons Having Substantial Influence.*** The final regulations state that individuals holding any of the following powers, responsibilities, or interests are in a position to exercise substantial influence over the affairs of an EO: (1) voting members of the governing body; (2) individuals who, regardless of title, have ultimate responsibility for implementing the decisions of the governing body or for supervising the management, administration, or operation of an EO (persons serving as president, chief executive officer, or chief operating officer have such responsibility unless they demonstrate otherwise); and (3) individuals who, regardless of title, have ultimate responsibility for managing the finances of an EO (persons serving as treasurer or chief financial officer have such responsibility unless they demonstrate otherwise).

***Persons Deemed Not to Have Substantial Influence.*** The final regulations state that the following are deemed not to have substantial influence over the affairs of an EO: (1) organizations exempt under section 501(c)(3); (2) certain section 501(c)(4) organizations; and (3) employees receiving direct or indirect economic benefits of less than the "highly compensated employee" amount in section 414(q) (1) (B) (i) ($90,000 for 2003), who are not otherwise classified as DPs by virtue of position, family relationship, or substantial contribution.

In all other cases, whether an individual is a DP depends on all relevant facts and circumstances. The final regulations clarify that an organization can be a DP.

### "Organization Manager" Defined

An "organization manager" is defined as any officer, director, or trustee of an EO, or any individual having similar powers with respect to the EO, regardless of title. An officer includes an individual who (1) is so designated in organizational documents, or (2) "regularly exercises general authority to make administrative or policy decisions on behalf of the organization." The final regulations provide that independent contractors, acting solely in their capacity as attorneys, accountants, or investment managers/advisors, are not officers. In addition, individuals who are not officers, directors, or trustees, but who serve on a committee of an EO's governing body that is attempting to invoke the rebuttal presumption of reasonableness (discussed below) based on the committee's actions, are considered OMs for purposes of section 4958.

### "Excess Benefit Transaction" Defined

The final regulations define an "excess benefit" as the amount by which the value of the economic benefit provided by an EO directly or indirectly to or for the use of any DP exceeds the value of the consideration (including the performance of services) received by the EO for providing such benefit.

## 12.2.1 Memo from USCCB General Counsel

With certain exceptions explained below, all consideration and benefits exchanged between a DP and an EO (including any controlled entities) must be taken into account in order to determine whether an excess benefit transaction has occurred. The final regulations provide that, in determining the reasonableness of compensation that is paid (or vests, etc.) in one year, services performed in prior years may be taken into account.

***Rebuttable Presumption of Reasonableness.*** Consistent with the legislative history of section 4958, the final regulations establish a rebuttable presumption whereby compensation paid by an EO to a DP, or the transfer of property or other benefit between the EO and a DP, will be presumed to be at FMV, provided three conditions are satisfied:

1. The compensation or terms of transfer are approved in advance by the organization's governing body (or a committee of the governing body) composed entirely of individuals who do not have a conflict of interest with respect to the arrangement or transaction;
2. The governing body or committee obtained and relied upon appropriate data as to comparability prior to making its determination; and
3. The governing body or committee adequately and concurrently documented the basis for its determination. The IRS may rebut the presumption only if it develops sufficient contrary evidence to rebut the probative value of the comparability data relied upon by the governing body or committee.

***Certain Economic Benefits Disregarded.*** All fringe benefits that are excluded from income under section 132 (except certain liability insurance premiums, payments, or reimbursements) are disregarded for purposes of section 4958. The final regulations also disregard expense reimbursements paid under an accountable reimbursement plan that meets the requirements of section 1.62-1(c). Thus, as is the case with section 132(d) on working condition fringe benefits, the existing standards under section 162 and 274 will apply to determine whether employee expense reimbursements are disregarded or should be treated as part of a DP's compensation for purposes of determining reasonableness under section 4958.

***Written Contemporaneous Substantiation.*** An EO must provide written substantiation that is contemporaneous with the transfer of benefits at issue in order to provide clear and convincing evidence of its intent to treat benefits provided to a DP as compensation for services. To satisfy this requirement, either (1) the EO must report the economic benefit as compensation on an original or amended federal tax return with respect to the payment, e.g., Form W-2 or 1099, filed prior to commencement of an IRS examination; or (2) the DP must report the benefit on his or her original or amended federal tax return. e.g., Form 1040, also filed prior to commencement of an IRS examination.

If a benefit is not reported on a return filed with the IRS, other written contemporaneous evidence, e.g., employment contract, may be used to demonstrate that the appropriate decision-making body or an authorized officer approved a transfer as compensation for services in accord with established procedures. The final regulations clarify that the term "established procedures" refers to the EO's usual practice for approving compensation and does not require that an EO have a formal written procedure for approving compensation.

***Correction.*** An excess benefit transaction is corrected by undoing the excess benefit to the extent possible and by taking any additional measures necessary to place the EO in a financial position not worse than that in which it would be if the DP were dealing under the highest fiduciary standards. The correction amount equals the sum of the excess benefit and the interest thereon. Generally, a DP corrects an excess benefit by making a payment in cash or cash equivalents (not a promissory note) to the EO equal to the correction amount. However, with the agreement of the EO, the DP may make correction by returning specific property previously transferred in the excess benefit transaction. The DP will be treated as making a payment equal to the lesser of the following: either the property's FMV determined on the date the property is returned or the FMV determined on the date the excess benefit transaction occurred. If such payment is not equal to the correction amount, the DP must make additional cash payment to the EO in the amount of the difference. If the DP makes payment of less than the full correction amount, the 200% tax is imposed only on the unpaid portion.

The final regulations clarify the rules governing correction when an EO no longer exists or is no longer tax-exempt by requiring that another section 501(c)(3) organization receiving the correction amount be a publicly supported charity that has been in existence as such for a continuous period of at least sixty calendar months ending on the correction date. This time-in-existence requirement is designed to prevent a DP from creating a new EO to receive the correction amount. The final regulations also require that the organization receiving the correction amount not allow the DP to make or recommend any grants or distributions by the organization. Finally, the DP may not also be a DP with respect to the organization receiving the correction amount.

### Special Rule for Churches

The final regulations provide that the church audit procedures under section 7611 of the Internal Revenue Code will be used in initiating and conducting any IRS inquiry or examination into whether an excess benefit transaction has occurred between a church and a DP. The reasonable belief required to initiate a church tax inquiry will be satisfied if there is a reasonable belief that taxes under section 4958 are due from a DP with respect to a transaction involving a church.

### Embezzlement

Any economic benefit received by a DP (who by definition has substantial influence) from the assets of an EO is considered to be provided by the EO, even if the transfer of the benefit was not authorized under the regular procedures of the organization. The practical result of this rule is that funds embezzled by a DP generally constitute excess benefit transactions. The final regulations clarify that in no event will an economic benefit that a DP obtains by theft or fraud be treated as consideration for the performance.

### Substantive Exemption Requirements Still Apply

The final regulations verify that section 4958 does not affect the substantive requirements for exemption under sections 50l(c)(3) or (4), including the requirements that the EO be organized and operated exclusively for exempt purposes and that no part of the net earnings inure to the benefit of any private shareholder or individual. Thus, regardless of whether a transaction is subject to excise taxes under section 4958, existing exemption principles and rules apply (e.g., a transaction that is not subject to section 4958 because of the initial contract exception may still jeopardize the EO's exempt status). The preamble to the temporary regulations indicated that the IRS would exercise its administrative discretion in enforcing sections 4958, 501(c)(3), and 501(c)(4) in accordance with the direction provided in the legislative history, and would publish guidance concerning factors it will consider with respect to revocation of exemption in excess benefit transaction situations. Until such time, the IRS will consider all facts and circumstances in the administration of section 4958. (See Final Regulations on Excise Taxes on Excess Benefit Transactions, 67 Fed. Reg. 3076 [January 23, 2002].)

### Caveat

The temporary regulations under section 4958 are lengthy and complex. For a comprehensive summary, contact the OGC.

### Filing Requirements for Form 990

Under section 6033 of the Code, organizations exempt from tax under section 501(c)(3) are required to file Form 990 annually, unless they qualify either for a mandatory (in statute) or discretionary (by authority of IRS commissioner) exception under section 603 3(a)(2). Organizations included in the Group Ruling are *not* automatically relieved of the Form 990 filing requirement. Organizations required to file Form 990 must do so by the fifteenth day of the fifth month following the close of the fiscal year. There are, however, numerous exceptions to the Form 990 filing requirement available to churches and their affiliated organizations, including the following:

- Churches (IRC § 6033[a][2][A][i])
- Conventions or associations of churches (IRC § 6033[a][2][A][i])
- Integrated auxiliaries of churches (IRC § 6033[a][2][A][I]; Treas. Reg. § 1.6033-2 [h]). To qualify, as an integrated auxiliary of a church, an organization must be described in section 50l(c)(3), be other than a private foundation under section 509(a), and be considered "internally supported" by a church. An organization will be considered internally supported unless it *both:*
    - o Offers admissions, goods, services, or facilities for sale, other than on an incidental basis, to the general public (except goods, services, or facilities sold at a nominal charge or substantially below cost), *and*

   - Normally receives more than 50% of its support from a combination of governmental sources; public solicitation of contributions (such as through a community fund drive); and receipts from the sale of admissions, goods, performance of services, or furnishing of facilities in activities that are not unrelated trades or businesses.
- Exclusively religious activities of religious orders (1RC § 6033[a][2flA][iii]). The Code does not define the term "religious order." However, Rev. Proc. 9 1-20, 1991-1 C.B. 524 sets forth the characteristics used by the IRS to determine whether an organization qualifies as a religious order.
- Public charities with annual gross receipts normally less than $25,000.
- Organizations that finance, fund, or manage church assets or maintain church retirement insurance programs, as well as organizations controlled by religious orders that finance, fund, or manage assets used for exclusively religious activities (Rev. Proc. 96-10, 1996-1 C.B. 577)
- Interchurch organizations of local units of a church (Treas. Regs. § 1.60332[g][1](iii))
- Mission societies sponsored by or affiliated with one or more churches or church denominations, more than half of whose activities are conducted in or directed at persons in foreign countries (Treas Regs. § I .6033-2[g](1)[vii])
- Schools below college level affiliated with church or operated by religious order (Treas. Regs. § 1.6033-2[g][1][vii])

***Penalties.*** The penalty for failure to file Form 990, or for failure to include all required information, is $20 per day for each day the failure continues, up to a maximum penalty per return of either $10,000 or 5% of the organization's gross receipts, whichever is less. Organizations with annual gross receipts in excess of $1 million are subject to penalties of $100 per day, up to a maximum of $50,000 per return (IRC § 6652[c][1][A]). In addition, penalties of $10 per day may be imposed on managers who fail to comply with an IRS demand to file Form 990 (IRC § 665 1[c][1][B]).

**Disclosure Requirements**
Since 1987, section 6104(d) of the Internal Revenue Code has required tax-exempt organizations—including section 501(c)(3) organizations to which the Form 990 filing requirements apply—to allow public inspection of their three most recent Form 990s, as well as their applications for recognition of tax exemption, Form 1023, during normal business hours at their main offices as well as regional offices having three or more employees. The impact on churches and their affiliated organizations has been limited, since organizations covered under a Group Ruling do not file their own Form 1023, and since many are exempt from the Form 990 filing requirement.

## 12.2.1 Memo from USCCB General Counsel

The Taxpayer Bill of Rights 2 of 1996 amended section 6104(d) of the Code to require tax-exempt organizations to comply with requests made in writing or in person for copies of their applications for exemption, Form 1023, and for their three most recent Forms 990. An exempt organization may not make any charge other than a reasonable fee for reproduction and actual postage costs, no more than the per-page copying charges applied by the IRS: currently $1 for the first page and $0.15 per page thereafter. Response must be made the same day to requests made in person, and within thirty days for written requests. There are special anti-harassment rules and provisions for making documents available through posting on the Internet.

The USCCB did not file an application for exemption (Form 1023), so there is no application that the USCCB or any organization covered under the Group Ruling must make available for inspection or copying. Each organization covered under the Group Ruling is required to provide for inspection or copying only the page(s) on which it appears in the current OCD. If a covered organization does not have a copy of the current edition of the OCD, it has two weeks in which to obtain a copy of the appropriate page(s) in order to comply with the provisions of section 6104(d). Organizations covered under the Group Ruling that file Form 990 are subject to the general rules regarding disclosure of annual information returns. For more information, contact the OGC.

***Penalties.*** The penalty for failure to provide public inspection or copying of Form 990 is $20 per day up to $10,000 per return (IRC § 6652[c][1][C]); and the penalty for failure to provide public inspection or copying of Form 1023 is $20 per day (IRC § 665 1[c][i] [D)). In addition, the penalty for willful failure to provide inspection or copies of documents under section 6104(d) is $5,000 with respect to each Form 990 or Form 1023 (IRC § 6685).

**Filing Requirements for Form 5578**

Rev. Proc. 75-50, 1975-2 C.B. 587, sets forth notice, publication, and record keeping requirements regarding racially nondiscriminatory policies that must be complied with by private schools, including church-related schools, as a condition of establishing and maintaining exempt status under section 501(c)(3) of the Code. Under Rev. Proc. 75-50, private schools are required to file an annual certification of racial nondiscrimination with the IRS. For private schools not required to file Form 990, the annual certification must be filed on Form 5578, Annual Certification of Racial Nondiscrimination for a Private School Exempt from Federal Income Tax. Form 5578 must be filed by the fifteenth day of the fifth month following the close of the fiscal year. Form 5578 may be filed individually by school or by the diocese on behalf of all its diocesan schools.

**Unrelated Business Income Tax (UBIT)**

Although organizations included in the Group Ruling are exempt from federal income tax, they are subject to tax on the income from any unrelated trade of business in which they regularly engage. Unrelated business income is governed by sections 511-514 of the Internal Revenue Code. UBIT is imposed at the normal corporate rates.

## 12.2.1 Memo from USCCB General Counsel

A Form 990-T must be filed if an organization has gross income from unrelated trade or business of $1,000 or more, regardless of whether tax is due or whether the organization is required to file Form 990. The Form 990-T must be filed no later than the fifteenth day of the fifth month after the close of the organization's tax year (IRC § 6072[e]). If taxes are owed, organizations are expected to file quarterly estimated income tax returns.

An "unrelated trade or business" is as follows: (1) a trade or business as defined under section 162 of the Code (generally, any activity carried on for the production of income from the sale of goods or the performance of services); (2) one that is regularly carried on; and (3) one that is not substantially related to an organization's exempt purposes. The IRS applies a "fragmentation rule" to classify different aspects of what might otherwise appear to be a unitary business endeavor as being either related or unrelated. For example, the sale of advertising in an otherwise exempt educational periodical is considered a trade or business, which will generally be unrelated to its exempt purposes.

To be considered "regularly carried on," a trade or business must exhibit "frequency and continuity" and be carried on in a manner similar to its commercial counterpart (Treas. Reg. § 1.513-1 [c][1]). In order to qualify as "related," IRS requires a substantial causal relationship between the activity and an organization's exempt purposes (Treas. Reg. §1.5 13-1[d][2]). The fact that an organization uses funds derived from its unrelated business activity in order to further its exempt programs does not convert an unrelated activity into a related one. Further, even if an activity relates to exempt purposes, it may be carried on to an extent greater than necessary to achieve those purposes. In such situations, income derived from excess activity will be subject to unrelated business income tax.

There are a number of exceptions to the UBIT rules, including the following:

- ***Volunteer Exception.*** This exception applies when substantially all of the work in a particular activity is performed by volunteers (IRC § 513(a)(1). The IRS's unofficial standard for "substantially all" is 85%. This exception typically applies to activities like church raffle, bingo games, and other fundraisers, although many such activities could also avoid being characterized as subject to UBIT because they are not regularly carried on.
- ***Convenience Exception.*** This exception applies to any trade or business carried on primarily for the convenience of its members, students, patients, officers, or employees (IRC § 513[a][21]. Classic examples of this exception include the hospital pharmacy sales made to patients, the sale of books by a university bookstore to students, sales in hospital gift shops, and laundry and vending operations provided for student use.
- ***Donated Merchandise and Low Cost Item Exceptions.*** The donated merchandise exception applies to the sale of merchandise that has been received as a contribution or gift (IRC § 513[a][31).

This exception applies to thrift stores operated by churches and other charitable organizations. The Code also contains an exception for the distribution of low-cost items incident to charitable solicitations. If a church mails unrequested, low-cost items as part of a fundraising effort, the church is not liable for UBIT on the income received (IRC § 513-[h][1] [B]). The dollar amount is indexed for inflation and changes each year.

- ***Mailing List Exception.*** Section 513(h)(1)(B) of the Code provides that income from the rental or exchange of mailing lists between or among section 501(c)(3) organizations is not subject to UBIT. The IRS has taken the position that rentals or exchanges with non-501(c)(3) organizations is subject to UBIT. However, after a string of litigation losses, the IRS will agree that properly structured licensing agreements for the use of mailing lists can generate non-taxable royalty income (see below).
- ***Bingo and Gambling Activities Exception.*** An important UBIT exception for many churches and related entities is the bingo exception, which applies to bingo games where participants place wagers, winners are determined, and prizes are distributed in the presence of all persons placing wagers in the game (IRS § 513 [f]). The bingo exception does *not* apply to scratch-off bingo cards or to other forms of "walk-away" games. Since 1986, non-bingo gambling activities have been subject to UBIT, except in North Dakota (IRS Announcement 89-138, 1989-45 LR.B. 41 [November 6, 1989]). Thus, except in North Dakota, income from charitable gambling like keno, pull tabs, lotteries, and "pickle jars" are subject to UBIT unless one of the other UBIT exceptions applies—e.g., for activities not regularly carried on or for the volunteer exception.
- ***Miscellaneous Exceptions.*** There are also UBIT exceptions for qualified convention and trade show activities conducted by section 501(c)(3), (c)(4), (c)(5), and (c)(6) organizations, and for certain services, including data processing, food services, and laboratory services provided at cost to hospitals with one hundred or fewer beds (IRC §~ 513[d], [e]).

In addition to the above exceptions to the definition of unrelated trade or business, the Code provides certain modifications to the computation of UBI, primarily for passive income sources. Thus, although unrelated, income from certain sources will be excluded from the computation of unrelated business income. The major modification categories under section 512(b) include dividends, interest, annuities, rents, and royalties.

***Royalties.*** A "royalty" is a payment for the use of a valuable intangible property right, e.g., use of an exempt organization's name and logo. Payments for services provided by the organization are not considered royalties (Rev. Rul. 81-178, 1981 C.B. 135). Royalties are not included in the computation of unrelated business income (IRC § 512[b][2]). The scope of the royalty exception has been unclear for the past several years, particularly in the context of affinity credit card and similar arrangements.

However, after a string of litigation losses, IRS determined in late 1999 to stop litigating affinity card and mailing list rental cases except where the factual record clearly established that the exempt organization was providing more than incidental services in exchange for payments received. Thus, income from an exempt organization's licensing of the use of its name, logo, mailing lists, or other valuable intangible property rights will generally be treated as nontaxable royalty income, provided that no more than incidental services—i.e., those inherent in and necessary to the nature of the arrangement—are provided in return.

***Rents from Real Property.*** Rents from real property are not subject to UBIT under section 512(b)(3) of the Code. Rents from personal property rented with real property may also be exempt provided that the rent attributable to personal property is no more than 10% of the total. If 10% to 50% of the rent is attributable to the rental of personal property, then a pro rata share of the rental income will be subject to UBIT. However, if more than 50% of the rent is attributable to personal property, then the modification is lost and the entire rental amount will be taxed.

Further, an exempt organization may not provide services in connection with the rental of real property, with the exception of services customary in connection with the rental of space: such as light, heat, trash collection, and cleaning of common areas. This issue of services often arises in the context of retreat houses and parking lots. For example, if an exempt organization rents its parking lot to a third party, which is responsible for all aspects of its operation, the income is considered the rental of real property not subject to UBIT. If, on the other hand, a church rents certain spaces in its parking lot during the week for use by nearby business people, these rents will generally be subject to UBIT. They do not qualify for the rental of real property exception because the church remains responsible for lot maintenance, snow removal, signs, barriers, security, line painting, etc. (See, e.g., PLR 9301024 [October 15, 1992].) In the retreat house situation, frequently church organizations rent excess capacity in their facilities for business retreats, wedding receptions, and the like. Because a full range of services is typically provided in such situations, including maid service, food service, etc., it is not considered the rental of real property, but rather is more analogous to hotel operations.

***Sales or Exchanges.*** Under section 512(b)(5), all gains or losses from the sale, exchange, or other disposition of property is excluded from the computation of UBIT, with the exception of stock in trade or other property that would be classified as inventory, and property held primarily for sale to customers in the ordinary course of trade or business.

There are two major exceptions to the exclusions from UBIT under section 512(b) outlined above that render income taxable despite the section 512(b) modifications:

## 12.2.1 Memo from USCCB General Counsel

***1. Debt-Financed Income.*** Under the provisions of section 514 of the Code, income that would otherwise be excluded from taxation under section 512(b)(1), (2), (3), and (5) (i.e., dividends, interest, royalties, rents and certain gains and losses from the sale of property) may nonetheless be subject to UBIT if it is subject to acquisition indebtedness—i.e., was acquired or improved with borrowed funds. Unrelated debt-financed income from such property is taxable in proportion to its acquisition indebtedness.

Certain exceptions to the debt-financed income rules are relevant to church property. First, where substantially all (at least 85%) of the property's use is substantially related (aside from the need for funds) to the organization's exempt purposes, it is not treated as debt-financed property (IRC § 514[b][1][A]). Second, where property is owned by one exempt organization and is used by certain related organizations, it is not treated as debt-financed property to the extent that the property is used by either organization in furtherance of its exempt purposes (IRC § 514[b][2]).

Third, under the "neighborhood land rule" exception, if an organization acquires real property and intends to convert it to use for exempt purposes within ten years, the property will not be treated as debt-financed property if it is in the neighborhood of other property used by the organization for exempt purposes and if the intent to use the property for exempt purposes within ten years is not abandoned (IRC § 514[b][3][A]). Note, however, that section 514(b)(3)(C)(i) vitiates the neighborhood land rule exception with respect to any structure on the land, when it is acquired, that is not required to be removed or demolished as part of the conversion. Special consideration is given to churches and conventions or associations of churches. Among other things, a fifteen-year period applies instead of the regular ten-year period, and the requirement that the acquired land be in the neighborhood of other property used for exempt purposes is eliminated (IRC § 514[b][3][E]).

***2. Controlled Subsidiary Exception.*** Section 512(b)(13), which was significantly revised in 1997, provides that rent, royalty, annuity, and interest income, which is generally excluded from unrelated business taxable income, is not so excluded if it is received from a controlled subsidiary of a tax-exempt organization. Under section 512(b)(13) prior to 1997, a controlled subsidiary was defined as 80% controlled by the tax-exempt parent organization. The control test did not incorporate any indirect ownership rules, so that rents, royalties, annuities, and interest from second-tier subsidiaries generally did not constitute unrelated business taxable income to the tax-exempt parent organization.

In an attempt to thwart tax-exempt organizations' attempts to elude UBIT on amounts received from subsidiary organizations, Congress lowered the threshold for "control" from 80% to the current 50%. With respect to stock subsidiaries, "control" means ownership by vote or value of more than 50% of the stock.

For partnerships or other entities, "control" means ownership of more than 50% of the profits, capital, or beneficial interests. In addition, the constructive ownership rules of section 318 of the Code were made applicable to section 512(b)(13). As a result, a tax-exempt parent organization will be considered to control a subsidiary in which it holds, directly or indirectly, more than 50% of the voting power or value. Any rent, royalty, annuity, or interest received by an exempt organization from its controlled entity will be unrelated business taxable income to the extent that the payment reduces the net unrelated income or increases the net unrelated loss of the controlled entity.

**Corporate Sponsorship Regulations**
The Taxpayer Relief Act of 1997 amended the Internal Revenue Code to add section 513 (i), which provides that the receipt of qualified sponsorship payments by an exempt organization subject to tax imposed under section 511 of the Code does not constitute receipt of income from an unrelated trade or business. Section 513(i) applies to payments solicited or received after December 31, 1997. In March 2000, the IRS issued proposed regulations interpreting section 513(i). The IRS has issued final regulations under section 513(i), which are effective as of April 25, 2002, and are applicable for payments solicited or received after December 31, 1997.

**Applicability**
The final qualified sponsorship payment regulations apply to the following: single events conducted by an exempt organization (e.g., a bowl game, TV show, or walkathon); a series of events (e.g., an athletic tournament or concert series); or an activity conducted over a period of time (e.g., an art exhibit). It is irrelevant whether the sponsored event is substantially related to the exempt organization's tax-exempt purpose. The qualified sponsorship provisions do not apply to payments made in connection with exempt organization trade shows (governed by section 1.513-3 of the regulations) or to income derived from the sale of advertising or acknowledgements in exempt organization periodicals (governed by section 1.512[a]-[f]). A "periodical" is defined as "regularly scheduled and printed material published by or on behalf of the exempt organization that is not related to and primarily distributed in connection with a specific event conducted by the exempt organization." The final regulations clarify that printed material includes material that is published electronically.

**Qualified Sponsorship Payments**
The final regulations define a "qualified sponsorship payment" as a payment made by any person engaged in a trade or business for which there is no expectation or arrangement that the payer (or persons designated by the payer) will receive any substantial return benefit from the exempt organization. "Payment" means the payment of money, transfer of property, or performance of services.

## 12.2.1 Memo from USCCB General Counsel

### Substantial Return Benefit

Substantial return benefit is defined as any benefit other than (1) a use or acknowledgment or (2) certain disregarded benefits. With respect to the latter, the final regulations delete the $79 cap (the 2002 inflation-adjusted figure) found in the proposed regulations, so that benefits may be disregarded if the aggregate fair market value of all benefits provided to the payer (or persons designated by the payer) is not more than 2% of the payment. If the aggregate fair market value of the benefits exceeds 2%, then (except to the extent that the benefit constitutes an acknowledgment) the entire fair market value of such benefits, not merely the excess amount, is a substantial return benefit. Benefits to the payer (or persons designated by the payer) may include the following: advertising; exclusive provider arrangements; goods, facilities, services, or other privileges; and exclusive or non-exclusive rights to use an intangible asset (trademark, patent, logo, etc.) of the exempt organization.

### Use or Acknowledgment

For purposes of section 513(i), a substantial return benefit does not include the use or acknowledgment of the name, logo, or product line of the payer's trade or business. Use or acknowledgment does not include advertising but may include the following: exclusive sponsorship arrangements; logos and slogans that do not contain qualitative or comparative descriptions of the payer's products, services, facilities, or company; a list of the payer's locations, telephone numbers, or Internet address; a value-neutral description, including displays or visual depictions, of the payer's product line or services; and the payer's brand or trade names and product or service listings. Logos or slogans that are an established part of the payer's identity are not considered to contain qualitative or comparative descriptions.

### Advertising

For purposes of section 513(i), "advertising" means any message or other programming material that is broadcast or otherwise transmitted, published, displayed, or distributed, and that promotes or markets any trade, business, service, facility, or product. Advertising includes messages containing the following: qualitative or comparative language; price information or other indications of savings or value; an endorsement; or an inducement to purchase, sell, or use any company, service, facility, or product. Mere display or distribution—whether for free or for a charge—of a payer's product to the general public at the sponsored activity is not considered an inducement to purchase, sell, or use the product. A single message with both advertising content and an acknowledgment is advertising. These provisions do not apply to activities a payer undertakes on its own (e.g., the purchase of broadcast time from a television station during commercial breaks in a sponsored program).

### Exclusivity Arrangements

The final regulations adopt the distinction between an "exclusive sponsor" and an "exclusive provider" that was delineated in the proposed regulations. An arrangement that acknowledges a company as the exclusive sponsor (or the exclusive sponsor representing a particular business or industry) of an exempt organization activity does not, by itself, constitute a substantial return benefit.

However, if the arrangement is an exclusive provider arrangement that limits the sale, distribution, availability, or use of competing products in connection with the sponsored activity, the payer has received a substantial return benefit.

**Allocation of Payments**
The final regulations adopt a reasonable allocation rule. If an arrangement provides that a payer will receive substantial return benefit, only the portion, if any, of the payment that exceeds the FMV of the return benefit is a qualified sponsorship payment. The burden of establishing valuation is on the exempt organization. The final regulations clarify that the fair market value of the substantial return benefit generally is to be determined when the benefit is provided. However, if the parties enter into a binding, written sponsorship contract, the fair market value of any substantial return benefit provided pursuant to that contract is to be determined on the date the parties enter into the sponsorship contract (except in the case of material changes).

**Contingent Payments**
The amount of a qualified sponsorship payment may not be contingent, by contract or otherwise, on attendance at the exempt organization's event, on broadcast ratings, or on other indications of public exposure that would be typical of advertising. A qualified sponsorship payment may, however, be contingent on the sponsored activity's actually taking place.

**Public Support Determinations**
Qualified corporate sponsorship payments in the form of money or property (but not services) will be considered as contributions for purposes of the public support tests of sections 170(b)(1)(A)(vi) and 509(a)(2) of the Code. However, this "contribution" classification with respect to the exempt organization does not determine whether the corporate sponsorship payment is deductible by the payer under section 162 as a business expense or under section 170 as a charitable contribution.

**Written Agreements**
The final regulations maintain that neither the existence nor the detail of a written sponsorship agreement, by itself, disqualifies payment from classification as a qualified sponsorship payment.

**Sponsor Hyperlinks**
For purposes of section 513(i)**,** the final regulations address the issue of whether a hyperlink constitutes an acknowledgment or advertising in two new examples. In Example 11, a symphony orchestra maintains a website with information about its performance schedule. A music shop makes a payment to fund a concert series. The symphony posts a list of sponsors on its website, including the music shop's name and Internet address, which appears as a hyperlink from the symphony's website to the music shop's website. The symphony's website does not promote or advertise the music shop. The entire payment by the music shop is a qualified sponsorship payment. The posting of its Internet address as a hyperlink does not constitute advertising.

## 12.2.1 Memo from USCCB General Counsel

In Example 12, a health-based charity sponsors a year-long program to educate the public about a particular medical condition. A drug company that produces a drug used in treating the condition provides funding for the program to help the charity produce educational materials and post information on its website, which contains a hyperlink to the drug company's website. The drug company's website contains an endorsement by the charity of its drug, which was reviewed and approved in advance by the charity. The endorsement is advertising, the fair market value of which exceeds 2% of the total payment from the drug company to the charity. Thus, only the portion of the payment, if any, in excess of the fair market value of the advertising can be classified as a qualified sponsorship payment.

The preamble to the final regulations cautions that these two examples deal with hyperlinks in the section 513(i) context only and should not be relied upon with respect to the treatment of hyperlinks for purposes of other sections of the Code.

**Safe Harbor Application**
The final regulations reiterate that the UBIT treatment of any payment or portion thereof that does meet the requirements for the qualified sponsorship payment safe harbor will be determined by application of the ordinary UBIT rules under sections 512, 513, and 514.

See Final Regulations on Taxation of Tax-Exempt Organizations' Income from Corporate Sponsorship, 67 Fed. Reg. 20433 (April 25, 2002).

**Caveat**
The general information provided herein is not a substitute for specific legal advice. You should contact your (arch) diocesan legal counsel for advice concerning the application of the tax law to particular fact situations.

## 12.2.2 IRS Annual Determination Letter for the Catholic Church

**Internal Revenue Service**
**P.O. Box 2508**
**Cincinnati, OH 45201**

**Department of the Treasury**

**Date:** June 4, 2014

**Person to Contact:**
Roger Meyer ID#0110429
**Toll Free Telephone Number:**
877-829-5500
**Employer Identification Number:**
53-0196617
**Group Exemption Number:**
0928

United States Conference of Catholic Bishops
3211 4th Street, NE
Washington, DC 20017-1194

Dear Sir/Madam:

This responds to your May 19, 2014, request for information regarding the status of your group tax exemption.

Our records indicate that you were issued a determination letter in March 1946, that you are currently exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, and are not a private foundation within the meaning of section 509(a) of the Code because you are described in sections 509(a)(1) and 170(b)(1)(A)(i).

With your request, you provided a copy of the *Official Catholic Directory for 2014*, which includes the names and addresses of the agencies and instrumentalities and the education, charitable, and religious institutions operated by the Roman Catholic Church in the United Sates, its territories, and possessions that are subordinate organizations under your group tax exemption. Your request indicated that each subordinate organization is a non-profit organization, that no part of the net earnings thereof inures to the benefit of any individual, and that no substantial part of their activities is for promotion of legislation. You have further represented that none of your subordinate organizations is a private foundation under section 509(a), although all subordinates do not all share the same sub-classification under section 509(a). Based on your representations, the subordinate organizations in the *Official Catholic Directory for 2014* are recognized as exempt under section 501(c)(3) of the Code under GEN 0928.

Donors may deduct contributions to you and your subordinate organizations as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to them or for their use are deductible for federal estate and gifts tax purposes if they meet the applicable provisions of section 2055, 2106, and 2522 of the Code.

Subordinate organizations under a group exemption do not receive individual exemption letters. Most subordinate organizations are not separately listed in Publication 78 or the EO Business Master File. Donors may verify that a subordinate organization is included in your group exemption by consulting the *Official Catholic Directory*, the official subordinate listing approved by you, or by contacting you directly. IRS does not verify the inclusion of subordinate organizations under your group exemption. *See* IRS Publication 4573, *Group Exemption*, for additional information about exemptions.

## 12.2.2 IRS Annual Determination Letter for the Catholic Church

Each subordinate organization covered in a group exemption should have its own EIN. Each subordinate organization must use its own EIN, not the EIN of the central organization, in all filings with IRS.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,

*Tamera Ripperda*

Tamera Ripperda
Manager, Exempt Organizations

## 12.3 State of Missouri Sales and Use Tax Exemption Letter for the Archdiocese and its Parishes

State of Missouri
**Exemption from Missouri Sales and Use Tax on Purchases and Sales**

| | |
|---|---|
| Issued to: | Missouri Tax I.D. Number: 14878046 |
| Archdiocese of St. Louis<br>4445 Lindell Boulevard<br>St. Louis MO 63108 | Effective Date:<br>07/11/2002 |

Your application for sales/use tax exempt status has been approved pursuant to Section 144.030.2(19), RSMO. This letter is issued as documentation of your exempt status.

Purchases by your Organization are not subject to sales or use tax if within the conduct of your Organization's exempt charitable religious or educational functions and activities. When purchasing with this exemption, furnish all sellers or vendors a copy of this letter. This exemption may not be used by individuals making personal purchases.

A contractor may purchase and pay for construction materials exempt from sales tax when fulfilling a contract with your Organization only if your Organization issues a project exemption certificate and the contractor makes purchases in compliance with the provisions of Section 144.062, RSMO.

Sales by your Organization are not subject to sales or use tax if within your Organization's exempt charitable, religious or educational functions and activities. If your Organization engages in a competitive commercial business that serves the general public, even if the profits are used for purposes of your exempt function, you must obtain a Missouri Retail Sales Tax License and collect and remit sales tax.

This is a continuing exemption subject to legislative changes and review by the Director of Revenue. If your Organization ceases to qualify as an exempt organization, this exemption will cease to be valid. This exemption is not assignable or transferable. It is an exemption from sales and use taxes only and is not an exemption from real or personal property tax.

Any alteration to this exemption letter renders it invalid. If you have any questions regarding the use of this letter, please contact the Division of Taxation and Collection, P. O. Box 3300, Jefferson City, MO 65105-3300, Phone 573-751-2836.

## 12.4 Office of Building and Real Estate

The Office of Building and Real Estate is involved in the construction, acquisition, expansion and/or renovation of every building or facility requiring financial assistance from the Archdiocese.

Parishes that are intending to renovate existing buildings, do repair work in excess of 3% of annual income or $10,000, whichever is greater, acquire land, or construct new buildings are required to contact this office to receive authorization prior to the project and are required to follow the guidelines set forth by this office throughout the project.

**Asbestos Abatement**

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) was passed into law by Congress in 1980. The Archdiocesan Compliance Office was originally established to ensure that all properties belonging to the Archdiocese of St. Louis and its parishes were in compliance with CERCLA.

With the establishment of the Office of Building and Real Estate, the Compliance Office ceased to exist. Its duties and responsibilities are now served by the Office of Building and Real Estate. This office completed inspections and analyzed samples for asbestos-containing materials or other environmental components. Using this information the Office determined the scope of work before preparing and awarding bids.

In recent years the Archdiocese distributed more than $4.6 million to parishes, schools and agencies from asbestos-related legal settlements.

For more information call the Director of the Office of Building and Real Estate at 314.792.7002.

## 12.4.1 Missouri Project Exemption Certificate

**MISSOURI PROJECT EXEMPTION CERTIFICATE**

Authorization For Purchasing Tax Exempt Project Construction Materials

(The Form and content of this Exemption Certificate have been approved by the Missouri Department of Revenue)

**EXEMPT ENTITY ISSUING CERTIFICATE**

Name: ____________________

Address: ____________________

City/State/Zip: ____________________

MO Tax Exempt I.D. # ____________ Letter Expiration Date: ____________

Contract Date: ____________ Certificate Expiration Date: ____________

Project # Assigned: ____________ Revised Expiration Date: ____________

Project Description: ____________________

Project Location: ____________________

Estimated Project Completion Date: ____________________

Auth. Signature: ____________________ Date: ____________

The Missouri exempt entity named above, hereby authorizes the purchase, without sales tax, of tangible personal property to be incorporated into or consumed in the construction of the project identified herein and no other, pursuant to Section 144.062 RSMo.

**PURCHASING CONTRACTOR/SUBCONTRACTOR**

Name: ____________________

Address: ____________________

City/State/Zip: ____________________

INSTRUCTIONS

EXEMPT ENTITY - A signed copy of this certificate, along with your MO Tax Exemption Letter, must be furnished to each contractor and/or subcontractor who will be purchasing tangible personal property for use in the project. It is the exempt entity's responsibility to ensure the validity of the certificate. You must issue a certificate with a Revised Expiration Date if purchases to complete the project will be required beyond the original Project Exemption Certificate Expiration Date.

CONTRACTOR/SUBCONTRACTOR – A completed copy of this exemption certificate, along with the exempt entity's MO Tax Exemption Letter, must be furnished to each material supplier from which tangible personal property for use in the project is purchased. A copy of each certificate must be retained by purchaser for five years.

MATERIAL SUPPLIER - A completed copy of this exemption certificate, along with the MO Tax Exemption Letter of the exempt entity contracting for the project, must be obtained from the contractor/subcontractor making purchases of tangible personal property for use in the project, and retained for audit purposes. Invoices issued for such purchases must reflect the name of the exempt entity and the project number assigned by the exempt entity shown above.

## 12.5 Parish Record Retention Guidelines

### Parish Record Retention Guidelines

The following list of parish records with recommended retention dates will assist parishes in keeping records for the appropriate length of time. As each year is completed, records should be boxed, labeled with description, date and destroy date. Some records are kept on a calendar year basis while others are kept on a fiscal year basis.

| Type of Record | Yr. Basis | Type of Storage |
|---|---|---|
| Contribution records | Calendar | Destroy after 7 years |
| Payroll records | Calendar | Destroy after 7 years |
| Accounts Payable (vendor bills) | Fiscal | Destroy after 7 years |
| Accounts Receivable | Fiscal | Destroy after 7 years |
| General Ledger (Year End) | Fiscal | Destroy after 7 years |
| Cash Receipts | Fiscal | Destroy after 7 years |
| Bank Statements & Cancelled Checks | Fiscal | Destroy after 7 years |
| Year-end Financial Reports | Fiscal | Permanent |
| Personal Records & Employee W2's | Calendar | Permanent |

Note: Payroll records include timesheets, payroll registers, monthly and quarterly tax reports. Personal records include application, resumes, attendance records, performance reviews, disciplinary actions, pay increases, applicable benefit information, and termination type (voluntary/involuntary) and date.

## 12.6 Raffles

Raffles and sweepstakes, commonly referred to as lotteries, are still considered forms of illegal gambling in Missouri so long as three elements are present:

1. Consideration to enter is paid;
2. Winning is based on chance; and
3. There is a prize of value awarded to the winner.

In November 1998, by a vote of its citizens, the Missouri Constitution was amended to allow any organization recognized as charitable or religious pursuant to federal law to sponsor raffles and sweepstakes.

**MISSOURI LAW**
There are currently no state laws or regulations concerning raffles and sweepstakes sponsored by charitable and religious organizations.

**FEDERAL LAW**
Federal laws prohibit mailing raffle, sweepstakes or lottery tickets or any form of payment for such tickets through the U.S. Postal Service. http://pe.usps.com/text/CSR/PS-307.htm. Advertisements for such activities without including actual tickets or forms of payment sent through the Posta Service are acceptable. Additionally, if any of the three elements for gambling is not present, i.e. the tickets indicate there is no necessity to purchase a ticket to enter the contest, there is no prize of value, etc., it would be acceptable to mail tickets only under these conditions.

GREENSFELDER
ATTORNEYS AT LAW

## 12.6.1 Fundraising Activities – Archdiocese of St. Louis

### MEMORANDUM

TO: Parishes and Agencies of the Archdiocese of St. Louis

FROM: Bernard C. Huger

DATE: March 29, 2005

RE: Fundraising Activities

### I. Introduction

Parishes and agencies of the Archdiocese of St. Louis frequently look for creative ways to facilitate fundraising. Recently, there have been several news reports regarding the legality or illegality of certain activities. We have recently received questions from some parishes and agencies of the Archdiocese regarding whether it is legal to sponsor certain games, including a popular game known as "Texas hold'em." Through the years, we have also received questions of whether it is legal for parishes to sponsor raffles. This memorandum addresses these questions and applies to all parishes and agencies of the Archdiocese.

### II. Gambling

Gambling, with only a few exceptions, is illegal in the State of Missouri. The exceptions for charities and religious organizations in this State include bingo, raffles and sweepstakes.

A person engages in "gambling" when he/she stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his/her control or influence, upon an agreement or understanding that he/she will receive something of value in the event of a certain outcome. Gambling includes both games of skill and games of chance. Some popular forms of gambling include "poker", "blackjack" (twenty-one), "craps", "Caribbean stud", "pai gow poker", "Texas hold'em", "double down stud", and any video representation of such games. However, according to the definition of gambling, even games like "Trivial Pursuit" would be considered gambling if the following three elements which define gambling are present:

(1) Consideration, that is when a participant stakes or risks something of value for the opportunity to participate in the game;

(2) Chance, that is whether a participant's winning is dependent upon the outcome of a contest of chance or a future contingent event not under his/her control or influence, notwithstanding that the skill of the participant may also be a factor therein; and

(3) Prize, that is the activity includes an agreement or understanding that the participant will receive something of value in the event of a certain outcome.

## 12.6.1 Fundraising Activities – Archdiocese of St. Louis

Parishes and agencies of the Archdiocese may legally sponsor games of skill or games of chance under two circumstances: (1) when no consideration is required to be eligible to participate in the game or (2) when the prize awarded is not something of value.

The term "something of value" is defined as any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

If a parish or agency of the Archdiocese sponsors a Texas hold'em game or other game in which winners will receive a prize that is considered something of value, then the parish or agency may not accept any consideration from the participants in the game. The consideration paid by the participants, which makes the game illegal for the charity, can be in the form of an entrance fee, the purchase of poker chips or any other form of payment. Classifying the payment as a donation does not have the effect of making the activity legal.

If on the other hand, the parish or agency sponsors a Texas hold'em game or other game of skill or chance and does receive consideration from the participants in the game, then the prize or prizes awarded cannot be something of value. A prize that is a plaque, a ribbon or trophy that does not have more than *de minimis* cash value would be considered a prize that is not something of value. Cash, gift certificates or free/discounted services would be considered something of value.

### III. Licensed Bingo

In Missouri, a bingo game may be operated by a charitable or religious organization that has maintained a membership of at least 20 for five years prior to applying for a bingo license. There are several restrictions for bingo game operations including: (1) the organization may not receive game proceeds or use any proceeds to pay game workers; (2) all workers must be volunteers and members of the organization for at least two years; (3) the bingo license must be displayed during all games; and (4) the organization must renew its license yearly. The rules for a charity conducting bingo are set forth in detail in Missouri State Regulations.

### IV. Raffles, Sweepstakes

For many years raffles and sweepstakes were illegal forms of gambling under Missouri law. However, in 1998 Missouri adopted a constitutional amendment allowing raffles and sweepstakes to be sponsored by groups recognized under federal law as charitable or religious. A raffle or sweepstake is defined as a game in which a participant buys a ticket for a chance at a prize, with the winner determined by a random drawing to take place at a location and date printed on the ticket. There are no Missouri State Regulations governing charitable raffles or sweepstakes. Therefore, charitable and religious organizations may sponsor raffles and sweepstakes in any manner they see fit, within the bounds of existing state and federal law.

Federal law applies if the person or entity sponsoring the raffle or sweepstake utilizes the United State Postal Service to distribute materials and information regarding the event.

## 12.6.1 Fundraising Activities – Archdiocese of St. Louis

While the relevant federal laws generally prohibit the use of the United States Postal Service for such purposes, those laws expressly permit charitable and religious organizations that sponsor raffles or sweepstakes to send advertisements or other information concerning those events, so long as they act in compliance with the laws of the state in which the event is conducted. See 18 U.S.C. 1307(a)(2) (2002). However, it remains illegal for any person or entity, including a charitable or religious organization, to send an actual lottery ticket or any form of payment for a lottery ticket via the United States Postal Service. See 18 U.S.C. § 1302 (2002).

After speaking with a U.S. Postal Inspector, it is my understanding that, if the winning proceeds of a lottery or sweepstake are in the form of a check, then the check can be mailed to the winner via First Class mail. However, if the winning proceeds are in the form of cash, the cash may not be sent via the United States Postal Service.

If there are further questions on these topics, please feel free to call or e-mail either me or my daughter, Lucie, who is also familiar with these issues.


Bernard C. Huger
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## Archdiocese of St. Louis

## THE UNIFORM UNCLAIMED PROPERTY ACT

### WHAT IS THE UNIFORM UNCLAIMED PROPERTY ACT?

The Act is a Missouri State law [Mo. Rev. Stat 447.500 et seq.] that requires anyone that holds or controls the property of another for at least five years without any action or attention by the owner, to report and remit the property to the State Treasurer's Office. The purpose of the Act is to protect the interests and property rights of the lost owner, relieve the holder from the expense and liability associated with the property, and to ensure that any economic windfall benefits the public and not an individual holder.

### IS THE ARCHDIOCESE OF ST. LOUIS SUBJECT TO THE ACT?

YES. The Archdiocese is a holder of property under definitions within the Act and, therefore, has a duty to file a report and remit the property to the State Treasurer. Section 447.540 states that "Entities which are exempt from federal taxation pursuant to section 501(c)(3) of the Internal Revenue Code shall report and remit as required by this chapter."

### WHAT IS UNCLAIMED PROPERTY?

Unclaimed property is tangible or intangible property that has been held for at least <u>five</u> years without any action or attention by the owner. Action by the owner may include transaction activity, written communication with the holder, a memo or other record on file where the owner indicates an interest in the property, or if the owner has another relationship where there has been owner-generated activity.

### WHAT DOES THE LAW REQUIRE?

Missouri requires that holders perform "reasonable and necessary diligence" to contact owners of property where the value is at least $50.00. The State suggests that holders send letters to owners or, in lieu of a letter, they may use other reasonable means to contact owners.

The Act requires that unclaimed property be reported to the State of the owner's last known address, or to the State of incorporation if the address is not known. If a holder files a report with a foreign state (i.e. a State other than Missouri) this does not expose the holder to other audits from the foreign state. Reports are due annually by November 1$^{st}$ for the prior fiscal year ending June 30$^{th}$. In addition, at the same time the unclaimed property report is filed, the holder of property presumed to be abandoned must pay all monies and remit all other abandoned property specified in the report to the Treasurer. Mo. Rev. Stat. §447.543. The report and property must be sent to the Unclaimed Property Division of the State Treasurer's office.

### WHAT ARE SOME EXAMPLES OF UNCLAIMED PROPERTY?

For the Archdiocese, its Agencies and Parishes, the primary property held for others would be checks payable to vendors, employees or former employees that have not been cashed and are outstanding on the records of the Agency or Parish. Another example would be funds paid to a school to reserve space for an incoming student who later chooses not to attend.

In considering different examples of reportable property, five categories of property held by the Archdiocese appear to come under the Act: (1) outstanding checks issued to vendors, (2) outstanding checks issued to current or former employees, (3) personal funds held on deposit by The St. Louis Archdiocesan Fund (SLAF), (4) personal deposits held by schools or agencies, and (5) uncashed checks on the operating accounts of each Parish.

## 12.7 Unclaimed Property

1. Outstanding checks payable to vendors.
The list of outstanding checks on the Accounts Payable system and on all petty cash accounts should be reviewed annually in the first quarter of the calendar year. An "Audit Confirmation" should be sent to the vendor. (A sample confirmation letter is attached as Exhibit A.) If the vendor responds that there is no outstanding balance, then the outstanding amount may be reversed into income. If the vendor does not respond, a second confirmation should be sent. If no response is received following two attempts, then the outstanding amount should be considered unclaimed and subject to reporting.

If the vendor is currently conducting business with the Archdiocese, either under another name or vendor number, then this current relationship prevents the status of the older file from becoming unclaimed. However, when all relationships cease with this vendor, then the older outstanding amount becomes unclaimed as of the original date. It is suggested, therefore, that audit confirmations be sent to vendors even if they conduct business under another name or vendor number.

Any Accounts Payable check payable to an Agency or Parish of the Archdiocese is not reportable and may be reversed at the discretion of the Archdiocese.

2. Outstanding checks issued to current or former employees ("employee").
Lists of outstanding payroll, pension, and other benefit checks should be reviewed annually in the first quarter of the calendar year. Letters should be sent to the last address of record, informing the employee that a check is outstanding. If the employee acknowledges the debt, then the old check should be voided and a new check mailed. If the employee acknowledges that he/she received the referenced check and deposited it, then the outstanding check amount may be reversed into income.

3. Personal deposits held by SLAF.
SLAF does not hold accounts of individuals other than under the Priests' Deferred Compensation Plan (PDC).

Funds held under the PDC are subject to a Deferred Compensation Agreement which provides for payment to stated beneficiaries upon the death of the owner. If a beneficiary predeceases the owner and a surviving beneficiary is not recorded, or the beneficiary cannot be located, then the balance of the account would become reportable.

4. Personal deposits held by Schools or Agencies.
Any funds held as pre-registration deposit, prepaid tuition, or other funds held for which services were not provided, are considered held in a fiduciary capacity and should be returned to the payer. If the School or Agency is unable to refund the amount held to the payer, then they become subject to the Act at the prescribed time. Included in this category would be credit balances in Accounts Receivable, if the payer is an individual or entity outside of the Archdiocese (e.g. an overpayment by a priest to Risk Management).

5. Uncashed checks outstanding on the operating bank accounts of a Parish.
Each Parish is responsible for implementing the above procedures regarding vendor checks and checks to employees or former employees, and should develop procedures to comply with the Act. Information regarding these procedures will be updated periodically when needed, in the Parish Financial Management and Control Manual. Reviewing compliance with the Act should be part of an audit checklist used when Internal Audit visits a Parish.

**WHAT REPORTS ARE REQUIRED?**
A sample of the annual report can be found as Exhibit B. All reports should be completed by the Parish or Agency and submitted to the Finance Office of the Archdiocese by September 30th each year. The Finance Office will consolidate the information into a single report and submit it to the appropriate State.

**WHO IS RESPONSIBLE FOR COMPLIANCE WITH THE ACT?**
The Archdiocesan Controller will assign appropriate responsibility for each area of due diligence and compliance with the Act, including review of outstanding checks, communication with vendors, employees or former employees, communication with the Parishes, and reporting and remitting to the appropriate jurisdiction.

**WHERE CAN I GET ADDITIONAL INFORMATION?**
If you have any questions regarding due diligence or reporting under the Act, you are invited to contact the Archdiocesan Finance Manager at 314.792.7129.

## 12.7 Unclaimed Property

<<Date>>

Dear <<Name>>:

The Archdiocesan Finance Office has been working with its attorneys for the past several months to file a claim for unclaimed property held by the State of Missouri for the benefit of parishes and agencies in the Archdiocese of St. Louis.

Recently we received a check for<<$$$>>> representing payment of that claim. The amount of <<$$$>> was either credited to your SLAF Demand/Money Market Account #__________or paid by check #______on <<Date>>.

I have enclosed a copy of the supporting Unclaimed Property Account Information sheet(s) for your reference.

If you have any questions, please call me at <<PhoneNumber>>..

Signature

**12.7 Unclaimed Property**

**Parish Name**

**Parish Location**

| Name & last known address of the Owner | Nature or description of the property | Amount due (items of value under $50 may be reported in aggregate) | Date when the property became payable, demandable or returnable | Date of last transaction with the owner with respect to the property | Other Information |
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## NEGATIVE REPORT OF UNCLAIMED PROPERTY INSTRUCTIONS

1. This report is to be used only if you have no unclaimed property report. Section 447.577, RSMo 1986 imposes certain penalties on any person who intentionally fails to report or deliver unclaimed property when due or any person who makes a false statement on a report.

2. Complete all holder information below.

3. Fold and staple with address showing on reverse side

## HOLDER INFORMATION

| Holder Name | Report Year | Period Covered<br>to | State of Incorporation |
|---|---|---|---|

Name

Address (City, State, Zip)

Holder Comments

## NEGATIVE REPORT OF UNCLAIMED PROPERTY

The Primary Business Activity of Your Company Is

Did You File a Report of Unclaimed Property Last Year?

Do You Understand What Types of Property Are Required to be Reported?

Contact Person/ Title

Telephone Number
(      )

I,______________________________being first duly sworn, on oath depose and state we have no property which would be presumed abandoned under the Missouri Uniform Disposition of Unclaimed Property Act for the year ending as stated, that I am duly authorized to execute this verification by the holder and by law and that I believe that said negative report is true, correct and complete as the date.

| Signature | Title |
|---|---|

| Notary Public Embosser Seal | STATE OF MISSOURI | | County (or City of St. Louis) |
|---|---|---|---|
| | Subscribed and Sworn before me this<br>Day of 20 | | USE RUBBER STAMP IN CLEAR AREA BELOW |
| | Notary Public Signature | My Commission Expires | |
| | Notary Public Name (Typed or Printed) | | |

NOTE: The verification, if made by a partnership, shall be executed by a partner, if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

## 12.8 Instructions and Forms W-2G and 5754

Instructions for properly completing IRS Forms W-2G and 5754 are available from the IRS website.

## 12.9 Recordkeeping Requirements for Donors

The following excerpt is taken from the IRS website:

> **What's New for 2007**
> **New recordkeeping requirements for cash contributions.** You cannot deduct a cash contribution, regardless of the amount, unless you keep as a record of the contribution a bank record (such as a canceled check, a bank copy of a canceled check, or a bank statement containing the name of the charity, the date, and the amount) or a written communication from the charity. The written communication must include the name of the charity, date of the contribution, and amount of the contribution.

You might want to consider publishing this information in your Sunday bulletins for the benefit of those donors who contribute loose cash without using parish envelopes.

## 12.10 Scrip Programs

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To: Pastors and School Principals

From: Bernard C. Huger

Re: Certificate (scrip) Programs and Federal Tax Laws

Date: April 11, 2008

Over the years, the certificate and scrip program fundraisers offered by local grocery stores and merchants have provided many parishes and schools additional sources of revenue. Many parishes and schools have made it a requirement for school families to purchase minimum amounts of scrip or certificates as part of a family's financial commitment to the school. However, parish audits have found an increasing number of schools that allow families to reduce their specific accounts receivable balance for tuition by the certificate or scrip "profits" generated by the school families beyond the minimum requirement for all school families. In these cases, when minimum purchases have been met, the schools no longer receive the benefit of the certificate or scrip profits, but specific families receive the benefit through a reduction in their financial obligations to pay tuition for their children. The difficulty with this practice is that the benefits from selling scrip or certificates in the name of the parish school flow directly to the parish from the merchant. The structure of the program is such that these benefits are never the assets of the individual parishioners. The profits from the scrip sales are a parish asset and do not belong to parishioners.

Federal Tax Law prohibits the inurement of earnings or assets of an exempt organization to a private individual. In this case, the assets (scrip profits) of an exempt organization (parish) are used for the benefit (tuition reduction) of a private individual (parishioner). As a result, the parish, in this case, would be in violation of Federal tax law and would be in jeopardy of having its federal tax exempt status removed.

Accordingly, parishes immediately should discontinue the practice of allowing families to benefit by applying profits from scrip programs to tuition obligations, or by reporting any such profits as tax-deductible contributions. Parishes can encourage families to purchase certificates or scrip to support the school or parish. Profits from the program should be used for recognized objects of charity. For example, a parish can use the profits to fund a scholarship program for families who cannot afford to send their children to a Catholic school or the profits can be used to help create a balanced budget.

MERITAS

GREENSFELDER
ATTORNEYS AT LAW

The tax exempt status of a parish may be jeopardized if it continues to allow s
families to reduce tuition accounts receivable balances by certificate or scrip p

If you have any questions in this regard, please call Mike Duffy at 314.
or me at 314.516-2659.

cc: Reverend Monsignor Vernon Gardin, VG
Rev. Mr. C. Frank Chauvin
Gerard J. Hoeing
George J. Henry
Michael J. Duffy

## 12.10 Scrip Programs


THE CATHOLIC CENTER
*Archdiocese of St. Louis*


**MEMORANDUM**

May 8, 2008

TO: Pastors and Principals

FROM: Monsignor Vernon Gardin, V.G.

RE: Follow up on Certificate (scrip) Program

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Please see the attached memo from Mr. Bernard Huger regarding Certificate (scrip) Programs and Federal Tax Laws. This memo is in answer to questions that came in following the first memo last week. In particular, let me call attention to the third-to-last paragraph regarding an IRS audit in another diocese over this issue.

Many thanks for your attention to this important matter.

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May 8, 2008

TO: Pastors, School Principals, Business Managers, and Bookkeepers

FROM: Bernard C. Huger

RE: Follow up on Certificate (scrip) Program and Federal Tax Laws

On April 11, 2008 I sent a memorandum to you on the subject of the tax issues related to a parish giving tuition credit to parents based on the receipts of the parish from the sale of scrip by the parents or attributable to the parents. My conclusion was, and is, that giving parents a tuition credit based upon purchases of scrip would likely be determined by the Internal Revenue Service to be granting a private benefit to an individual by an exempt organization which could cause the loss of the exemption of the organization.

Several parishes have referred me to a letter dated December 19, 2007 from Timothy Riffle of the law firm Barnes & Thornburg, LLP, attorneys for Great Lakes Scrip Center, LLC, to Jack Smith of that organization. In his letter, Mr. Riffle essentially says that, when a parent pays, for example, $100 for a $100 scrip or "gift card," that the card has an actual value of only what the parish pays for the card, for example $95, and the parent has, in that case, a $5 discount which he/she can use as a tuition payment. On, this basis, concludes the author, it is not the parish which gives the $5 to the parent, but the parent who gives the $5 to the parish.

The difficulties with this are: (i) that the parents never have a right to the portion of the payment that is paid to and retained by the parish, so it is never theirs to give; they only have the choice of buying the scrip for $100 or not buying the scrip; and, (ii) in the example, the parents pay $100 for a "gift card" with a face value of $100 and redeemable at face value for merchandise.

As to the first point, if the parents bought merchandise with a credit card which paid them cash back, the cash back would be theirs and they could pay it to the parish as tuition. However, in the case of the scrip, the arrangement does not provide for a payment to the parents which they are free to use as they wish. Instead, the merchants permit the parish to retain the $5 amount in our example. Upon receipt, it is property of the parish and the tax laws prohibit the transfer of this money to parents either in cash or in the form of relieving a financial obligation of the parents.

On the second point, although Mr. Riffle contends that the "gift cards" have a value only of what the parish pays for them, it should be noted that this payment structure is available only to the charitable organization. If an individual went into Home Depot, for example, and wanted to buy a gift card, the card would cost $100, not the $95 which the parish paid in our example.

In conclusion, we have reviewed the question further in light of the questions asked and the opinion of Barnes & Thornburg, LLP, dated December 19, 2007. I have also reviewed this with the exempt organizations tax attorney in the United States Conference of Catholic Bishops Office of General Council, Dierdra Dessingue. She has looked into the issue and read Mr. Riffle's letter, and she has the same conclusion as do we. She also reports that the Internal Revenue Service is auditing this issue in the Louisville area. There may be further guidance from the Internal Revenue Service after that audit. Additionally, Great Lakes Scrip Center could seek a private letter ruling in which the Internal Revenue Service would come to the same conclusion as its attorneys.

Until there is contrary guidance from the Internal Revenue Service, my opinion remains that the practice of giving tuition credit to parents based on scrip sales attributed to them is not a permitted activity of a parish as an exempt organization. Accordingly, no parish should engage in this practice in the future, as the loss of tax exempt status would have a devastating financial impact on the parish.

If you have further questions in this regard, please contact Mike Duffy at (314)792-7133 or me at (314)516-2659.

cc: Reverend Monsignor Vernon E. Gardin
Deacon C. Frank Chauvin
Gerard J. Hoeing
George J. Henry
Michael J. Duffy

## 12.10.1 Best Practices for Handling Scrip

Scrip inventory should be stored on parish premises in a vault or safe and treated like cash. Transfer of control in or out of the vault, or from one individual to another, should be documented with signature, date and time.

When received from vendor, scrip should be counted by two individuals before being placed in inventory. Both individuals should sign and date a count sheet to document the process.

Deposits for scrip purchases should be made timely and by Monday for weekend sales. Post-dated or "checks to be held" should not be accepted. Scrip should never be issued without receiving payment from the purchaser. No "loans" should be given for scrip purchases.

All scrip inventory (recorded at face value) should be counted timely depending on sales volume and frequency. At the end of every month, scrip inventory should be counted and recounted by someone outside of the scrip program and reconciled to the general ledger (QuickBooks) as part of the monthly closing process. Advance payments received for scrip not in stock should be well documented and included in any and all reconciliations. When selling scrip, individuals should maintain a log of sales transactions indicating the purchaser's name, amount and type of scrip. A rebate waiver should be obtained by the parish from anyone purchasing scrip.

In order to avoid possible treatment of profits by the IRS as "unrelated business income" subject to tax, unpaid volunteers should provide at least 85% of the labor to sell the scrip and manage the program.

## 12.11 Bingo Licenses

Recently, a parish in the Archdiocese of Saint Louis was contacted by the Missouri Gaming Commission regarding the organization name and the associated Federal Employer Identification Number (FEIN) being used on a Bingo License.

The Internal Revenue Service (IRS) is auditing the Missouri Gaming Commission as it was finding that the legal name on the license did not match the legal name with the IRS. One recent Bingo License application listed the organization's name as *St. Robert Bellarmine Ladies Council* when the legal name associated with that FEIN was *St. Robert Bellarmine Catholic Church.*

Since this has been brought to the attention of the Missouri Gaming Commission, I believe they will be checking this information when the application is received. In order to avoid any issues or delays during the application process, please communicate to your parish staff, all of the organizations at your parish, agency or location directors, and special events coordinators to use the correct corporate legal name for any license or legal document, especially if the document includes a FEIN. The best way to verify the correct name is to check your IRS Payroll Form 941.

Director of Internal Audit