



GIVING NEED-BASED ASSISTANCE TO INDIVIDUALS – A QUICK GUIDE FOR PUBLIC CHARITIES

Introduction

As public charities, 501(c)(3) nonprofit organizations are able to provide direct relief and resources to individuals they serve, and over the next months, low income individuals who have been laid off or impacted personally by COVID-19 are going to need basic necessities, rent and utilities support, and food to get through. As nonprofits gear up to give this important support, it is important to remember that there are specific IRS guidelines to follow when providing resources to individuals.

From a legal perspective, 501(c)(3)s must not provide any prohibited private benefit – generally any benefit to an individual or entity that is more than incidental, qualitatively or quantitatively, to furthering the exempt purposes of the organization.

If, however, benefits are going to members of a charitable class (e.g., individuals facing economic hardship or children), then providing such benefits typically relates to furthering the exempt purposes of the 501(c)(3) and, therefore, generally will not raise private benefit concerns.

In advance of any resource distribution, 501(c)(3)s must establish criteria for eligibility for any direct assistance and maintain 1) documentation of such eligibility criteria, 2) a rationale for why the individuals to be benefited are part of a charitable class, and 3) a record of which distributions were made.

Guidelines and Tips

1. **PREPARING FOR AN AUDIT:** Be able to address these questions in case of an audit:
 - How were objective and nondiscriminatory selection criteria established and documented?
 - How did the organization ensure that family members of the selection committee did not improperly benefit from the distributions?
 - How were the distributions publicized so that people knew how to apply or make a request?
 - How were the amounts of the distributions determined?
2. **DISTRIBUTING GIFT CARDS:** In terms of ensuring proper use, providing gift cards may ensure use of the funds for a specific purpose (e.g., purchasing food), although it also restricts the flexibility for recipients. If the amounts are small (e.g., \$50 and under), there is less risk and it likely isn't necessary for the 501(c)(3) to exercise oversight over the use of the funds by the recipients. If an organization is planning on making larger distributions, then it may be worth considering whether any further due diligence/oversight is necessary.

Remember that gift cards are like cash, so you need to implement controls to safeguard. Here are some controls to think about:

- Keep an inventory of gift cards by card number and balance and check them periodically
- Verify balance on card and note in the inventory listing when you get it

- Assign someone to be the custodian
 - Keep cards in a safe place
 - Treat gift cards should be accounted for on your books, similar to petty cash account
3. **AVOIDING 1099 REQUIREMENTS:** In general a distribution over \$600 in check or cash form to an individual will trigger the requirement of a 1099 form, which in turn requires the collection of social security numbers. However, when providing needs-based assistance in a time of crisis or disaster, reporting such a distribution on a 1099 tax form is not required. There are certain disclosure requirements in the Form 990 for grants to individuals, but the disclosures do not involve identification of individual grantees. But the key to avoiding the typical IRS requirements is the documentation of need, which ensures the distribution is not income but a gift. Consider:
- a. Asking for a letter from employer proving loss of job or reduction of hours
 - b. Providing market-specific gift cards for food, diapers, household supplies support
 - c. Asking for a copy of a lease agreement or eviction notice so you can make a direct lease or rent payment (You may need to issue a 1099 to the landlord)

The more you can direct payment to specific needs, the less you need to rely on those you are helping to provide receipts and documentation. And during a crisis, that may be asking too much.

4. **FOR MORE INFORMATION:** The following documents offer very helpful and detailed information:
- a. United States Department of Treasury Internal Revenue Service – “Grants and Other Assistance to Organizations, Governments, and Individuals in the United States” describes information that will need to be reported on Schedule I of the Form 990 regarding assistance to individuals: <https://www.irs.gov/pub/irs-pdf/f990si.pdf>
 - b. United States Department of Treasury Internal Revenue Service – “Compliance Guide for 501(c)(3) Public Charities” explains how to comply with grant-making procedures as they relate to grants to individuals (see page 16): <https://www.irs.gov/pub/irs-pdf/p4221pc.pdf>
 - c. United States Department of Treasury Internal Revenue Service – “Disaster Relief: Providing Assistance through Charitable Organizations” explains how to give aid to individuals (see page 8): <https://www.irs.gov/pub/irs-pdf/p3833.pdf>
 - d. The New York Community Trust – “Grants by Private Foundations to Individuals and Foreign Organizations” explains how to distinguishing a private foundation from a public charity when it comes to individual distributions: <https://www.nycommunitytrust.org/wp-content/uploads/2018/02/pronotesMar02.pdf>
 - e. Nonprofit Accounting Academy – “Charitable Assistance: IRS Requirements” explains the difference between cash and non-cash assistance in the last section of the blog entry: <https://nonprofitaccountingacademy.com/charitable-assistance-irs-requirements/>

Conclusion

Keeping good records and documentation is key to providing direct resources to individuals you serve in furtherance of your exempt purpose and mission. **Please confer with your organization’s accountant and tax advisor on how to properly account for, report, and treat distributions directly provided to individuals.**