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# CHURCH ACCOUNTING PRINCIPLES AND REPORTING PRACTICES: A PERSPECTIVE FOR LAWYERS

MONSIGNOR AUSTIN P. BENNET

The service that diocesan attorneys extend to the Church goes beyond the purely professional relationship between client and lawyer. The relational aspect of the attorney with a diocese that overrides all other elements is the use of time and talent for the glory of God as it is reflected in the temporal needs of the Church and its members. As a matter of fact, there exists what is known as a ministry that has a vital role in the operation of the full evolution of the Mystical Body of Christ which is the Church. The mission of the Church itself is expressed and is carried out in the reality of life here on earth. As they say in theology, Grace works through nature. We start with the realities of the here and now and then work toward the supernatural. The final drama of the Mystical Body obviously will take place in its fullness in eternal life. This, however, can only be reached through the elements of what we call time, place and things.

The focus of this commentary is one aspect of the Church that has always played an important but often misunderstood role in the spiritual growth of the Church. Going back to the Scriptures, one notices that Jesus and His apostles had what was called a common fund. It is a fact, which most Church fiscal administrators find most inconvenient to admit, that the first fiscal director of the Church was Judas Iscariot.

From the beginning of the Church it has been realized that funds and provisions are necessary to sustain the personnel and requirements of an active apostolate. Accordingly, there has been in the course of the Church's history a series of regulations that govern the proper custody

and use of properties coming to the varied agencies operating in the name of the Church. These regulations, which we call Canon law have reflected the changing social and legal institutions of contemporary times. As a result, a study of the history of the Canon Law shows a very interesting evolution from Jewish traditions and Jewish practices, through Roman regulations and feudal additions that took place thereafter.

In the modern age, the idea of skilled management of capital and accountability for the use of capital has been rather firmly established in the commercial arena. That is especially true with respect to the period following the Great Depression. The Church, as it has for 2,000 years, has moved into the existing world and has begun to adopt the useful developments of the era. The new Code of Canon Law, which is the primary focus of this presentation, presents no exception to the Church's contemporariness.

The fifth book of the new Code, the book on temporalities, has its basic root in the Second Vatican Council, which gave a whole new outlook to the relations among the people of God. While standing firmly on the basis of the unchanging nature of the Church, it defined more clearly the interdependence of the members of the Church, both clergy and lay people. The interaction of all members was very clearly articulated in the Second Vatican Council. For the first time, the real need for the skill and spiritually motivated help of the laity was accepted as part of the basic structure of the Church. It had never been mentioned before. The need for a true process of accountability was also enunciated at the Second Vatican Council and is reflected in the new Code's fifth book.

It certainly is not necessary at this time to wade through the whole fifth book of the new Code. Only certain developments will be treated that show the new legislation's thrust toward a very updated and accountable process of financial management. The first point stated by this new law is a very important one. It has been the contention of Church fiscal managers that the whole nature of the Church renders its fiscal aspects entirely unique. What is different is the reason for the Church's possession of temporalities. In the first words of this new fifth book it is revealed quite clearly that there is a faith dimension that covers both the giving, the maintenance, and the spending of temporalities. All are governed by the spiritual nature and purpose of the Church. All goods are given with this motivation; they are to be administered for this reason; they are called to be administered as by a paterfamilias, which implies much more than the "prudent man" rule which controls in the business setting. The normal evaluation of what is profitable and what is not profitable must be changed to fit into this dimension of faith. We know that a parish can be totally without income, but if the spiritual needs of the people in the area can only be met by retaining that parish, then it will be subsidized. Profit in this case is judged by totally different values.

Again, the role of the administrator is very important. The term "administrator" is used merely to indicate the human person who is in charge. The Pastor of a parish and the Ordinary of a diocese are administrators. For the administration of a diocese, a new element has been inserted in this law. There is to be established what is called a Board of Financial Administration. This is not limited to clergy, nor, as a matter of fact, is it limited to males. The requirement for membership is a true skill and experience in financial matters. In matters of importance, the bishop must consult with this board, but is not necessarily bound to follow their recommendations. In matters of extraordinary expenses, however, the consent of this body and the College of Consultors is required. This is new and it could be quite important legally if such consent were not obtained. The action so taken might well be considered "ultra vires."

If any action were launched against the bishop in such a case, and actual harm had in fact inured to the diocese, Canon 1232, paragraph three, gives the moral person recourse against the administrator personally for damages. This could have some very interesting ramifications in our own active days, particularly with instant media coverage.

The term exceptional or extraordinary expenses has not been fully defined as yet, but is most probably to be evaluated on the general economic situation of a diocese. In one place it might be \$100,000; in a more wealthy diocese, it may be \$1 million. That the Church wishes its administration to be performed in a consultative and professional manner is very clear from this regulation.

Another new element in the search for cogent fiscal administration is the establishment of a new position in the Church called an *Oeconomus*. That is an interesting word. It comes from the Greek "economia." It is what we call a financial director or director of finances. This person can be clergy or a lay person, male or female. The requirement is that such a person be truly skilled in economic affairs. The days of the all-faithful bookkeeper appear to be over. Such skills, presumably, will first be evidenced by educational and professional degrees. Also, previous experience presumably would be necessary. Since fund accounting and the Church accounting processes differ substantially from normal commercial accounting, the *Oeconomus-to-be* should have some experience in this nonbusiness field. One of the other requirements is very spiritually presented: he must be of the highest moral character.

To safeguard the objectivity of this person, he or she is to be appointed by the bishop for a term of 5 years, with an additional 5 years allowed. To remove the *Oeconomus* before that time, the bishop must have the involvement of the financial administrative committee. It is quite possible that this 10-year limitation will have a pernicious effect, for it may inhibit the procurement of a very capable and stable staff. A perceptive Canon lawyer, however, probably will find some means of inter-

preting this in a manner much more favorable to stable administrative continuity. The establishment of the Board of Financial Administration and the role of the Oeconomus give very clear indication that the intent of the law is to provide the bishop with a skilled and objective business management team. In addition, the regulations governing the administrator reflect rather clearly the intent to establish sound management policies. Canon 1234 of the new listing states the preliminary requirements of administrative appointment. First, he must take an oath to perform his tasks well. Second, he must receive and acknowledge an inventory of all possessions of the organization. A copy of that inventory is to be placed in the administrator's file and in the archives, and any subsequent change in the patrimony of the organization is to be noted in that particular inventory. The obvious point is that accurate records are to be kept.

Canon 1235 lists the duties of administrators once they have assumed power. While some of these are not new, others show a distinct change, and they are extraordinarily interesting from that point of view. One duty is to protect the goods of the Church, the moral person, from loss or damage. Modern concepts are evident here in that the security for the properties must be procured through insurance, if necessary. While most dioceses now have taken advantage of insurance programs, there was a time when the matter of insurance was not discussed and great losses were incurred with no recompense whatsoever. It is interesting to see this now in the general Church law.

A second aspect should be of particular interest to lawyers: all the requirements of civil law are to be met to ensure the protection of Church goods. Special care must be taken to prevent nonobservers of civil laws from in any way harming the Church, and this has extraordinarily broad import. Take, for example, the case of withholding taxes. As you well know, the penalties and interest charges attendant to the failure to obey tax laws has resulted in enormous waste of Church funds. The Canon law seeks to obviate this by placing great responsibility on pastors and bishops to be sure that the withholding taxes are taken and transmitted as required.

It is also required that earnings and monies due to Church funds be collected on time and be used wisely in accordance with their purpose, especially when "restricted funds" are involved. The charge in the new Code is that restricted funds are to be used for the stated purposes indicated and cannot be commingled. Further, debts must be paid when due, with a particular emphasis on reduction of principal as well as payment of interest. Here again is the influence of modern business practice, which, from past experience, is cognizant that penalties can come about for nontimely payments. With respect to excess monies over and above expenses, although they may be used for Church purposes, it appears that before embarking upon a rash of extraordinary generosity, the pastor

needs the consent of the bishop, which in the past would have eliminated many extraordinary ideas.

Concerning record keeping and accounting, again the new Code has a modern thrust. Well-kept books of receipts and expenses are required, with the emphasis on "well kept." Every year a financial report is to be prepared. Finally, all the legal documents relating to the organization are to be kept in the files and a copy of these in the archives. The aim, therefore, is that recordkeeping be a whole, updated and knowing process.

The establishment of details under the new Code is left to "particular law." Particular law can be the rules of the bishop that bind the parishes within the diocese. Particular law can also be rules set up by a National Conference of Bishops, such as in America. It is left to this particular law to determine how the fiscal reports are to be set up. Thus, the bishop can establish the accounting processes for the parishes and agencies of his diocese; the National Conference also can establish accounting norms for all the dioceses; a local conference in a state or several states can set up its regulations by the same process. This is clearly a distinct advance from the old days of laissez-faire Church accounting.

Of tremendous impact is Canon 1238 which deals with external reporting. The first section makes it obligatory for every administrator of Church goods who comes under the power of the Ordinary to submit an annual report. The statement in the law itself is clear: "All previously accepted customs to the contrary." This is a change.

The second paragraph of this Canon leads directly into the area that has been the basic task of the USCC Accounting Practices Committee. It states: "Unless a just reason would advise otherwise," administrators are obliged to make a public report to the faithful on all the goods donated by the faithful. These reports are to be made in a manner established by particular law. Thus, the bishop can determine how each parish should make its reports to the faithful. Even more important is that the change was made in the original text to state that not only the manner, but also the reporting format, can be established by particular law. Many problems of which you are particularly aware could have been averted had this been in effect previously. The National Conference can, in fact, establish its own accounting standards and reporting forms, if used nationally. This process began to a certain degree by the adoption of an accounting manual several years ago and the recently accepted standards document, which was effectuated by a vast majority of the bishops.

In conclusion, suffice it to say that among the specific provisions to be aware of are Canon 1241 on contracts, which states very clearly that all the requirements of civil law are to be met, and Canon 1247, dealing with alienation and warning that the civil law requirements must also be followed. Pursuant to Canon 1237, even the details of labor laws and just wages are to be adhered to scrupulously.

In addition, the skilled lay person is given a great role by the new legislation. The legal counsel, the financial management board, the diocesan accountant, the fiscal managers, the Oeconomus, and finally, the accountants who work out the reports, all play a vital part in the fiscal processes of the Church.