

Charity Raffles – Tread Carefully

Written on October 7, 2009 by Ellis Carter

As the recession deepens, we get more and more creative ideas from people wanting to conduct complex raffles. In Arizona, the most popular questions this year involve raffles of real estate. While raffles can be great revenue generators for charitable organizations, many charities do not realize that in most states, including Arizona, raffles are illegal gambling. Cautionary tales abound. Most states have specific exceptions for charitable raffles but require the charity and the raffle to meet specific criteria to qualify. For example, a raffle is not gambling in Arizona if:

- it is sponsored by a nonprofit that has been in existence for 5 years;
- no insider receives a direct or indirect pecuniary benefit other than participation on an equal basis with all other participants; and
- no person participates directly or indirectly in the management, sales or operation of the raffle other than the non-profit's employees and agents.

Many jurisdictions require non-profits to obtain a permit to conduct a raffle. Permits can take weeks or even months to process. In addition, there are number of tax issues that must be considered when planning a raffle. Tax issues include the following:

Deductibility of Ticket Price. A ticket purchaser has not made a deductible gift. The consideration paid is considered equal to the “chance” to win a prize therefore there is no disinterested gift and therefore no contribution deduction.

Deductibility of Prizes Contributed. Those contributing prizes to the raffle may be entitled to a deduction depending upon whether the contribution is an interest in property (as opposed to a non-deductible service or right to use property). The charitable deduction for in-kind contributions that are raffled off in support of a charity are generally going to be limited to the taxpayer's basis in the property (rather than fair market value).

Non-profit's Obligation to Report Prize Income. The prizes are taxable income to the winners so the non-profit must ensure it properly reports the raffle prizes to the I.R.S. Generally, raffle prizes must be reported on Form W-2G with a copy to the winner if a) the amount paid, reduced by the amount the person paid for the chance to win a prize, is \$600 or more; and b) the payout is at least 300 times the amount of the wager.

Non-profit's Obligation to Withhold from Prize Income. If the fair market value of winnings amount to more than \$5,000, the non-profit must withhold taxes from the winnings and report this amount to the I.R.S. on Form W-2G. The non-profit is liable for any tax it fails to correctly withhold.

Back-up Withholding. If the prize is reportable (the amount paid, reduced by the amount the person paid for the chance to win a prize, is \$600 or more; and b) the payout is at least 300 times the amount of the wager) and the winner fails to supply a taxpayer identification number, then the Foundation must withhold 31% of the total proceeds.

Federal Laws. Federal law strictly limits non-profits from conducting multi-state raffles. If the non-profit plans to use the U.S. mails for any part of the raffle – e.g. for mailing entry cards or raffle tickets – there are federal laws and regulations that bear consideration. Also, the FTC is empowered to regulate certain types of

sweepstakes and contests.

Non-profits sponsoring raffles should consider creating raffle rules and treating them as contracts. Drafting detailed rules permits the non-profit to set defined limits on the giveaway – who may participate, what laws apply, warranty and liability disclaimers, etc. Raffle rules also provide a way for non-profits to cancel or modify their obligations in the event that too few tickets are purchased or there are other technical problems. We have also advised non-profits running raffles to have the raffle winner (or winners) sign an affidavit of eligibility and a release of liability. This is a good place to ensure the winner understands his or her tax reporting obligations and is eligible to accept the prize.

Constructing a legal and compliant raffle takes time and may require the advice of a professional. Non-profits that take care to do it right will avoid embarrassing and costly legal mistakes and have a model that they can use to raise funds again and again.

17 Comments - [Leave a comment!](#)

17 Responses to Charity Raffles – Tread Carefully

David Harris - Refreshing Business

October 7, 2009 | 9:00 pm

Really interesting and worrying. I have posted a link to this on my blog and wonder if the same problem is happening outside the US. Hopefully there won't be many worthy charities hit by this.



Ethan

February 14, 2010 | 12:54 am

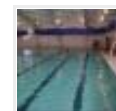
The article was really helpful. What happens if you want to do a raffle for a for Profit company anyone know? Does it have to be nonprofit to do a raffle?



Mike Dulay

March 18, 2010 | 2:58 am

So does a new nonprofit have to wait 5 years to be able to run a raffle in AZ?



Ellis Carter

March 18, 2010 | 11:46 am

Yes, a new nonprofit cannot legally run a raffle in Arizona until it has been in existence for 5 years.

pamela

July 22, 2010 | 11:34 pm



my org. was just approved as 501 c 3 this year and our financial showed a small income from raffles held at our monthly meetings and it was approved by the IRS once we explained the tickets were sold only to members and the prizes were used donations from members. We take in less than \$50 and is only a few times a year...our org is only 2 years old. Based on this would we have to stop the raffle for another 3 years?



muke

May 11, 2011 | 7:05 pm

in the state of CA can a commercial co-venturer conduct a raffle for a non-profit under current CA law?



Ellis Carter

May 12, 2011 | 6:04 am

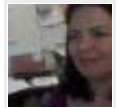
Sorry, I'm not licensed in California and that is a state law question. My guess would be no. In California, I suggest you call Gene Takegi, a san francisco based nonprofit lawyer – <http://www.nonprofitlawblog.com/>



Ellis Carter

July 8, 2011 | 5:24 am

Sorry, I'm not licensed in California but that would not be permissible in Arizona so tread carefully.



Kenneth Graham

September 19, 2011 | 11:51 am

Federal Laws. Federal law strictly limits non-profits from conducting multi-state raffles. I believe you have grossly overstated federal law with your statement above. After reading my comment below please do due diligence and let the public know the facts as stated in the law.



The Interstate Wire Act of 1961, often called the Federal Wire Act, is a United States federal law prohibiting the operation of certain types of betting businesses in the United States. The Unlawful Internet Gambling Enforcement Act of 2006 (or UIGEA) is United States legislation regulating online gambling. It was added as Title VIII to the SAFE Port Act (found at 31 U.S.C. §§ 5361–5367) which otherwise regulated port security. Neither of these laws prohibits legal activities that are licensed or permitted by states, and focus on stopping activities that are not licensed or permitted. They both establish the requirement of organizations to be licensed or allowed to conduct an activity by law.

The UIGEA does however take gaming activity on the Internet a bit further by establishing baseline standards

that systems and software platforms must conform to in order to be used to operate games of chance. Since a raffle by definition is a game of chance, the operation of raffles must meet these requirements.

The law requires systems to establish policies and procedures that are reasonably designed to identify and block or otherwise prevent or prohibit restricted transactions. This is essentially all this law does along with placing enforcement requirements on financial institutions.

However, until the invention of RaffleAmerica.com's core system, no solution was available that could actually prevent or prohibit restricted transactions on the Internet. With RaffleAmerica.com, problem solved. This is what RaffleAmerica.com's core system was designed to do. Our patented system recognizes jurisdictional borders on the Internet and determines user eligibility based on user location and residency. With federal requirements addressed, we can now focus on States, Counties, and Municipalities.

cheri

December 17, 2011 | 11:25 am

my husband just won a 1927 ford replica in an Ariz. raffle by a non profit. we understand the income tax both state and federal but the builder of car says we also owe sales tax to him. would this be correct? the builder of the car and the organization who raffled it are two separate entities.



Linda Bruno

February 11, 2012 | 9:57 am

We held a raffle last year, with the prize being a car which had been donated to our organization. The FMV of the car is anywhere between 11k and 17k, so we must report to Arizona and IRS. Do we have to use form w2g, or can we report on 1099-misc? It appears that we have to collect the 28% tax from the winner and send to the IRS. Is that correct? The instructions for the w2g are unclear on how to report this type of winning. Thanks for any help you can give!!!



Sandra McGuire

May 23, 2012 | 10:55 pm

I would like to know if it is feasible to raffle my River Home (in Arizona) with the amount over what I get, to go to non profit organizations. Example:

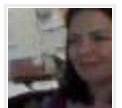
Sell 20,000 tickets for \$100 each. \$1,200,000 to me for the house & the balance (\$800,000), to go to specified nonprofit organizations. Z



Ellis Carter

June 10, 2012 | 12:43 pm

It is possible to work with a charity to do this but there are tons of issues, particularly putting the charity at risk, and most we have worked with have chosen not to go forward with such offers.



Rick

November 15, 2012 | 11:30 am

Hi, if a non profit corporation runs a multi-state lottery, via internet and mail delivery of tickets, and dramatically misstates the odds of winning, have they broken any laws?



Thanks

Rick

November 15, 2012 | 11:50 am

Hi, if a non profit corporation runs a multi-state raffle, via internet and mail delivery of tickets, and dramatically misstates the odds of winning, have they broken any laws?



Thanks

Ellis Carter

November 25, 2012 | 4:55 pm

Most likely they have violated many laws -



Ellis Carter

November 25, 2012 | 5:03 pm

They are likely breaking a number of laws.

