

Diocesan Financial Management

Lawrence Lee

Translated by Anthony Lam

This article is based on Book Five: “The Temporal Goods of the Church” and the articles regarding the diocesan finance council and the finance officer (Can. 492-494) in the Code of Canon Law, 1983. It gives a brief introduction of the financial management mechanism in a Catholic diocese. This article is divided into three sections: (1) the basic concepts and principles of the temporal goods of the Church; (2) the main mechanism of diocesan financial management; and (3) some special issues involved in diocesan financial management.

1. Basic concepts and principles in the Canon Law regarding the temporal goods of the Church

1.1 The right to own and administer the temporal goods of the Church

To pursue its proper purposes, the Catholic Church by innate right is able to (1) acquire, (2) retain, own, possess, (3) administer, and (4) alienate temporal goods independently from civil power. (Can. 1254 §1)

In general civil law and canon law are consistent in their concept and understanding of the four aspects of temporal goods. If there is any discrepancy, it can be resolved through a concordat and other methods signed between the Holy See and other State or local government. Some civil law systems do not recognise the innate right of the Church to her own property. In these circumstances, Church organisations (e.g., dioceses, parishes, religious congregations) can set up, according to civil law, corporations or trustees. They should seek to comply simultaneously with the regulations of civil law and canon law.

1.2 Which Church organisations can own and manage temporal goods?

According to Can. 1255, the universal Church and the Apostolic See, the particular churches, as well as any other juridic person, public or private, are subjects capable of acquiring, retaining, administering and alienating temporal goods according to the norm of law (that is, according to canon law, the charter of the juridic person and according to civil law).

There are two kinds of juridical persons in the Church (Cf. Can. 116 §1-2; Can. 114 §1):

(1) Public juridical persons are aggregates of persons or of things which are constituted by the law itself or by a special decree of competent ecclesiastical authority (such as the Apostolic See, a diocesan bishop) so that within the purposes set out for them, they fulfill in the name of the Church, according to the norm of the precepts of the law, the proper function entrusted to them in view of the public good. (Some examples could be a diocese, a parish, a Catholic school, a religious order or a house of a religious institute.)

2. Private juridical persons are organised by lay Catholics on their own initiative, for the sake of promoting evangelisation, works of charity, and other apostolic ministries. They are constituted by a special decree of competent authority by the Church. They work in the name of the laity.

Juridical persons recognised by the Church, and whose purpose relates to temporal goods, are deemed equivalent to corporations or trusts constituted according to civil law.

1.3 Use of the temporal goods of the Church

The ownership of temporal goods by the Church is purely for the sake of her salvific mission. According to Can. 1254 §2, the main purpose of Church goods is as follows:

- to order divine worship,
- to care for the decent support of the clergy and other ministers, and

- to exercise works of the sacred apostolate, and
- to exercise works of charity, especially toward the needy

1.4 What are the temporal goods of the Church?

Can. 1257 states, “All temporal goods which belong to the universal Church, the Apostolic See, or other public juridical persons in the Church are ecclesiastical goods and are governed by the following canons and their own statutes.” Compared with the old Canon Law of 1917, the new Code has made an important change.

In the Old Canon Law, Article 1497 §1 declares: all temporal goods belonging to the Church juridical persons should be treated as Church temporal goods. According to the New Canon Law articles cited above, only the temporal goods of public juridical persons are treated as Church temporal goods and are governed by the related articles (Can. 1254-1310). The reform of the New Canon Law adheres to the principles of the Second Vatican Council to grant lay organisations greater freedom in development. As private juridical persons are not operating under the name of the Church, in terms of financial management, they only need to observe their own statutes. (New Canon Law Can. 1257 §2; compared with Can. 117, Can. 94 §1 and Can. 127 §1) Barring exceptional circumstances, the Church has no need to supervise private juridical persons’ finances. (Cf. Can. 1263-1265 §1, and Can. 1280)

Can. 1256 stipulates: “Under the supreme authority of the Roman Pontiff, ownership of goods belongs to that juridic person which has acquired them legitimately.” The Holy Father has regulatory power over all temporal goods of the Church, but such power does not necessarily equal ownership.

We should also bear in mind that regarding *dominium* or ownership, there are different interpretations in different legal systems. According to canon law and civil law systems that follow Roman Law, *dominium* is an absolute right. The owner of a *dominium* is absolute and unchallenged. *Dominium* fully covers three aspects: (1) The right to maintain and the right to use; (2) The enjoyment of profit or income (in terms of money, brand name and

related services.); (3) the right of management, including the use to entrust the temporal goods to others for management.

In common law systems, different aspects of ownership of temporal goods can be divided so that different people may own one or a few aspects, for example of the right of land, the right of profit, or easement. For instance, someone may own a piece of land or a trust, but does not hold the *dominium* or the right of alienation. In common law jurisdictions, the Church applies the fundamental principle of coordinating canon law with the national Law as far as possible.

According to the canon law system, once a public juridic, or a private juridic person has been established in the Church, it can assume related responsibilities and rights. However, many national law systems do not recognise the canon law system. Therefore, the juridic person of the Church should, according to the local civil law, register as a “civil corporation,” so that they can enjoy the statute of juridical persons under civil law, and their temporal goods would be protected under the civil laws. (Cf. Can. 1284 §2, pt.2-3; Can. 13 §2 pt.2)

From the perspective of ownership of temporal goods, if Church ministries, for example, schools, hospitals, and charity organisations, can register as an independent juridical person under canon law and civil law, that is good for its autonomy and the protection of its right. For example, if a religious congregation has run a school or hospital for many years and as conditions change, finds it impossible to sustain such work. Even though such organisations shared *de facto* the juridical person status of the religious congregation, according to canon law or civil law, the organisations themselves will face an uncertain status if they failed to prove their juridical person status with official documents.

For church organisations which provide public social service, such as hospitals or social service organisations, it is better to register as a private juridical person than as a public juridical person. That is because regarding management and alienation of temporal goods, canon law’s regulations for private juridical persons are more concise than for public juridical persons.

In quite a number of dioceses, the diocesan bishop becomes a “corporation sole,” that is, he is registered according to state law

as a juridical person, and all organisations under him, such as parishes and all service units, become subsidiaries according to civil law. Such a management model has advantages from the angle of “central support” and “resources accretion.” But it does not accord with the principle of subsidiarity propounded by the Church in recent years. Moreover the Church does not support the centralisation of temporal goods of the Church. [Cf. “Letter from the Sacred Congregation of the Council to the United States Conference of Catholic Bishops” on 29 July, 1911; version in English available in *Canon Law Digest*, 2 (1956) 444-445.]

From the point of view of insurance claims, centralisation may not be a good choice.

1.5 Sources of temporal goods

Can. 1259: The Church can acquire temporal goods by every just means of natural or positive law permitted to others. Positive law includes Church law or civil law.

The Church has an innate right to require from the Christian faithful those things which are necessary for the purposes proper to it. (Cf. Can. 1260) And the faithful have the right, and the obligation to give financial support to the Church. (Cf. Can 1261-1262; Can. 222)

According to canon law, temporal goods of the Church can be generated by freewill offering (Can. 1261), taxes imposed by the bishop (Can. 1263), and begging for alms (Can. 1265). According to civil law, the sources of Church temporal goods also include church tax (such as levied in Germany and Austria), ownership of land and property and gains from intellectual property (patents and copyright), inheritance, gifts and charitable funds. Such sources of temporal goods should be legitimate and valid according to canon law or civil law, and not through illegal ways (for example, appropriation or theft).

2. The main mechanism of diocesan administration of temporal goods

2.1 Administrator of diocesan temporal goods

Can. 1279 §1 points out: The administration of ecclesiastical goods pertains to the one who immediately governs the person to which the goods belong unless particular law, statutes, or legitimate custom determine otherwise and without prejudice to the right of the ordinary to intervene in case of negligence by an administrator.

Based on this, the diocesan bishop and the pastor are respectively the administrator of the temporal goods of the diocese and of the parish. (Cf. Can. 393 and 532). They must take an oath before the ordinary or his delegate that they will administer well and faithfully. (Cf. Can. 1283 §1). Their related responsibilities are laid out from Can. 1284 §2 to Can. 1289.

The responsibility of the administrator, as Can. 1284 §1 points out, is to take care of the temporal goods of the Church as a good steward/householder. This requirement involves two aspects.

2.1.1 According to natural law, canon Law and civil Law, faithfully and wisely administer/manage the temporal goods of the Church (Cf. Can. 1273), that is, maintain (e.g., taking out insurance policies), make good use of, and develop (e.g., invest, grow dividends) the goods, so as to accomplish the Church's mission;

2.1.2 Be accountable to Church superiors and the faithful, in matters of records, purposes and accounting. (Cf. Can. 1283 §2, §3; Can. 1267 §3; Can.1287 §2)

2.2 Different Categories of Acts of Administration

Administration means to direct and manage the goods and property of a juridical person (for example, a diocese) so as to fulfill its principles and missions.

The Code of Canon Law distinguishes among three types of administration.

2.2.1 Acts of Ordinary Administration—these acts pertain to the daily operations or work necessary to the maintenance of the property. (Cf. Can. 1281) These activities belong to the job responsibility of the administrator (e.g., diocesan bishop, parochial

pastor, superior of a religious congregation). For this reason, it does not require the authorisation, advice, or agreement of another.

2.2.2 Acts of Administration which, in the light of the economic situation of the diocese, are of major importance: (cf. Can. 1277)—the bishop must hear the advice of the finance council and college of consultors to place acts of administration which are more important in light of the economic condition of the diocese.

The diocesan bishop should consult with advisors (including the finance council and the college of consultors), according to the capacity, resources and the financial condition of the social environment, to determine which acts of administration will have more significant impact on its financial situation. One criterion can be the percentage of the funds the juridical person is allowed to use, for example, 5 to 10 percent of this amount can be seen as an important administrative act.

As the diocesan administrator, the ordinary bishop should consult with every individual on the finance council and the college of consultors before placing such act, otherwise the act is not valid. (cf. Can. 502 §1) Can. 127 §2 point 2 states the diocesan bishop (or other Church superior) is not obliged to accept the consultor's opinion, even if the advice is unanimous. However, a superior is not to act contrary to that opinion, especially if the opinion is unanimous, without an overriding reason in the superior's judgment. (Note: The college of consultors gives advice mainly from the viewpoints of the diocesan pastoral and evangelical missions, the future development of the Church, whether the related plan or work can reflect Catholic identity, and other long-term influence to the diocese.)

2.2.3 Acts of Extraordinary Administration: (Cf. Can.1277)

These acts, according to its nature, importance, and financial value, exceed the level of a juridical person's daily financial operations, and usually require the approval of senior members of the hierarchy. According to canon law, under the two following circumstances, the diocesan bishop must have the "consent" of the finance council and college of consultors, in order to place such acts validly. (cf. Can. 1277)

(a) An extraordinary administration act as defined by the Bishops' Conference: such acts usually involve concrete acts (for example, the purchase of a real property, lawsuit, major renovation/maintenance and so on), or acts whose expenses exceed certain limits (for example, a certain percentage of the highest limit designated by the Bishops' conference. See the paragraphs below.)

(b) Certain acts of administration for which consent is specifically expressed in the charter of a foundation.

According to canon law, besides acts of extraordinary administration, if an act involves, for example (1) the alienation of temporal goods, or (2) a transaction which is unfavourable to the financial situation of the diocese, the diocesan bishop should also obtain in advance the "consent" of the college of consultors and finance committee. Below are relevant articles:

I. Can. 1292 §1: "... when the value of the goods whose alienation is proposed falls within the minimum and maximum amounts to be defined by the conference of bishops for its own region, the competent authority is determined by the statutes of juridic persons if they are not subject to the diocesan bishop, otherwise, the competent authority is the diocesan bishop with the consent of the finance council, the college of consultors, and those concerned. The diocesan bishop himself also needs their consent to alienate the goods of the diocese."

§2: "The permission of the Holy See is also required for the valid alienation of goods whose value exceeds the maximum amount, goods given to the Church by vow, or goods precious for artistic or historical reasons."

Can. 1293 §1: The alienation of goods whose value exceeds the defined minimum amount also requires the following:

1. a just cause, such as urgent necessity, evident advantage, piety, charity or some other grave pastoral reason:
2. a written appraisal by experts of the asset to be alienated.

Can. 1293 §2: Other precautions prescribed by legitimate authority are also to be observed to avoid harm to the Church.

Can. 1294 §1 An asset ordinarily must not be alienated for a price less than that indicated in the appraisal.

Can. 1294 §2 The money received from the alienation is either to be invested carefully for the advantage of the Church or to be expended prudently according to the purposes of the alienation.

II. Can. 1295: The requirement of Can. 1291-1294, to which the statutes of juridic persons must also conform, must be observed not only in alienation but also in any transaction which can worsen the patrimonial condition of a juridic person.

If the above-mentioned acts of extraordinary administration need the approval by the Holy See, the diocesan bishop should submit the application to the related sacred ministry in the Holy See. For missionary areas, the related department is the Congregation for the Evangelisation of Peoples. For religious congregations, the related department is the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life. If the applicant is a Pontifical registered congregation or society of apostolic life, usually the Holy See will request the *nihil obstat* from the local bishop. This confirms that the local bishop does not object to such a transaction.

The maximum and minimum amounts defined by the Bishops' conference should be confirmed by the Holy See. Such amounts are to be adjusted from time to time according to the economic situation of respective areas.

2.3 The Diocesan Finance Council

Compared with the old canon law, the new canon law introduced a significant requirement regarding financial administration. The law requires all dioceses, parishes and other juridical persons (such as religious congregations) to set up their own finance council. (According to regulations of juridical persons, it is to assist the administrators of the diocese, the parish and other juridical persons to handle finances.) (The responsibility of "other juridical persons" can be carried out by two consultors). Cf. Can.

492-494; Can. 1280; Can. 635, Can. 634; Can. 636 §1; Can. 537). Such a requirement adheres to two principles of the Second Vatican Council, which is emphasis on consultation and encouraging the participation of the laity (especially lay experts). It is also a correction of the misbehaviour of some church leaders (such as bishops and superiors of religious congregations) in the history of the Church. Such leaders were not good administrators of temporal goods, but they did not know, or did not wish to seek, the assistance of professionals. As a result, serious mistakes were made, and the Church suffered significant losses.

2.3.1 Composition

Can. 492 §1: Every diocese should establish a finance council, presided over by the diocesan bishop himself or his delegate. It should consist of at least three members of the Christian faithful appointed by the bishop, who are truly experts in financial affairs and civil law, and outstanding in integrity.

§2: Members of the finance council serve for five years, but at the end of this period, they can be appointed for another five-year term.

§ 3: Persons who are related to the bishop up to the fourth degree of consanguinity or affinity are excluded from the finance council.

According to the above articles, the finance council should consist of at least three Catholics (clergy or laypeople). For the sake of in-depth discussion and broad coverage, it is most preferable to have a range of ten to twenty members, preferably including one or two experienced pastors. The council should provide adequate background information to members before council meetings. Such information includes the financial situation of the diocese and the general financial picture of the market. The council should demonstrate two characteristics: expertise and openness of information or transparency. Council members should be outstanding in integrity, and there should be no conflict of interest between their personal background or professions and their council membership. They should also keep confidential the contents or financial information revealed to them in the meetings.

The finance council should be set up by the diocesan bishop with a decree. It should have determining statutes. According to canon law, each member can serve for five years and can be re-appointed afterwards (without term limits). When the bishopric is vacant, the council members can serve until their term is finished. The new diocesan bishop cannot assign other people to replace those council members in office. In addition, the finance council can set up, according to need, *ad hoc* groups under the council.

2.3.2 Responsibilities

The following are related canonical articles:

Can. 493 – In addition to the tasks entrusted to it in Book V, “The Temporal Goods of the Church,” the finance council prepares each year, according to the directions of the diocesan bishop, a budget of the income and expenditures which are foreseen for the entire governance of the diocese in the coming year, and at the end of the year examines an account of the revenues and expenses.

In addition to cases of extraordinary administration according to Can. 1292 and 1295, and alienation of temporal goods or special transaction, in which the diocesan bishop should get the consent from the finance council, he also has to consult the council regarding the following events stated in canon law:

- (i) prepare the diocese’s annual budget (Can. 493)
- (ii) audit an annual account of the revenues and expenses (Can. 493)
- (iii) appoint a finance officer (Can. 494 §1)
- (iv) remove a finance officer (Can. 494 §2)
- (v) impose a new tax for the diocese (Can. 1293)
- (vi) place an act of administration which has significant impact on the financial situation of the diocese (Can. 1277)
- (vii) accept the finance report by the administrator under him (Can. 1287 §1)
- (viii) approve the donation of money or investment of liquid assets to the diocese (Can. 1305)

(ix) lessen the obligations of a diocese from the wills of the faithful for pious causes (Can. 1310 §2)

2.4 Finance officer

2.4.1 Appointment

According to Can. 494 §1, in every diocese after having consulted the college of consultors and the finance council (separately), the bishop is to appoint a finance officer. Usually there are two ways of making the appointment: (1) the above two consultant organisations nominate two or more candidates, along with reasons for nomination, for the bishop to choose; (2) the bishop nominates a candidate, along with reasons for nomination, and presents them to the two organisations cited above for consideration. The finance officer can be a member of the laity or clergy.

2.4.2 Necessary Qualifications

According to Can. 494 §1, the candidate should possess the following two qualifications.

(a) true expertise in financial skills—as many areas of diocesan goods are often entrusted to the management by different people, the finance officer, besides having a good grasp of the entire diocese’s financial situation, also has to know how to coordinate and supervise the managers concerned. In fulfilling the duties of a finance officer, he/she also has to have canonical awareness, that is to say, he/she has to be able, and willing to administer financial affairs, not just from a secular financial angle, but also from a Church and canonical angle. The finance officer (especially if he/she is a lay person, and not a member of the clergy) has to be familiar with the structure of the Church (such as juridical persons, parishes, diocesan departments) and the obligations and rights of various stakeholders (pastors, the laity, etc.), the financial regulations of the diocese, as well as state laws regarding finances.

(b) of truly outstanding integrity

2.4.3 Duties

According to canon law, finance officers have the following main duties:

Can. 494 §3: It is for the finance officer to administer the goods of the diocese in accord with the budget determined by the finance council, under the authority of the bishop, and from the income of the diocese, to meet expenses which the bishop and others designated by him have legitimately authorised.

Can. 494 §4: At the end of the year, the finance officer must render an account of receipts and expenditures to the finance council.

2.4.4 Term of office

According to Can. 494 §2, The finance officer is to be appointed for a term of five years, but can be appointed for other five year terms at the end of this period. The finance officer is not to be removed from the position, except for grave cause to be assessed by the bishop in consultation with the college of consultors and the finance council.

When the diocesan bishopric is vacant, the finance officer can continue to carry on his/her duty. If the finance officer has been elected as administrator of the diocese, the finance council is to elect a temporary finance officer. (Cf. Can. 423 §2)

3. Some special issues regarding diocesan financial administration.

3.1 How to deal with the situation regarding Church temporal goods involving canon law and civil law at the same time?

Canon law and civil law are two different systems, each with its operational category and should not interfere with each other. In reality, however, lay organisations or Church organisations often find themselves facing situations that involve canon law and civil law at the same time. Church temporal goods (contracts, inheritance, the sale or gift of real property, etc.,) offer a concrete example. Sometimes the requirements of these two systems are

contradictory or have to be carefully coordinated with each other. On the one hand, canon law always stresses the importance of observing state law requirements (for example, Can. 1268; Can. 1274 §5; Can. 1284 §2 points 2 and 3; Can. 1286 §1; Can. 1296; Can. 1299 §2); on the other hand, the Church also asks the faithful to observe canon law for the sake of better administration of Church temporal goods (even though in general canon law has not set up penalties for those who fail to observe related articles). Indeed, in disputes related to Church temporal goods, the faithful and Catholic groups often have to make a choice between observing canon law or civil law.

One way to resolve the above dilemma is to list in “incorporation charter” or “by-laws” which are recognised by the state law, certain “reserved powers” to the Church. (cf. Can. 87 §1 and a number of articles mentioning “reserved powers,” so that Church authorities have the right to administer the operations of related Church organisations and ensure their fidelity to faith, ethics and canon law. The following are items that can be included in reserved powers (and can be adapted according to the situation):

- 3.1.1 To change the philosophy and mission of related service;
- 3.1.2 To approve the amendment or abrogate the charter and by-laws;
- 3.1.3 To establish subsidiary corporations;
- 3.1.4 To merge corporations or to dissolve a corporation;
- 3.1.5. To use real estate for liability;
- 3.1.6 To appoint the chief executive, and some or all members of the Board of Governors ;
- 3,1,7 To appoint the auditor:
- 3.1.8 To approve the operational and/or capital budget.

In principle secular courts will not take into consideration canon law in trial proceedings, therefore, one way to co-ordinate between canon law and state law is to include from the beginning canonical regulations related to corporations in charter documents, and in language that is not just Church terminology.

In a trial of financial proceedings, secular courts usually only rely on state laws. But sometimes courts will view related articles in canon law as “internal regulations” of a Church juridical person. In such cases, the court will consult canon law experts to deal with the lawsuit according to canon law. In addition, some corporation documents include Ethical and Religious Directives that concern the goals and operations of the corporation. In particular, when a Church organisation is partnering with a non-denominational public entity, corporation documents often specify that in case of doubt regarding the explanation of the Ethical and Religious Directives, the case should be referred to the Diocesan Bishop for an accurate explanation.

3.2 The diocesan bishop should be careful regarding certain matters of financial management. According to canon law, these can be summarised as follows:

3.2.1 Set up a special institute to collect goods or offerings for the purpose of providing, according to the norm of Can. 1274 §1-2, Can. 281, for the support of priests and married deacons who offer full-time service for the benefit of the diocese. (This arrangement replaces the benefice system which was abolished by the Second Vatican Council. [Cf. *Decree on the Ministry and Life of Priests*, 20]).

3.2.2 Insofar as necessary, each diocese is to establish a common fund through which bishops are able to satisfy obligations towards other persons who serve the Church and meet the various needs of the diocese and through which richer dioceses can also assist the poorer ones. (Can. 1274 §3, Can. 1266)

3.2.3 To assist in procuring those means which the Apostolic See needs, according to the conditions of the times, so that it is able to offer service properly to the universal Church. (Can. 1271)

3.2.4 According to the instructions of Bishops’ Conferences, to collect offering for the execution of rescripts of the Apostolic See, and offerings on the occasion of the administration of sacraments or sacramentals. (Can. 1264 §1 and 2)

3.2.5 To promulgate the charters of parish finance committees. (Can. 537)

3.2.6 According to the norms established by the conference of bishops to set up diocesan guidelines for begging for alms for lay and Church organisations. (Can. 1265 §2)

3.2.7 The statutory source of income of a diocese includes:

The Seminary Tax (Can. 264); free-will donations offered by the faithful (Can. 1262); the tax imposed on public juridic persons (Can. 1263); in special circumstances the tax for important needs of the diocese (Can. 1263); special collections (Can. 1266); goods for pious causes and pious foundations (Can. 1299); fees for acts of executive power (Can. 1264 §1); litigation costs. (Can. 1649 §1)

Conclusion:

This article briefly introduces the basic concepts and principles of Church temporal goods and the mechanism for diocesan financial management. To conclude, we should always bear in mind: the Church should not accumulate temporal goods for her own enjoyment or to provide more protection or security. The only aim for owning temporal goods is to fulfill her mission of salvation, including evangelisation, pastoral services, and caring for the least and marginal groups in society. In financial management, the Church is not a business entrepreneur who employs secular means, but a faithful servant of God and an upright and wise steward of God.

References:

1. Maida, Adam J. and Cafardi, Nicholas P. *Church Property, Church Finances, and Church-Related Corporations: A Canon Law Handbook*. St. Louis: Catholic Health Association, 1994.
2. McKenna, Kevin E. DiNardo, Lawrence A., and Pokusa Joseph W. (eds.). *Church Finance Handbook*. Washington, D. C., Canon Law Society of America, The Catholic University of America, 1999.