



## **CAN YOUR C(6) ASSOCIATION MAKE CHARITABLE DONATIONS??**

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In recent years, our society has been devastated by a series of calamities. We have experienced terrorist attacks, tsunamis, hurricanes, floods, and civil wars where one factor attempts to slaughter all of the supporters of the other factor. The association community has been a leader in reaching out to help the victims of these disasters. Over and over again, trade associations and professional societies have implemented programs to provide humanitarian assistance.

Some association programs have been coordinated with national groups such as the American Red Cross or the Salvation Army. Under these programs, a segregated fund is established to collect donations from individual association members or professional society members. The association's staff and leadership create a campaign to obtain industry contributions for disaster aide and funnel those contributions through the segregated fund. From a tax standpoint, the donations in question are individual donations being made to a charity, such as the American Red Cross or the Salvation Army. These contributions are deductible as charitable contributions made by individuals.

A more interesting question arises when the association or professional society decides to focus its disaster relief efforts on disaster victims who are in the same trade or

same profession as the members of the organization. Assume that the Widget Manufacturers Association would like to help Widget manufacturers in an area that has been designated as a disaster area due to a flood or hurricane. The Widget Manufacturers Association sets up a fund to pay to rebuild the plants of members whose plants were destroyed by the hurricane. If the Association is a 501(c)(6) exempt organization, does this type of a program present an "inurement" problem? Is the IRS going to claim that the donations made by the Association to help its members rebuild their plants place the Association's tax exemption in jeopardy?

What happens if the Association has a related foundation that is exempt from the Section 501(c)(3) of the Internal Revenue Code? Can the foundation use its money to help rebuild facilities that were damaged or destroyed by the natural disaster?

In the two examples described above, would it make a difference if the donations were not to companies for the purpose of rebuilding plants, but were made to individual members of the association to assist them in rebuilding homes, or providing basic food, shelter, and educational expenses in light of losses cause by the disaster?

Under both Sections 501(c)(3) and 501(c)(6) of the Internal Revenue Code, no part of net earnings of an exempt organization may inure to the benefit of any private shareholder or individual. The IRS has taken the position that inurement must be defined on a case-by-case basis. However, there have been a series of cases that have held that a trade association or charitable or educational organization cannot establish a program to regularly pay benefits to members who are in need of financial aid. Although there have been some exceptions to the rule, generally where a trade association provides direct financial assistance to members, the association will be jeopardizing its tax-exempt status.

Have the members of your trade association or professional society asked that the organization participate in disaster relief activities? If so, we strongly

recommend that you consult tax counsel before taking any specific action. If your membership or Board wants to set up a fund that will provide benefits only to members of the association who have been victims of a disaster, establishment of such a fund could clearly jeopardize your tax-exempt status. In one of the early cases dealing with this issue, an association set up a program to provide financial aid to association members whose employment had been terminated. If a member of the association was fired from his/her job, the association would provide certain benefits to help that person until he could get his next position. The IRS ruled that this practice constituted a "inurement." Associations that regularly provide financial benefits to individual members do not qualify for tax exemption. If you have any questions about your association's activities, get expert advice immediately.