8

Fundraising do's and don'ts

Deductions rules, donations receipts, and raffle rules all in one place.

As the mother of three kids, I've participated in more school, scout, dance, church, and other fundraisers than I can count. My least favorite were the fundraisers that tried to entice the kids to sell more by offering a prize. I still have a huge stack of car visor-size write-on white boards my son convinced me to buy so he'd have 60 seconds inside a glass box blowing money around. I'm sure I spent far more on the white boards that I never found any use for than my son Drew won in the money machine!

With school budgets running deficits, fundraising is likely to become more common than less. This chapter outlines some of the key IRS and state rules governing fundraisers.

> More fundraising resources including a quick reference guide to the rules, best practices running a fundraiser, sample donation request letter, cash/in-kind donation form, and donor receipt provided in Appendix F.

What's deductible, What's not

One of the key benefits of getting your school fundraising group recognized as a tax-exempt 501(c)(3) educational and charitable group is that voluntary donations to your group are tax-deductible to the donor. With 501(c)(3) status you can offer the "no-fund-raiser" fundraiser currently growing in popularity.

THE NO-MORE-COOKIE-DOUGH, NO-MORE-SILENT AUCTION, NO TIME FOR THAT FUNDRAISER

No time to bake? No time to volunteer? Tired of buying and selling cookie dough and gift wrap? This is the fundraiser for you! Just fill out this form and we won't ask for any more support the rest of the school year!

$15 Here's the money I would have spent baking the cakes for the fall festival cake walk.

$25 Here's the money I would have spent on gift wrap that I don't need.

$50 Please excuse me from the walk or run or swim or any other "thon" planned for the year.

$75 I'm happy to contribute this instead of dressing up the for fancy silent auction and ball.

$________ I'm contributing this in grateful appreciation for being able to support the school, my kids, and their teachers without taking on another part-time job of fundraising!

Student name ______________________ Grade _____

Your name ______________________________

Email ______________________________

Thank you for support of the All American Elementary School and our "no-fundraiser" fundraiser!

As a 501(c)(3) organization, your contribution to the school PTO is tax-deductible. We will email you a receipt for your tax records.

Contributions to the no-fundraiser fundraiser are tax-deductible, because they are (1) made to a school fundraising organization that has obtained 501(c)(3) tax-exempt status, (2) the donor is making the contribution voluntarily, and (3) the donor receives nothing in return for the contribution except the satisfaction of supporting the school.

Common mistakes I see with these types of fundraisers include:

1. The school fundraising group states that contributions are tax-deductible but the organization is not recognized by the IRS as a 501(c)(3) charitable organization. Simply supporting a school is not enough to cause an organization be tax-exempt. The group must apply for, obtain, and then maintain its 501(c)(3) status.
2. The contribution is not really voluntary. Often fees required to participate in an activity are described as contributions. If the fee is actually required, or if parents are led to believe that payment is required, the payment is not voluntary, and therefore is not a tax-deductible contribution.
3. Something of value is received in return for the contribution. My favorite was when I saw a local service club advertise tax-deductible Christmas trees. The reality is that whether you pay $35 for your Christmas tree from the local hardware store, or $35 for a tree from your local 501(c)(3) service club, you still got a $35 Christmas tree. That's a purchase, not a donation.

Let's look at how a $100 payment to the All American High School Band can be a tax-deductible contribution, or a non-deductible fee, depending on the circumstances:

The voluntary band donation

A band parent writes a check for $100 made out to the All American High School Band Parent Boosters and hands it to the band director, saying, "I know you never have enough funds to buy all the instruments and music that you need to run the band. Here's a donation to help."

This is a tax-deductible, voluntary donation for which the donor received nothing in return for the contribution.

Another voluntary band donation

A band parent writes a check for $100 made out to the All American High School Band Parent Boosters and hands it to the band director, saying, "I know you never have enough funds to buy all the instruments and music that you need to run the band. Here's a donation to help."

The band director runs to his office and grabs a plastic kazoo emblazoned with the words, *All American High School Band*, hands it to the parent and says, "Thanks for your contribution to the band program. Here's a kazoo. Bring it to all the football games and play it loudly when the band is announced before performing its half-time show."

This is a tax-deductible, voluntary donation even though the donor received the kazoo as a thank-you gift for the contribution. The receipt of any item that is considered "de minimus," or a token, does not change the deductibility of the gift.

The partial band donation

A band parent writes a check for $100 made out to the All American High School Band Parent Boosters and hands it to the band director, saying, "Here's my fair share contribution to support the band this year. I really appreciate that you are giving me a new band parent polo shirt this year as a thank-you gift for contributions of $100 or more."

The fair market value of the polo shirt (what it would cost to buy at the high school spirit store) is $25. Therefore, this is a tax-deductible contribution of $75. The remaining $25 of the payment is considered payment for the polo shirt received in exchange for the contribution.

The band fee

A band parent writes a check for $100 made out to the All American High School Band Parent Boosters and hands it to the band director, saying, "Here's our payment for band camp for Mary."

This is a fee paid to allow Mary to participate in band camp. It is not tax-deductible.

RECIPE FOR SUCCESS

A thank-you gift is considered a token if the fair market value of the thank-you gift does not exceed the lesser of 2% of the donation amount, or $105*; or if the only items provided are ones that bear the organization's name and/or logo, with a cost equal to or less than the IRS low-cost item amount ($10.50*).

***the values provided are for the year 2015; values are adjusted annually for inflation.**

IRS publication 1771, Charitable Contributions, provides more information about substantiation and disclosure requirements. A link to this and other IRS publications is found at the More than Cookie Dough companion website, **morecookiedough.com**.

What about auctions?

Many school fundraising groups hold silent or live-bidding auctions to raise money. Generally a donor of products and services to a fundraising auction is limited to taking a deduction of the donor's cost or tax-basis in the donated property. People who purchase items at the auction generally may take a charitable deduction only if they can document that the price paid exceeded the fair market value of the item purchased. Otherwise, the purchaser is considered to have received something of value in return for the payment and therefore has not made a voluntary contribution.

RECIPE FOR SUCCESS

Your group may want to indicate the fair market value of each item for sale at the auction, and let participants know that, to the extent their winning bids exceed the listed fair market value, they may take a tax-deductible contribution.

Are business sponsorships deductible?

I often see fundraising groups soliciting local businesses to sponsor their sport or other activity. Frequently the sales flyers state that payments made are tax-deductible. Generally this is not the case because the businesses that make these payments receive advertising in exchange for their payments. Here are a few examples of what is, and is not, an advertising expense rather than a tax-deductible contribution.

Sporting goods store pays to sponsor the football team

The local sporting goods store sponsors the All American High School Football Boosters. In exchange for the store's payment of $500, the store receives a printed banner to hang at the football stadium, a half-page ad in the football program, and at least two promotional announcements during each home football game.

This is advertising. While the payment may be deductible by the sporting goods store as a business advertising expense, it is not deductible as a charitable donation because of the advertising that the store receives in return for its payment.

Sporting goods store pays to sponsor the football team

The local sporting goods store sponsors the All American High School Football Boosters. In exchange for the store's payment of $500, the store is listed in the football program as a "gold" sponsor. All "gold" sponsors are announced at half-time during home football games as supporting the team.

This payment may be considered a tax-deductible donation because the recognition that the store receives is within the boundaries of IRS "qualified sponsorship" rule and is not considered advertising.

RECIPE FOR SUCCESS

In addition to your sponsors not getting a tax-deduction for advertising payments, 501(c)(3) tax-exempt organizations must report and pay tax at corporate rates on their net income from advertising. As a result, it is important to keep track of your gross income from advertising sales, and also your expenses related to the advertising sales, for example the cost to print and hang the banners in the stadium and the cost to print the football programs.

IRS QUALIFIED SPONSORSHIP RULES

Permissible recognition (payments made are tax-deductible to donor; income is tax-exempt to the organization):

1. sponsor logos and slogans that do not contain comparative or qualitative descriptions of the sponsor's product, services, facilities or company;
2. sponsor locations/addresses and telephone numbers;
3. value-neutral descriptions, including displays or visual depictions, of a sponsor's product line or services; and
4. sponsor brand or trade names and product or service listings.

Recognition considered "advertising" (may be deductible for donor as business expense but not charitable deduction; is taxable to the tax-exempt organization to extent proceeds exceed related costs.)

1. qualitative or comparative language about a sponsor's products, services, facilities or company;
2. price information or other indications of savings or value associated with a product or service;
3. an endorsement;
4. an inducement to purchase, sell or use the sponsor's products or service (however, distribution of a sponsor's product to the public at a sponsored event, whether for free or for charge, would not be considered an inducement to purchase, sell or use the product);
5. the amount of the payment contingent on the attendance level at one or more events, broadcast ratings, or other factors indicating the degree of public exposure (although a payment contingent on the mere occurrence of an event or its broadcast would not, for that reason alone, be subject to Unrelated Business Income Tax (UBIT)).

RECIPE FOR SUCCESS

Advise your business sponsors that their payments may be deductible as a business expense by stating for example, *"Thank you for your support of our school booster organization. Your contribution may be deductible as a business advertising expense based on the recognition you will receive."* **Or alternatively, if some, but not all of the payment is for advertising,** *"Thank you for your support of our school booster organization. One half of your payment, $250, is considered a tax-deductible contribution in support of our program. The remaining half of your payment may be deductible as a business advertising expense based on the recognition that you will receive for your payment."*

Receipts

IRS rules require that organizations receiving donations provide a written receipt disclosing the portion of a contribution that is tax-deductible for all gifts of $75 or more. IRS rules also require that donors have written documentation of their donations in order to claim a tax deduction. A receipt from the charity is required for all donations of $250 or more. A copy of a check, bank record or other documentation is enough for smaller contributions.

Receipts should include:

- Name of the organization
- Amount of a cash contribution, or value of an in-kind contribution

- Statement regarding whether goods or services were received in exchange for the payment
- Good faith estimate of the value of any goods or services that were received in exchange for the donation, if any

The receipt may be a paper document, or an electronic acknowledgement. A receipt may be provided for each donation throughout the year, or one annual statement of all contributions made by the same donor throughout the year may be provided.

RECIPE FOR SUCCESS

Keeping records of donors and donations made is not only a requirement of the IRS, but an essential business practice of nonprofit organizations. Commonly, prior donors become future donors; smaller donors become larger donors.

Games of Chance

Recently I heard about a high school booster club in Ohio that set-up what they thought was a fun and innovative fundraiser. Participants buy a square on a board that corresponds with a score at a milestone of an Ohio State football game. Guess correctly and winners receive a percentage of the pot. The problem is that booster club was supposed to get a license from the state of Ohio prior to operating the fundraiser which is considered a "game of chance."

Under Ohio law, games of chance include any kind of game in which money is paid with a chance to win a prize. This type of gambling may only be conducted in Ohio by organizations recognized as 501(c)(3)s, that have been in continuous existence for at least two years, and take place on premises owned by the organization for at least a year, or leased from a governmental agency. In addition, these types of games of chance cannot be held more than five days in a calendar year. This high school booster club not only did not obtain a license, but was not eligible for one because it had been in existence less than two years.

It's not only Ohio that regulates games of chance. Many states require a license for any activity in which money is paid for a chance to win a prize. Games of chance include raffles and bingo. As a result, before you start a 50/50 raffle or another game of chance, check the specific rules for your state.

Cooperative fundraising—everybody does it; nobody should

Show of hands: how many of you have been involved in, or know of, a school fundraising group that sets up accounts to credit the students and parents who participate in fundraising activities with the funds they raise? Common activity, right? The problem is that organizing any type of activity in which you keep track and credit only those people who sell the cookie dough or participate in the car wash with the money raised is not an allowable activity for a 501(c)(3) tax-exempt organization. Really? Really.

Helping students and their parents raise the money needed to travel to and march in the big city parade, or participate in gymnastics competitions, or other travel teams is common. How else will the students who can't write a $1,000 check participate? The problem is that these "cooperative fundraising" activities in which the members work together ("cooperate") to help each other pay off the high cost of participating in the sport, band, or other activity, are considered "private benefit" activities that are not allowed under IRS rules for 501(c)(3) charitable and educational groups.

IRS rules provide that nonprofit, 501(c)(3) groups must be operated ***exclusively*** to support their tax-exempt activities. None of their activities or funds may be used to help individual members raise money to pay personal expenses. This is a confusing concept that may be best explained with a little more background on why federal tax-exemption exist at all.

In the United States, all individuals, businesses and organizations that earn income are required to file and pay tax on their net earnings (aside from all the deductions, exceptions and complications that exist in the U.S. tax code). Certain organizations, however, are granted an exception to this rule, known as a tax-exemption. Tax-exemption essentially is a tax benefit that allows these groups to not pay federal income tax. In exchange for the tax-exemption, all of the activities of these groups must benefit the public in some way. None of their activities may be directed at helping specific individuals in the group (e.g. the people that participate in the fundraising).

I know what you're thinking: *How will you ever get anyone to fundraise if they don't get any benefit from helping out? How do you solve the "freeloader" problem?* Freeloaders are, in fact, the very essence of why groups are provided tax-exemption. For example, have you ever listened to public radio and not contributed to the fund drive? Is anyone barred from attending church if they don't throw money into the offering plate? Tax-exemption exists based on the idea that certain activities and services are needed in society as a whole, but everyone will not contribute equally to their continued existence.

Freeloader Solutions

There are, however, a few ways parent boosters may address the freeloader problem including:

1. set up a fair share donation program, and
2. conduct cooperative fundraising in a separate, taxable cooperative organization.

Fair Share Donation Programs

Fair share donation programs work by informing parents about the actual per-student cost of operating a specific school program and then asking parents to either donate their "fair share," or alternatively to volunteer to help raise the funds. The key to fair share donation programs is that contributions must be truly ***voluntary*** to be tax-deductible to the donor. Wording must be carefully drafted. Encourage but don't coerce donations. Here's an example:

ALL AMERICAN HIGH SCHOOL BAND BOOSTERS—ANNUAL FUND DRIVE

Dear Band Parents,

The All American High School budget contributes only a portion of the actual cost of operating the All American High School band. Your donations and help with fundraising events are essential to ensure that the band keeps marching in style.

This year the All American High School Band Boosters have been asked to raise \$45,000 to supplement the school budget. With 150 students in the band this year, a contribution of \$300/student is needed (\$45,000/150 = \$300).

Your support is vital. Please let us know how you are able to contribute your fair share to the band program this year.

I/We enclose a donation of \$ ______________________ to support the band program

I/We agree to help with the following fundraising activities:

Car washes (October, December, March, May)

Candy bar sales (September)

Football game concessions

Other

Name of student: ______________________

Name of parent(s): ______________________

Email: ______________________

Email: ______________________

Cooperatives

If your group relies heavily on cooperative fundraising you might consider setting up a group that CAN legally undertake these activities. A cooperative is a type of legal entity that may operate for the individual benefit of the cooperative's members. Cooperatives may be established as nonprofit or for-profit organizations, or even as limited liability corporations. **Funds raised under a cooperative are taxable on the personal tax returns of the members who receive the income.**

IRS rules provide three key requirements for a cooperative:

1. voting in the cooperative must be democratic, with each member of the cooperative getting one vote;
2. all earnings of the cooperative must be distributed to the members in proportion to their time or other contributions to the cooperative; and,
3. IRS 1099-PATR must be issued to each member showing the earnings received each year by that member.

A school fundraising group may set up a separate cooperative fundraising entity each year and make it optional for the members of the group to join. Those who join may then elect the board and officers of the cooperative and participate in the cooperative's fundraising activities. The cooperative may track the hours each member volunteers, and/or the product sales of each member, and distribute earnings in accordance with each of the cooperative members' efforts within the cooperative.

I've been asked more than once how to handle a request from a parent who wants the money they raised to be returned to them by the school fundraising group when their child is no longer active in the group. I must tell them that the money raised in a 501(c)(3) organization can't be distributed to a member when they leave. Money raised by a member in a cooperative, however, may be distributed them when they leave.

The biggest downside of a cooperative? Some big money-making opportunities, such as volunteering to sell concessions at commercial sports venues, are only open to 501(c)(3) groups. This was a problem encountered by a fundraising group for a gymnastics competition team. They raised well over $20,000 per year by working concessions at a coliseum. The coliseum only worked with 501(c)(3) groups. The five families that did the majority of the volunteer work naturally wanted to be credited with "their earnings" from working the concessions. No matter how many different ways they proposed to distribute the money so that it was "fair," in the end all of the earnings raised by a 501(c)(3) group must be used for the good of the group as a whole and cannot be credited to those participating in fundraising.

A cooperative may, however, operate car washes, sell concessions at the school football games, sell candy bars and cookie dough, and other similar activities.

A link to the IRS publication, *General Survey of I.R.C. 501(C)(12) Cooperatives and Examination of Current Issues* is found on the More than Cookie Dough website **morecookiedough.com**.

10-SECOND TAKEAWAY

1. To determine the tax-deductible portion of a contribution made by a donor to a 501(c)(3) organization, the value of anything received in exchange for the donation must be deducted. The IRS has an exception, however, for small logo and other items with minimal value.
2. School fundraising groups recognized as 501(c)(3) charities by the IRS have more options to raise money, including applying for grants, and setting up "fair share" and other tax-deductible donation programs.
3. It's important to know and understand the IRS Qualified Sponsorship rules. Business sponsorship revenue is often classified as advertising income by the IRS; advertising income may be taxable to your organization, and may be deductible only as a business expense (and not a charitable donation) by the business sponsor.
4. Many states require groups to obtain a license prior to operating any type of game of chance (e.g. BINGO, or 50/50 raffles).
5. The funds raised by 501(c)(3) school fundraising groups must be used to support the group's mission; fundraising activities in which only the individuals who participate in the fundraising are credited with the funds raised are prohibited as private benefit activities.