

F-3(a)

***GAMBLING AND
FUNDRAISING EVENTS***

MEMORANDUM

TO: ALL PASTORS, PRINCIPALS AND AGENCY HEADS

FROM: Lawrence R. Jannuzzi, Associate Legal Counsel

DATE: January 31, 2007

RE: Summary and Highlights of Regulations Governing Parish Gambling, Raffles, and Other Fundraising Events

SOME INCLUDED TOPICS:

- **Gambling/Bingo/Casino Nights/Raffles/Lotteries**
- **On Line Fundraising**
- **Car Donations**
- **Documentation of Gifts**
- **IRS Reporting Requirements**
- **Foreign Contributions**
- **Liquor Permits**
- **Liability/Insurance**
- **Special Fundraising Advisory: Endorsements**

PLEASE SHARE THIS INFORMATION WITH YOUR DEVELOPMENT DIRECTOR AND OTHER PERSONS INVOLVED IN FUNDRAISING ACTIVITIES AT YOUR LOCATION

Because the laws governing gambling and other methods of parish fundraisers are relatively complicated, not always intuitive, and implicate several other areas of law and Archdiocesan policy, and because there have been several recent changes in those laws, the legal office has prepared this summary of the most common issues.

Please remember that this summary is only intended as a guide. You should:

- 1) Read the accompanying materials carefully well in advance of the event;**
- 2) Follow the indicated cross-references for more information on specific topics, and read those too; and**
- 3) Contact the Archdiocesan Development, Legal and/or Finance Offices, as appropriate, for guidance and additional information.**

See, especially, the following documents. These are accessible and downloadable through the Index of Archdiocesan Policies posted on the Archdiocesan website at SFArchdiocese.org):

- Fundraising – Electronic**
- Fundraising Policies: IRS Charity’s Guide to Car Donations**
- Fundraising Policies: Memo to Agency Heads re: Car Donations**
- Fundraising Policies: Pastor’s Memo re: Raffles**

These documents contain additional valuable, detailed information on these topics.

Depending on which law is involved, and the nature of the violation, the penalty for failing to comply with government rules can include loss of tax-exempt status, penalties, interest, fines and (in egregious situations) even jail time for the violators.

1. Gambling.

a. Bingo. Until recently, bingo games were the only legally approved games of chance for a parish. They are still common and permissible, but note the following restrictions: 1) A local permit is required. 2) “Progressive prizes” are not permitted. 3) The game must be conducted entirely by volunteers (although a security person or service can be hired). 4) There are dollar limits on the size of prizes. Please contact your local city authority for information on required forms and restrictions, and allow adequate time to process any required applications prior to your event. A small fee is typically charged for a permit.

b. Casino Nights. “Casino” or “Monte Carlo” Nights are events at which people pay money (directly or indirectly, i.e., through “donations”, bets, a fee per-game, buying “entry tickets” or buying chips, etc.) to play games of chance in which the player has a chance to win something of value depending on the outcome of the game. “Something of value” includes all winnings, whether cash (e.g., in a poker game), “floor prizes” to the person who ends the evening with the most chips, or any other return of value.

These events are considered **gambling**, and have long been **generally illegal**. But a new law has been passed that allows certain **limited exceptions**. Such games are now permitted within the following significant, strict, restrictions (LOCAL governments may also impose ADDITIONAL restrictions):

- i) One event per year, no longer than five hours long;**
- ii) No cash prizes;**
- iii) Non-cash prizes may not exceed \$500 each, or \$5,000 in total per event**

- iv) **No more than 10% of gross revenue may go to any entity other than the non-profit, except for facility rental (other restrictions on receipt of funds also apply);**
- v) **Sponsoring Organization must have been in existence for more than 3 years;**
- vi) **Organization must register with the State of California's Division of Gambling Control, and pay an annual fee (forms available from that agency online or on request);**
- vii) **Organization must maintain records including receipts, list of recipients of funds, number of persons attending, costs, date, hours and location of event;**
- viii) **No slot machines;**
- ix) **No one under age 21 may participate;**
- x) **Game may not be conducted over the internet.**

NOTE THAT ONLY THOSE CASINO NIGHTS THAT MEET ALL OF THESE CONDITIONS ARE ALLOWED. OTHERWISE, THEY ARE STILL CONSIDERED ILLEGAL GAMBLING AND ARE PROHIBITED BY LAW!

Because of these and various other regulations, all casino nights must be run **by the parish/school/agency (either directly or through an appropriate contract with an outside operating company) and on its behalf.** Proceeds may be directed to specific purposes (e.g., men's club, parent-teacher association, support the soccer team, etc.) so long as these beneficiaries represent bona-fide parish/school ministries. However, the proceeds must be received and owned and used by the parish/school/agency directly, and the parish/school/agency must be responsible for arranging all required registrations, state fees, record-keeping, etc. **No outside organization may operate a casino night in the name of, or on the site of, the parish/school or Archdiocese or using parish/school facilities, except where the parish/school has duly contracted with an outside company to operate the event on the parish's own behalf.**

c. Raffles/Lotteries. Prior to 2001, in all games such as raffles and lotteries, it had to be made conspicuously clear that participation is free upon request. That is no longer always true, **IF** certain conditions are met and certain rules are followed.

i) Pay-For-Tickets Raffles:

The law now provides that raffles may be conducted without "free tickets upon request" by **eligible organizations** for **directly supporting charitable purposes.**

Eligible Organizations are private, nonprofit tax-exempt organizations that have been qualified to conduct business in California for at least one year.

Tickets: Each ticket must be sold with a detachable stub with identifying numbers.

Draw: The draw must be held in California under the supervision of an adult.

Proceeds: At least 90 percent of the gross proceeds of the raffle must go for the support of a "beneficial or charitable" purpose, or to support another "eligible organization." This does not include support of the officers, directors or corporate members of the organization. The remaining 10 percent of the proceeds may be used for administrative expenses of the raffle. The organization may also use funds from other sources for administration of the raffle. **No individual or entity except the sponsoring organization itself may hold a financial stake in the raffle.**

Staff: Only volunteers or regular employees of the sponsoring organization can act as supervisor of the raffle or sell tickets (that is, no professional consultants such as outside fundraisers can receive compensation in connection with the raffle), and workers cannot be paid from the portion of the money that must go to the charitable purpose.

Internet Raffles: **The raffle may not be advertised or conducted over the internet.** Tickets may not be sold or redeemed over the internet. However, the raffle may be "announced" on the web site of the sponsoring organization.

Registration and Reporting: The operator must register with and report to the Department of Justice. However, there is an exemption from this requirement that would include all parishes and schools of the Archdiocese, as well as Catholic Charities and CYO.

ii) Old-Style Raffles

The old-style "free on request" raffles still exist and remain exempt from the regulations that pertain to "pay-for-ticket" raffles. To be exempt from the regulations, 1) the raffle must involve a "general and indiscriminate distribution" of tickets (meaning that tickets must be sent/distributed broadly and available freely upon request); 2) free tickets must be offered on the same terms as those tickets for which a donation is given (i.e., free tickets must have the same chance to win); and 3) participants must not have to pay to have a chance to win, and the tickets should make absolutely clear that people may participate at all stages of the event for free. **Given the relative simplicity of complying with the new rules for "pay to play" raffles, parishes, schools and agencies are advised to avoid this "exempt" route.**

Whichever kind of raffle you have, it bears emphasis that **only raffles that either meet all the requirements of the new law, or meet all the requirements of old-style raffles, are legal. No other raffles/lotteries, etc. may be held.**

iii) Caveat concerning tickets by mail:

The United States Attorney General has long enforced the federal law that outlaws the use of the U.S. mail for gambling that is illegal under state law. Accordingly, the Postal Service refused to accept mailings that did not comply with the old state law that required tickets to be given away for free. Now, because requiring purchase of raffle tickets no longer makes the raffle unlawful in California, the U.S. Attorney General has notified Congress that the federal authorities will no longer enforce federal laws prosecuting such raffles, and the Postal Service should accept those mailings. However, the regulations governing the use of the mails have not yet been modified to match the new California Law and the Attorney General's new policy. **The bottom line, therefore, is this: Although raffles in which tickets are not offered for free can now be legal under California law (under the circumstances outlined above), the U.S. Postal Service or a local postmaster may not yet accept mailings of such tickets.** Unless and until the Post Office changes its stance, our options are 1) offer raffle tickets for free, in accordance with the prior law; 2) conduct raffles without use of the mail, or 3) hope that your local postmaster has received the memo that these are now OK. In any case, *announcements* for such raffles should be accepted in the mail.

iv) Caveat 2 concerning tax deductibility:

Because raffle tickets (when they are not free) are purchased with the possibility of receiving value in return, the purchase price is not considered donations, and raffle tickets and literature should be careful not to state that the purchase of tickets is a "donation," a "gift," a contribution," "tax deductible," or "may be deductible as permitted by law."

2. On-Line Fundraising. No internet gambling is allowed. There are no exceptions. As described above, raffles, etc., may be *announced* on-line, but they may not be *conducted* on-line. Straight *donations*, however, may be made on-line or through electronic means. The Archdiocese has screened and approved certain services and contracts for electronic donations/automated funds transfers, etc. Please review the printed Archdiocesan policy governing use of the internet (including electronic fundraising) and contact the Archdiocesan Development Office for further details on approved providers and appropriate services.

3. Car Donations: Recent changes in Federal tax laws have targeted abuses in many car donation programs, and tightened the procedures for claiming

deductions. These changes impose **many strict and very technical requirements** on those donating cars as well as on those receiving them. State laws also regulate such programs (car registration, etc.) For this reason, **these programs are discouraged**, and are never to be engaged in lightly or without adequate preparation. Before initiating such a program, please see the materials prepared by the Archdiocesan Legal Office and the Internal Revenue Service, all of which is available on-line on the Archdiocesan website.

4. Receipts, Acknowledgments and Tax Deductions.

a. Receipts and Acknowledgments.

The following pertains to all “gifts” of money or other items, whether pure donations, proceeds of fundraising events, auction proceeds, etc. Wherever a donor may be considering taking a tax-deduction for any payment to a parish/school, certain documentation is required to be maintained by the donor and in some cases required to be given by the donee to the donor and/or reported to the IRS.

The appropriate documentation depends upon the size of the gift, whether the gift is of cash or of goods or services, and if *quid pro quo* value was received in return for the donation.

i) Cash Gifts less than \$250.

Under new tax regulations, no charitable deduction may be claimed for any donation of cash, regardless of amount, without some independent documentation (the donor’s own notes or say-so are no longer sufficient). This need not necessarily be a receipt from the recipient, but may be a cancelled check, an electronic-debit record, etc. Although it is generally the donor’s responsibility to secure documentation, it is good practice (i.e., it encourages donations) to offer routine acknowledgment of all gifts. Since it is not technically required that acknowledgment of these gifts come from the donee, there is no technical rule regulating when it must be given. A good rule of thumb, however, is to provide acknowledgment as promptly as possible and no later than shortly after the end of the calendar year.

ii) Cash Gifts of \$250 or Larger.

No deduction may be claimed for a cash gift valued at \$250 or more without a **written acknowledgment** (receipt) from the charity that reflects the **date, amount and recipient** of the donation. This receipt must be given “contemporaneously,” which the IRS has defined as before the deadline for filing the donor’s tax return. Often, this is in the form of a year-end letter listing donations given during the year.

The acknowledgment must also state one of the following:

a) That no *quid pro quo* goods or services were provided in exchange for the gift (“*Quid pro quo*” does not include gifts made to a religious organization for intangible religious benefits not available commercially, such as masses or pew rentals), or

b) If *quid pro quo* goods or services were provided in return (e.g., a benefit dinner or an auction/rummage sale item), the acknowledgment must give a description and good faith estimate of the fair market value of the *quid pro quo* given.

c) If any *quid pro quo* is received by the donor, and the value given to the charity (cash or goods) is greater than \$75.00, the donee is *required by law* to give the donor a written statement that the amount of contribution deductible for federal income tax purposes is limited to the excess of the contribution over the fair market value of the *quid pro quo*.

iii) Gifts of Items and Goods (Non-Cash)

Regardless of the value, no deduction may be taken for donations of non-cash items (e.g., clothes, food, items given for a rummage sale, etc.) without a written acknowledgment from the donee that lists the date and recipient, and which also includes a description of the item(s) donated. It should *not* include any guess as to the fair market value of the items donated.

iv) Distributions from Individual Retirement Accounts (IRAs).

Tax laws now allow persons over the age of 70½ to make distributions to charities directly from their IRA accounts up to \$100,000 per year. This is excluded from the donor’s annual income for tax purposes. Although this is not strictly speaking a “deduction,” the IRS has announced that such gifts still require the same acknowledgments as deductions. Thus, if they are \$250 or greater, the donor should be given a receipt showing the date, amount and recipient of the gift and stating that no *quid pro quo* goods or services were given in return.

Forms that may be used for documentation are attached to this memo, for your convenience.

b. Further Notes on Donations and Acknowledgments:

1. Scrip or E-Scrip, Approved Rebate Programs, etc.:

No portion of the participation in such programs is tax deductible and care should be taken to avoid referring to such transactions as “tax deductible” or as

“gifts,” “contributions,” “donations,” etc. We recommend that parishes include on Scrip receipts (and/or on other conspicuous signs, notices, flyers, literature, etc.) a statement such as the following: “*We appreciate very much your participation in the Parish scrip program. Please note, however, that no portion of your payment is tax deductible pursuant to applicable tax laws.*” As noted above, this applies to purchase of raffle tickets as well.

2. Pledges:

A pledge does not constitute receipt of a contribution, and are not tax events. Therefore, the forms acknowledging “receipt of gift” should not be issued unless and until cash or goods are actually **received**. Nevertheless, a “thank you for the pledge” letter is both good business and permissible.

3. Auctions:

a) Items given to be auctioned are charitable donations for which the above acknowledgment/*quid pro quo* rules apply;

b) Money raised through the auction. The disclosure and acknowledgment rules also apply to any money received from auction items. Since this is generally a *quid pro quo* the disclosure requirement discussed above applies when the price paid is more than \$75, but it is difficult to know prior to the sale how much will be received for an item. Therefore, we recommend that *all* auction items be treated as if they will sell for more than \$75.00, and that the disclosure rules will apply. The easiest way to ensure compliance is to provide each auction attendee with a booklet or other written material describing the items available at the auction and listing the fair market value of each item. The booklet should also include a prominently featured statement indicating that only amounts paid in excess of the listed value are deductible as charitable contributions. (Stating that “contributions are deductible as allowed by law” is *not* sufficient.)

4. IRS Reporting Requirements.

We are required by current regulations to report to the IRS (Form W-2G) all persons to whom \$600 or more in cash or noncash prizes are awarded (in a given year) and must withhold Federal Income Tax from all winnings in excess of \$5,000. NB: These amounts are subject to periodic change of IRS Regulations, and you should contact a tax professional or the Archdiocesan Finance Office to confirm current reporting and withholding thresholds. Forms are available on-line from the IRS.

c. A Note On Donations for Overseas Charities.

All entities of the Catholic Church in the United States are recognized by the IRS as tax-exempt by virtue of their inclusion in “The Official Catholic Directory” (commonly known as the “Kenedy Directory”). Therefore, all gifts to entities listed in the Kenedy directory are eligible to be considered tax-deductible charitable contributions. All of the second collections scheduled by the Stewardship Council, approved by the Archbishop and listed in the schedule promulgated by the Office of Development are tax exempt because the funds go to entities listed in the Kenedy Directory. This includes all of the second collections scheduled by the Archdiocesan Stewardship Council, because all of those collections are designated for the USCCB or the Archdiocese (e.g., Catholic Charities or the Priest’s Retirement Fund).

Contributions to foreign charities are generally *not* deductible from U.S. income taxes, and U.S. tax-exempt organizations are not allowed to act as a mere “conduit” through which money is funneled overseas. *A taxpayer may not claim a deduction for such foreign contributions, and it is illegal for tax-exempt charities, such as your parish, to act as a mere conduit of this type.* This longstanding IRS rule has recently been reinforced by the “Patriot Act,” which places even stricter regulations on international transfer of money.

A contribution for foreign use is only deductible where the *specific* ultimate use of the gift is *directly* controlled by a qualified US-based charity. Catholic Relief Services (tsunami, Philippine Mudslide, Pakistan earthquake, etc) is one such organization, because it is a recognized U.S. Catholic entity, listed as tax-exempt in the Kenedy directory and directly involved in approving and overseeing the actual use of donated funds overseas (that is, they do not simply send a check to some overseas recipients for their general benefit). Other appropriate organizations would include the Knights of the Holy Sepulcher, the Papal Foundation and the Catholic Near East Welfare Association. Donors should ordinarily contact these (or any other prospective donee) directly for information about possible individual donations to them.

In addition, collections for priests or religious who are invited into the parish via the Mission Co-op program are also tax deductible, as the Mission Co-op program is part of “Propagation of the Faith”, an entity that meets the relevant standards.

Bottom Line: Merely soliciting donations from the pulpit can be considered our implied statement that gifts given in response are given to “the Church” and are therefore tax-deductible. So, we must be certain either that the gift really is tax deductible or that we have clearly stated that it is not tax deductible. In addition, for accountability reasons, all of these collections should be forwarded to the Archdiocese with instructions as to their ultimate destination.

Some situations to avoid or handle carefully:

- We occasionally allow visiting priests or religious who are friends of a member of our Archdiocese to make an appeal for funds. Parishioners should be advised that contributions to such collections are NOT tax deductible as the use of the funds will likely not be controlled by a US based entity, but will be sent directly to the cause in the foreign country.
- Twinning with a parish or diocese in a foreign country, while a permissible activity, usually results in money being sent to that foreign country. Since use of these funds will not normally be overseen by a US-based qualifying charity, parishioners should be advised that contributions to such collections are **not** tax deductible.
- Occasionally, we are asked to assist an individual in getting money to a Catholic cause in a foreign country. This assistance is laudible, but again, the donor should be made aware the contribution is likely **not** tax deductible. The individual should be informed that the parish cannot serve as a conduit for contributions earmarked for the benefit of or for transmission to a foreign individual or organization outside the contexts outlined above.

To be safe, unless a collection is pre-authorized by the Archdiocese, we should announce that the gifts outlined above are not tax deductible. Having parishioners make their checks out to the parish and then writing a parish check to the foreign charity does not change the result. In fact, this might be considered money laundering and/or tax fraud, and is illegal. In addition, it can lead to ill feelings from donors if their deductions are ultimately disallowed by the IRS.

If in doubt, call the Office of Development.

d. Sacraments and Stipends. We have often been asked whether a contribution that is not given to the parish but rather is given specifically to the minister for sacramental or other church “services” (e.g., weddings, baptisms) is tax deductible. The answer is that the gift is NOT tax deductible to the donor, but it IS taxable income to the minister.

5. Liquor Permits: Under State Law, selling liquor for consumption on the premises requires a permit from the local Alcoholic Beverages Control Office. A daily “on-sale general license” is available for a small fee from the local ABC Office. Selling of *sealed* containers for *off-site* consumption also requires a permit. (Open containers obviously may not be sold for off-site consumption.) Alcohol may be served by religious organizations without a permit if there is no separate sale of alcohol (e.g., wine served at a benefit banquet), provided the premises are not open to the general public at the time alcohol is served. Contact your local ABC office well in advance of your event to confirm whether a permit is required and to process the necessary forms.

6. Liability/Insurance: Many parish/school functions fall within our standard liability and property insurance coverage. Special events, however, do often contain aspects which may not be covered (e.g., carnival rides, etc.) Inexpensive, short-term insurance riders are available to cover most parish/school events that are not within our existing coverage. Please contact the Archdiocesan Finance Office for information as to whether your event is already covered or supplemental insurance is needed/available. That office can also guide you in procuring necessary insurance. **Events for which full insurance is not available and in place should not be conducted.** (Our standard contract for independent contractors such as outside carnival operators requires the operators to obtain adequate insurance covering the parish/Archdiocese evidenced by a rider and endorsement. Operators should therefore **always** be required to enter into this agreement (form available from the Legal Office) and provide proof of insurance well in advance of the event).

7. Special Fundraising Advisory: Endorsements. A growing number of commercial enterprises are offering financial incentives to parishes, schools, and other Archdiocesan institutions “offering” the opportunity to participate in selling their services/products in exchange for a fee, a “kickback,” or a share of the proceeds. These programs typically offer a financial benefit to the charity as an incentive for parents, parishioners or the school itself to purchase the company’s product or service. “Partnerships,” “sponsorships,” “affinity cards” offered by banks, “gift cards” from retailers, and retail “rebates” are examples of such programs. Sometimes these programs involve “listing” products from local services or selling “coupons” for local merchants (we are not speaking here of certain Archdiocesan screened and pre-approved Scrip and E-Scrip programs, which allow the user to select from a large number of retailers). At other times, the proposal can take the form of “co-sponsoring” events (book sales, product “fairs” etc.) or linking of one company’s product or service through a parish or school website.

There is a firm Archdiocesan policy prohibiting participation in such programs. There are serious legal concerns about the possibility of creating an Unrelated Business Income Tax (UBIT) obligation for a participating school or parish. More importantly, the Archdiocese has determined that it and its agencies will not endorse, or appear to be endorsing, one company’s products or services over another’s.

The Archdiocesan Stewardship (Development) Office has issued this advisory on this topic:

“Any form of express or implied endorsement or promotion of a commercial enterprise or its product or service which encourages parishioners or other constituents to purchase goods or services puts the parish, school or institution in the position of favoring one business over another for commercial benefit. This includes announcements, meetings, letters, sharing of mailing lists or other arrangements. A parish, school or institution that accepts these

incentives risks being subject to unrelated business income tax liability as determined by the Internal Revenue Service.

“In some situations, there may even be conflicts of interest, such as the case where an employee, volunteer, or council/board member also works for the commercial enterprise involved. It is important that the Church remain above reproach in connection with the business affairs of others.

“In addition, in the event of a customer’s dissatisfaction or consumer complaint with respect to the product or service, or if any harm comes to an individual as a result of the product or service that was ‘endorsed by the Church’, the parish, school, or institutions, and the Archdiocese could be faced with adverse publicity and possibly even lawsuits.

“More importantly, however, the Archbishop, in consultation with his staff, has determined that the Archdiocese and its parishes, schools or institutions must avoid any perception that the Church is ‘for sale.’ Therefore, involvement with such programs is prohibited. This prohibition is also based upon ‘strong caution’ from the Archdiocesan attorney and his Legal Affairs Advisory Board as well as the Office of General Counsel of the United States Catholic Conference.

“There is nothing wrong with a company or any vendor publicly or unilaterally announcing (e.g., through a television or radio ad or parish bulletin advertisement) that it will voluntarily remit a percentage of sales to a charity. Nor is there anything wrong with a company donating on a unilateral basis, money, goods, or services for an event or for the parish, school or institution to publish a simple, unsolicited acknowledgment of its gratefulness for any such donation.”

010607-Fundraising Update Memo

SAMPLE DONEE DISCLOSURE STATEMENT

(REQUIRED TO BE GIVEN FOR *QUID PRO QUO*
CONTRIBUTIONS IN EXCESS OF \$75.00)

Date _____

Dear Donor:

Thank you for your contribution of \$_____ in connection with the _____ *[name and date of the event, such as spaghetti dinner, charity golf tournament, silent auction prize, etc* . Federal law requires us to inform you that the amount of the contribution deductible for Federal Income Tax purposes is limited to the excess of the amount of money or property contributed over the fair market value of the goods or services provided by the charitable organization.

_____ *[name of organization]* 's good-faith estimate of the value of the goods or services received by you in connection with this event is \$_____.

Signed

[e.g., Pastor or parish representative]

SAMPLE DONEE ACKNOWLEDGMENT FORM

[DONOR WILL NEED THIS ACKNOWLEDGMENT TO TAKE A DEDUCTION FOR ANY CASH (OR CASH EQUIVALENT) GIFT OF \$250 OR MORE; FORM MAY BE USED FOR OR ANY CASH CONTRIBUTIONS OF ANY SIZE]

Date _____

Dear Donor:

This will acknowledge receipt of, and extend our heartfelt thanks for

[if gift is of cash, check, etc.,]

your gift of \$_____ .

[or, if a gift of property is involved,]

your gift of _____ *[insert description of property donated, not of its value]*_____ .

[continue with either:]

This will acknowledge that _____ *[name of organization]* provided no goods or services in connection with your contribution.

[or:]

This will confirm that _____ *[name of organization]* provided the following goods or services in connection with your gift: _____ *[description of goods or services provided]*_____. Our good faith estimate of the fair market value of those goods or services is \$_____. *[Or, if such goods or services consist solely of intangible religious benefits,* such as Sunday “pew rental” or Masses, state as such].*

Signed:

[e.g., Pastor or parish representative]

* The law defines an intangible religious benefit somewhat tautologically as “any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context”.