



# ABC's of Church Management Newsletter

APRIL 29, 2007

VOLUME 1, NUMBER 4

This newsletter has been developed to provide compliance guidelines for local congregations concerning state and federal regulations. It is shared as a basic reference newsletter with the understanding that the publisher is not giving legal, financial, or other professional service/advice. The publisher acknowledges that the laws and regulations of each state may vary. If professional assistance is required, the services of a competent professional should be secured.

## Conditional Deeding and Safeguarding Church Property

The buzz word among the area administrators of the Church of God is conditional deeding and/or safeguarding the church properties in their areas. Many do not understand the importance of conditional deeding. This newsletter will address several questions about conditional deeding.

### Why should churches consider conditional deeding their properties?

Conditional deeding:

- Keeps property and assets in the Church of God, Anderson, Indiana.
- IRS requires that a nonprofit can not dissolve to it's self. Therefore, if a church dissolves and they have not provided for a conditional deed, the local courts have the responsibility to distribute the property and assets. While they must be given to an organization that qualifies as a 501(c)(3), it does not have to be a religious organization.
- A conditional deed keeps property and assets from being removed if an outside group of different persuasion tries to remove the church from the Church of God, Anderson, Indiana.
- If a church should dissolve, the conditional deed will assure the property and assets will be used to continue the work of the Church of God even though it may not be in that exact location.

### What conditional deeding and safeguarding does not mean:

- The state, regional, or provincial office does not own the property.
- The state, regional, or provincial office only receive the property if or when the church no longer exists.
- The church does not have to ask permission to remodel, paint, expand, or make changes to the property. They only have to notify the state, regional, or provincial office if they plan to sell the property (such as a relocation) or dissolve the church.
- The state, regional, or provincial office can not force the church to

close to use the property as a debt settlement of the state, regional, or provincial office.

What is the procedure for conditional deeding the church property?

Because the laws regarding conditional deeding and safeguarding vary from state to state. Churches should contact their state, regional, or provincial office of the Church of God for guidance on how to proceed according to their state laws.

deeding:

1. Get copies of deeds for each piece of property the church owns.
2. Check with lender to see if there are any conditions that must be met before property can be conditionally deeded to the state, regional, or provincial office.
3. Check to see if property is already conditionally deeded to Church Extension.

Before making the call to the state, regional, or provincial office, the church should gather the following items:

- A copy of the most recent deed filed with the court house of the county where the church is located. This will provides the property description and any conditions currently attached to the property. If the church owns more than one plot of land, all deeds for all pieces of property should be gathered.
- If the church has a mortgage, the church should talk with their lender to see if there are any penalties or requirements that need to be addressed before proceeding with the conditional deeding process. This is a very important step. If a church proceeds with the conditional deeding procedure without speaking with their lender, they could cause the church to have to pay penalties to the lender.
- Some church deeds will have Church Extension as the party that will receive the property if the church should no longer exist. If Church Extension is listed, the church should contact their state, regional, or provincial office or Barry Bentley at Church Extension for help in getting Church Extension removed from the deed.

Does the IRS really require church to declare a dissolution plan?

IRS Publication 557 is the document which discusses becoming a 501(c)(3) organization and the requirements of such an organization. The publication states on pages 19-20:

“Assets of an organization must be permanently dedicated to an exempt purpose. This means that should an organization dissolve, its assets must be distributed for an exempt purpose described in this chapter, or to the federal government or to a state or local government for a public purpose. If the assets could be distributed to members or private individuals or for any other purpose, the organization test is not met.

To establish that your organization’s assets will be permanently dedicated to an exempt purpose, the articles of organization should contain a provision insuring their distribution for an exempt purpose in the event of dissolution. Although reliance may be placed upon state law to establish permanent dedication of assets for exempt purposes, your organization’s application probably can be processed much more rapidly if its articles of organization include a provision insuring permanent dedication of assets for exempt purposes.

Revenue Procedure 82-2, 1982-1-C.B. 367, identifies the states and circumstances in which the IRS will not require an express provision for the distribution of assets upon dissolution in the articles of organization. The procedure also provides a sample of an acceptable dissolution provision for organizations required to have one.

If a named beneficiary is to be the distribute, it must be one that would qualify and would be exempt with the meaning of section 501(c)(3) at the time the dissolution takes place. Since the named beneficiary at the time of dissolution may not be qualified, may not be in existence, or may be unwilling or unable to accept the assets of the dissolving organization, a provision should be made for distribution of the assets for one or more of the purposes specified in this chapter in the event of any such contingency.”

**Important: All conditional deeds, quit claim deeds, and articles of incorporation need to filed with the state, regional, or provincial offices of the Church of God and churches should retain copies in a safe, fire-proof container.**

Churches are not permitted to dissolve to themselves and distribute the assets among the remaining members.

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