LCMS Foundation
1333 S. Kirkwood Road
St. Louis, MO 63122-7295
800.325.7912
lcmsfoundation.org

ENDOWMENT FUND PREPARATION CHECKLIST

There are a number of decisions for a congregation or ministry organization to make when establishing an endowment fund that will help all involved understand its purpose and function. Below is a list of questions that will help you with this process. Ultimately, organizations should consult an attorney to ensure that the endowment is established in conformity with existing governing documents and local law. Endowment trust and terms should be clearly communicated to the members.

1. What is the purpose of our endowment? (check all that apply)

_____ Support operating budget of the congregation
_____ Fund special ministries within the congregation (identify)
_____ Fund ministry outreach beyond the congregation (identify)
_____ Fund capital projects the congregation may undertake (identify)

Most congregations do not use endowment funds to support the operating budget. Congregations that use an endowment to support operating costs often see a decline in general offerings from the members.

Questions that may be helpful when considering which ministries to endow are, "what are we doing well now that we would like to continue doing?" and "What are we not doing now or not doing well, because we do not have enough funding?"

2. How much should be available to spend? (check all that apply)

_____ Some income (identify %)
_____ All income
_____ Some principle (identify%)
_____ All principle

To most people the term "endowment" means that principal will be kept intact and only income expended. However, it is possible to establish an endowment with different terms as long as they are documented and members contributing to the endowment understand them.

Some congregations prefer to have the flexibility to expend principal. This ability can be limited to defined situations. Other congregations prefer to keep principal intact in perpetuity. Whichever method is chosen, it is important to keep in mind the purpose of the endowment.

3. How do we define "income" received by the endowment?

_____ Traditional income (interest, dividends, rent)
_____ Percentage of annual endowment value (identify)
_____ Rolling average of total return over last 3 years (identify)
_____ Determined by voters assembly on annual basis
_____ Other (identify)

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If your endowment expenditures are based on "income" it is important to know what that means. Most states have a default definition of income if it is not defined in the endowment. Accounting rules can also apply.

The definition can affect the endowment investment and the cash flow available each year. For example, if the endowment provides that income can be expended each year, and the traditional definition of income is used, the endowment will likely be invested primarily in fixed income assets to maximize the amount available for ministry. If income includes capital gains, or is based on a percentage of the endowment value, a more balanced investment may be appropriate.

Some congregations choose to define income in the terms of the endowment to add certainty. Others prefer more flexibility and allow the congregation to define income on an ongoing basis, subject to certain limitations. What is important is that there is an understanding on what income means and that it fits with the purpose of the endowment.

4. Do we have the ability to change the terms of the endowment?

_____ Unlimited
_____ Limited to special circumstances (identify)
_____ As allowed by law and Articles of Incorporation

Some congregations prefer maximum flexibility to respond to doors the Lord may open. Others prefer to limit the flexibility to provide their members greater certainty on how the gifts will be used. Whichever method is chosen, it is important that members understand whether the congregation is retaining any right to change the terms of gifts made to the endowment.

A typical endowment places restrictions on how gifts will be used and how much of the gift can be used over time. When a member contributes to the endowment the restrictions become permanent for that gift unless the endowment gives the congregation the right to change them. If the endowment does not give the congregation the right to change the restriction, there are only two ways the congregation can legally change the restriction. One way is if the donor agrees to release the restriction on the gift. The second way is if a court orders it as a result of a change in circumstances.

If it is allowed by the endowment terms, the congregation's ability to change a restriction should be clearly understood by the member at the time the gift is made. The ability to change a restriction may be unlimited or it may be limited to specific situations.

5. What should we do about potential gifts with restrictions that differ from the terms of the endowment?

_____ Do not accept
_____ Accept, subject to approval process (identify)
_____ Always accept

Members may desire to make an endowment gift with restrictions that differ from the terms established by the congregation. This would be considered a separate endowment gift or perhaps a sub-account of the regular endowment. An example of this would be if your endowment was created to fund church worker education broadly, and someone proposed a gift that would be specific to church workers studying in a parish music program.

Your endowment terms should state whether or not gifts with different restrictions will be accepted and under what circumstances. The difficulty in separately identifying the gift and the congregation's ability to abide by the terms should be considered.

If the congregation accepts the gift, it is bound by the restrictions on that particular gift. The terms of the gift should be memorialized in a separate document. In the alternative, the member could establish an individual endowment at the LCMS Foundation that will benefit the congregation or any LCMS ministry. The Foundation will manage the fund and send regular distribution checks. No paperwork or administration is required on the congregation's part.

6. Should we place unrestricted gifts in the endowment?

_____ Never
_____ Yes, if received from an estate
_____ Yes, if over $_______
_____ Yes, under certain circumstances (identify)

One of the primary reasons congregations establish endowments is to put a God-pleasing plan in place for dealing with special gifts. This helps ensure the gifts are a blessing and not a cause of discord within the congregation. For this reason, many congregations resolve to place unrestricted gifts that may be of a special nature in the endowment, such as unrestricted gifts over a certain dollar amount or gifts received from deceased members.

If a member makes an unrestricted gift and the congregation resolves to place the gift in the endowment, it is not a permanently restricted gift because the congregation controls the restriction. Since the congregation placed the restriction on the gift, the congregation can also release the restriction (see discussion for question 4). For this reason, a gift that was given with no restrictions can never be permanently restricted by the congregation even though the congregation may determine for the time being it is best to invest and use the gift according to the terms set forth in the endowment.

7. Who will oversee administration of the endowment?

_____ Officers of the congregation
_____ A committee appointed by the congregation (identify)
_____ Other (identify)

Following the advice of legal counsel and in keeping with the organization of most congregations, the church council is often given the responsibility of administering the endowment with oversight by the voters' assembly.

Some congregations provide for an endowment committee to assist in the promotion and administration of the endowment.

Most congregations also choose to provide a general administrative framework in the endowment (how often meetings are to be held, etc.), and leave the formulation of specific administrative procedures to those responsible for administering the fund.

9. How will distributions be made?

_____ Proposed by the individual(s) responsible for administration with final approval by the voters assembly
_____ Proposed and approved by the voters assembly
_____ Other (specify)

For liability reasons, final approval of endowment distributions is usually reserved to the voters' assembly with recommendations from those responsible for administration of the fund. Practicality, in addition to liability, should be considered when determining the process.

10. How frequent should distributions be made?

_____ Once a year
_____ At least annually
_____ Other (identify)

Most congregations choose to provide for a minimum of one distribution a year or for distributions at least annually. Others provide that there need not be a distribution in any given year. The endowment purpose, and practicality, will often determine the best approach.

11. What and how often shall required reporting be made?

_____ Annual reports to the voters assembly by the individual(s) responsible for administering the endowment
_____ Other (identify)

At a minimum, most congregations require annual reports that detail investment gain and loss, endowment distributions and additions, and any charges against the endowment.

12. What are limitations on where the endowment can be invested? (check all that apply)

_____ Must not jeopardize the tax-exempt status of the endowment
_____ No conflicts of interest or self-dealing
_____ Other (identify)

Most congregations prefer investment flexibility and provide few limitations on how the endowment can be invested. Many congregations choose to prohibit or limit dealings where there is self-interest, whether it is by an officer of the congregation or a member of the endowment committee. Investments that cause the endowment to lose its tax-exempt status should be prohibited.

13. Who shall have responsibility for endowment promotion?

_____ Same as for administration
_____ Other (identify)

Congregations should create a communication plan that increases members' awareness of the endowment's mission and vision for ministry. The LCMS Foundation will assist congregations with ideas, organization, and materials to help communicate and promote the endowment.

14. Is borrowing against the endowment allowed?

_____ Prohibited
_____ Allowed, under specified circumstances (identify)
_____ Always allowed

By borrowing against the endowment, it may be possible to obtain funds for uses other than those provided in the endowment. The congregation should discuss whether this is acceptable. Congregations should also be aware that penalty taxes or loss of exempt status can occur if borrowed funds are used to purchase an investment, or are used for purposes outside of the congregation's tax-exempt purpose.

15. Acceptable assets that may be given to the endowment (check all that apply)

_____ Cash
_____ Publicly traded securities
_____ Real property
_____ Non-publicly traded securities
_____ Collectibles
_____ Other
_____ Other with prior approval (describe)

Most congregations provide that cash and publicly traded securities are always acceptable and other types of assets must be approved before acceptance. This allows the congregation to ensure that the asset can be liquidated, it will not be a liability, and it will not trigger any adverse tax consequences to the endowment.

Once you have worked your way through these discussion items, it may be likely that you have additional questions or need additional insight or guidance. Please contact Ralph Simon from the LCMS Foundation to help.

Ralph Simon
ralph.simon@lfnd.org, 314-996-1056