

Is it moral to tithe when bankrupt? Catholic Church's position not clear

By Michelle Martin

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HUNTINGTON, Ind. (Our Sunday Visitor) – When Fred and Patricia Diagostino, an upstate New York couple, filed for Chapter 13 bankruptcy last year under the updated bankruptcy law of 2005, they listed their living expenses as required.

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There was a glitch, however. The Diagostinos, whose income is above the median for New York State, included among their monthly expenses \$100 in "continued charitable



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NEW YORK STATE, included among their monthly expenses \$100 in "continued charitable contributions" to their church.

The contributions were disallowed as a "reasonably necessary expense" because, under IRS guidelines, charitable contributions of any kind can only be considered necessary under very limited circumstances, such as when the bankrupt party is a minister and required by contract to tithe to his or her church.

The decision, upheld by U.S. Bankruptcy Judge Robert E. Littlefield Jr., flies in the face of the Religious Liberty and Charitable Donation Protection Act of 1998.

That law was enacted "to specifically protect tithing in the context of bankruptcy law," according to a September 2006 letter from Sens. Chuck Grassley (R-Iowa), Orrin Hatch (R-Utah) and Jeff Sessions (R-Ala.) to Attorney General Alberto Gonzales.

Indeed, people who go bankrupt while making less than the median income for their state were still allowed to include tithing or other church contributions when they calculated their living expenses under the 2005 law.

It was only those making above the median income who were affected by the new law.

Law to change

Bankrupt families will no longer need to worry about whether they can continue to make such contributions under a bill sponsored by Sens. Hatch and Barack Obama (D-Ill.) The bill has been passed by both houses of Congress and awaits President Bush's signature.

"Congress has a long history of protecting our religious freedom to tithe," Hatch said in a statement Dec. 6, the day the bill passed the House of Representatives. "That was our intent when we enacted bankruptcy reform last year, and this bill clarifies the law so that those who tithe can continue to live their faith while in bankruptcy."

"For millions of Americans, charitable giving and tithing is an essential part of their lives," Obama said. "And in a country where 37 million citizens live in poverty, we should be encouraging charitable giving, not limiting it."

Is it theft?

But Catholic moral theologians aren't so sure that's a good thing. There are names for incurring debt without the resources to repay it – names like theft and fraud. Is it moral to use money already owed to someone else – money already spent – to support a church?

Should the church – Catholic or otherwise – accept money that in justice is owed to someone else?

After all, increasing the amount a bankrupt family can keep for its expenses, charitable or otherwise, by \$100 a month over their five years in Chapter 13 bankruptcy means \$6,000 that their creditors will never get.

For members of some Jewish and Christian denominations, the answer is yes – tithing is an obligation, not a choice. Even Catholics are taught that they have a moral obligation to help the church build up the kingdom of God.

Franciscan Father Thomas Nairn, an ethics professor at Catholic Theological Union in Chicago, noted that moral obligations can be just as binding as legal obligations.

"What it comes down to is, do people see contributing to charities as a reasonable expense?" Father Nairn said. "I tend to think it would be to an awful lot of people. It's not something extra. It doesn't depend upon a written contract."

Paul Schervish, director of the Boston College Center on Wealth and Philanthropy, agreed that such responsibilities are important, but questioned whether, in a case of bankruptcy, they should be the first priority.

"What this is doing is raising charitable giving to a responsibility, especially in those areas where you are a member," he said. "What they are emphasizing is the obligation – the non-legal, but moral obligation that many people feel. Maybe you owe more to your creditors than you do to your church."

What's the reason?

Theologians also draw a distinction between those who go bankrupt because of some unforeseen circumstance (a catastrophic illness that buries a family in medical bills, or a natural disaster that wipes out their resources) and those who simply live beyond their means – vacationing in Tahiti, say, when their income only goes as far as the nearest resort or campground.

"We do have a real problem with people living beyond their means," said Franciscan Sister Dawn Nothwehr, a colleague of Father Nairn's at CTU. "Is it that you foolishly overspent all of your credit cards, or is it that there was a catastrophic illness in the family, and it has broken the bank?"

Catholic morality draws a distinction between the two kinds of debt – but the law does not, she said.

"What is legal is not necessarily moral," Nothwehr said. "There is not necessarily a one-size-fits-all answer for this. How do Christians and Catholics understand what justice is? It's not necessarily the same as the Enlightenment justice. Enlightenment justice means to take a scale, put everything on it, blindfold a person and try to balance the scale. If it feels balanced to a blind person, it's balanced, but you could have apples on one side and oranges on another. The biblical understanding of justice is that one gets what one needs."

The whole idea of the forgiveness of debt is part of the Old Testament notion of the "jubilee year," she noted.

On the other hand, Catholic morality traditionally taught that debtors – even if they fulfilled the legal obligations of bankruptcy – still had a moral responsibility to pay back their debts in full, if they ever had the ability to do so, according to the Catholic Encyclopedia of 1907.

"Part of it is what is going to serve the purpose of getting the person out of debt and back into the mainstream of society so they can go on with their lives," Nothwehr said. "I don't know that there is an absolute answer for this. One could have a just and fair solution on either side."

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Michelle Martin writes from Illinois for Our Sunday Visitor

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