

# What is Charity?

---

 [wagenmakerlaw.com/blog/what-charity](http://wagenmakerlaw.com/blog/what-charity)

Section 501(c)(3) organizations are commonly known as “charities.” As such, they qualify for exemption from income taxes, and their donors may claim tax deductions for contributions. Other tax benefits may apply as well, such as exemptions from state property and sales taxes. But what is “charity”? How can reviewing its core underlying principles help organizations dedicated to doing good?

For IRS purposes, the term “charity” is broadly defined to include many organizations committed to improving the world, such as through caring for the needy, providing medical services, engaging in religious activities, educating the public on a host of issues, erecting and maintaining public works and promoting environmentalism. Many states define “charity” more narrowly, restricting charitable exemptions to organizations that either: (a) freely distribute goods and services; or (b) charge fees only to cover actual expenses and, in connection therewith, generously provide financial assistance.

Legal scholars and courts most often reference the British Charitable Uses Act of 1601 (Statute of Elizabeth I) as the first codification of the term “charity” in English law. It is also interesting to see the term’s origin in most, if not all, of the world’s major religions.

In the Judeo-Christian tradition, for example, the word charity is rooted in the biblical concepts of love and grace. Taking these two concepts together, charity is giving at a cost to oneself, in love, regardless the merit of the recipient.

## Charity’s Legal Grounding

For federal tax law purposes, the term “charity” – simply put – means “public benefit.” The sine qua non is that the organization is not privately owned but instead is organized and operated for the public good.

Under state law, as mentioned above, states typically define charity more narrowly. For example, in the seminal 1867 case of *Jackson v. Phillips*, a Massachusetts appellate court explained the legal standard as follows.

*A charity, in a legal sense, [is] a gift, to be applied . . . for the benefit of an indefinite number of persons, either by bringing their hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public buildings or works, or otherwise lessening the burdens of government.*

This definition has been adopted in Illinois and elsewhere, thereby embracing a broad scope of beneficial activities generally for the public good.

### **Governance Lessons from Modern-Day Charity**

Charities today can range from highly sophisticated, multi-million dollar operations to very small nonprofits, any of which may be focused on specific benefits to society (e.g., distributions of humanitarian aid, cultural enrichment, religious activities, educational improvement). Some may rely exclusively on contributions for their revenues, while others may rely on revenues from program activities. With many organizations facing challenging fundraising environments, they may seek both contributions and fee-based revenues for economic sustainability. Still another charitable model is to rely on government grants and other payments, wholly or in part to fund charitable programs.

Regardless of a nonprofit's economic engine, it is helpful for both federal and state law purposes (and perhaps to better satisfy donors) to keep the following well-developed and broad-based charitable questions and related principles in mind.

1. **How** does the organization's activities benefit society? As a charity, its focus should mostly be on helping others. All nonprofit leaders should have answers ready that impress donors and satisfy government regulators.
2. **Who** is benefitting? Typically, a legitimate charity benefits a wide range of the public, with only incidental private benefits to individuals and absolutely no insider abuse of charitable resources.
3. **What** is the organization giving away? State government exemption agencies particularly like to see "free soup." Donors tend to like helping beneficiaries gain access to charitable programs (as opposed to funding general operations). So offer fee-based charitable resources through financial assistance, fund such assistance (e.g., through a special donor appeal), and keep track of the numbers. Such approach may be critical for state exemption qualification.
4. **How much** does your organization rely on donors' contributions? This element is a state exemption hallmark of charity. In our current era of shrinking government budgets, it is more important than ever to cultivate generous donors and to increase private contributions.
5. **Why** does your nonprofit exist? Above all, stay focused on the organization's charitable mission (and make sure it is accurately stated). The mission should drive *everything* that the organization does, including governance, operations, and fundraising.

**Wagenmaker & Oberly**  
Trusted Advisors to Nonprofits  
[wagenmakerlaw.com](http://wagenmakerlaw.com)