



# THE RELIGIOUS FREEDOM AND CHARITABLE DONATION PROTECTION ACT

## A Checklist

This checklist will be a helpful resource in applying the law.

**STEP 1** Did the bankruptcy debtor make one or more contributions of cash or property to a church within a year preceding the filing of a bankruptcy petition?

- If NO, stop here. A bankruptcy trustee cannot recover the debtor's contributions from the church.
- If YES, go to step 2.

**STEP 2** In making contributions to the church, did the debtor have an actual intent to hinder, delay, or defraud his or her creditors? In deciding if an intent to defraud exists, consider the timing, amount, and circumstances surrounding the contributions, as well as any change in the debtor's normal pattern or practice.

- If YES, a bankruptcy trustee can recover from the church contributions made by the debtor within a year prior to the filing of the bankruptcy petition.
- If NO, go to step 3.

**STEP 3** Did the debtor receive "reasonably equivalent value" for the contributions made to the church? Note that reasonably equivalent value will not include such "intangible" religious services as preaching, teaching, sacraments, or counseling.

- If YES, stop here. A bankruptcy trustee cannot recover the debtor's contributions from the church.
- If NO, go to step 4.

**STEP 4** Is the value of the debtor's contributions 15 percent or less of his or her gross annual income?

- If YES, stop here. A bankruptcy trustee cannot recover the debtor's contributions from the church.
- If NO, go to step 5.

**STEP 5** Is the value of the debtor's contributions consistent with the practices of the debtor in making charitable contributions?

- If YES, stop here. A bankruptcy trustee cannot recover the debtor's contributions from the church.
- If NO, a bankruptcy trustee can recover from the church contributions made by the debtor within a year prior to the filing of the bankruptcy petition.