

HOW IS THE GOVERNMENT SCRUTINIZING DONATIONS?

Since 9/11, the U.S. government has aggressively investigated and prosecuted individuals it believes to have offered “material support,” including financial assistance, to groups or individuals it has designated on its terrorism lists.

What is material support?

- Material support is a broad concept that covers a wide range of activities.
- Material support includes providing groups or individuals that the U.S. government has designated as terrorist entities any of the following: money; financial services; lodging; training; advice or assistance; false documentation or identification; communications equipment; facilities; weapons; lethal substances; explosives; personnel; transportation; and other physical assets. There are some very limited exceptions for medicine and religious materials.

Can the government designate anyone as a terrorist?

- The U.S. government’s authority to designate organizations or individuals on its terrorist lists is the subject of a number of legal challenges still pending in courts nationwide.
- Many argue that the government has misused its designation authority and that material support laws in this context are too broad.

WHAT ARE THE POSSIBLE IMMIGRATION CONSEQUENCES OF MY CHARITABLE GIVING?

The government has denied entry into the United States or deported non-citizens whom it deemed to have committed acts they “knew or reasonably should have known” provided material support or financial assistance to a terrorist organization (designated or not), a terrorist activity, or any individual whose implication in actual or planned terrorist activity was or should have been known.

HOW CAN I PROTECT MYSELF WHEN DONATING?

Individuals’ past donations—not just recent ones—have been scrutinized. The government has also penalized donations to organizations not designated as terrorist entities at the time of the donation. For this reason, charitable donations should be considered carefully.

How should I choose a charity?

Find a registered charity

Because organizations have to undergo a lengthy accreditation process through the IRS to obtain 501(c)(3) status, one safe option is to donate to organizations registered in the United States with 501(c)(3) tax-exempt status.

- Most masjids automatically have 501(c)(3) status.
- To determine if an organization is a U.S.-registered 501(c)(3) tax-exempt charity:

- Ask the organization;
- Visit its website; or
- Check <http://www.irs.gov/charities/article/0,,id=96136,00.html>, for a database of IRS-recognized charities, or <http://www.guidestar.org>, which includes the IRS database and other useful information.

- If the organization is not registered as a U.S. tax-exempt charity, determine whether the organization is registered as a not-for-profit in the country in which it works.

Check the government’s lists of terrorist organizations

- It is important to verify whether the charitable organization or any of its affiliates or subcontractors are listed as a foreign terrorist organization, or if it is under active investigation by law enforcement.
- The primary list to check is called the Specially Designated Nationals list. That list also includes groups the government has designated as Foreign Terrorist Organizations. The list is available here: <http://www.treasury.gov/ofac/downloads/sdnlist.txt>

Do some background research

- Familiarize yourself with the charity’s work and use your judgment. To learn more about a charity and its business practices, you can review the organization’s annual report, IRS form 990, financial statements, and audit reports. Organizations typically make this information available on their websites. You should also feel free to

call or email the organization with your questions

- There are extra precautions that you should take if you want to donate to an organization abroad: Research whether the organization participates in any activities that the U.S. government would consider terrorism-related. Look at the organization's website, contact the organization, or read any publicly available information on the organization.
- You can contact CLEAR if you need assistance or advice with any part of this process. CLEAR has provided letters certifying that clients consulted with counsel and performed due diligence.

Once I decide where to donate, what additional precautions should I take?

- When making a charitable contribution, you should make your intention to support a specific humanitarian effort or program clear by indicating it in writing.
 - For example, make a notation on the memo line of the check that the donation is intended for disaster relief.
- It is important that you keep records of the following for at least six years:
 - The check, bank statement, or other written documentation of the charitable contribution.
 - Written information from the charitable organization about the program or project.
 - A receipt or acknowledgement of the donation from the charitable organization.

What about overseas wire transfers?

- Wire transfers to accounts overseas are subject to increased scrutiny. Before transferring money, you should verify that the receiving bank is not on a sanctions list. One way to check if the bank is on a sanctions list is to look at the following website:
 - <http://www.treasury.gov/resource-center/terrorist-illicit-finance/Pages/protecting-fto.aspx>
- If a government agent contacts you with questions about your donations, say politely and firmly, *"May I please have your contact information? My attorney will follow up with you."* Do not answer any other questions. Contact CLEAR as soon as possible.

CONTACT US FOR LEGAL SUPPORT

CLEAR provides free legal services to Muslim communities and others in New York City that are affected by post-9/11 law enforcement policies. If you need legal advice or a referral, contact CLEAR. We represent and advise individuals regarding law enforcement questioning and searches; grand jury and trial subpoenas; charitable giving; travel; and more.

Raise Awareness!

Host a CLEAR Know-Your-Rights workshop about these issues at your masjid or your community center. CLEAR facilitates workshops free of charge.

KNOW YOUR RIGHTS!

CHARITABLE GIVING

Since 9/11, U.S. government monitoring and prosecution of donations has impacted charitable giving in Muslim, Arab, and South Asian communities. It is important to keep giving. This pamphlet provides information on how to give to charity lawfully and safely.



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