2025 Nonprofit Convening

Sponsorships Done Right

(and Other Fundraising Event Considerations)

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- The information being provided in this presentation is for educational purposes only and to stimulate consideration of various topics regarding the administration of your charitable fundraising events. It is not intended to constitute the providing of legal or accounting advice. Please consult with your organization's legal and accounting professionals in connection with the topics discussed.
- This presentation will also include personal opinions of the presenter. Some of which you may agree with and some you may not. It is again intended to stimulate your thoughtful evaluation of the policies and procedures that are implemented at your organization.

Sponsorships and Other Fundraising Event Considerations

General Federal Law Considerations

"Contemporaneous Written Acknowledgement"

Internal Revenue Code Section ("IRC") 170(f)(8) provides a "substantiation requirement for certain contributions." It reads:

> "(A) General rule. No deduction shall be allowed under subsection (a) for any contribution of $250 or more unless the taxpayer substantiates the contribution by a *contemporaneous written acknowledgment* of the contribution by the donee organization that meets the requirements of subparagraph (B).
> (B) Content of acknowledgement. An acknowledgement meets the requirements of this subparagraph if it includes the following information:
> (i) *The amount of cash and a description (but not value) of any property other than cash contributed*.
> (ii) *Whether the donee organization provided any goods or services in consideration, in whole or in part, for any property described in clause (i)*.
> (iii) *A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect*.
> For purposes of this subparagraph, the term "intangible religious benefit" means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.
> (C) Contemporaneous. For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous *if the taxpayer obtains the acknowledgment on or before the earlier of—*
> *(i)the date on which the taxpayer files a return for the taxable year in which the contribution was made, or*
> *(ii)the due date (including extensions) for filing such return*.
> (D) Regulations. The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases.' [emphasis added]

Note, it is not the value that a charity pays for the item given in exchange for a contribution but the value of the item given in exchange that must be reported to the donor. For example, a donor agrees to pay for a fundraising event so that the event costs the charity nothing. Event tickets are sold for $150 a piece and each ticket comes with dinner. Even though the charity paid nothing for the dinner provided, the charity must report the value of the dinner as the value of what the donor received in consideration of the event ticket.

"Token Exception"

Goods or services of insubstantial value do not have to be reported on the receipt. The organization must report to the donor the amount contributed and:

1. "The fair market value of the goods and services the donor receives don't not exceed the lesser of 2 percent of the donor's payment or [$136],* or
2. Donor's payment is at least [$68.00],* the only goods or services the charitable organization provides bear the organization's name or logo (for exempt, calendars, mugs, or posters), and the cost of these items, in aggregate, is within the limits for "**low-cost articles**," which is [$13.60].*" See page 4 of IRS Publication 1771. [emphasis added]

   * These values are adjusted annually for inflation. Values shown are those for 2025.

Membership Benefits Exception

An annual member benefit is considered insubstantial if it is provided for an annual payment of $75 or less and consists of annual recurring rights or privileges of

- Free or discounted admission to the charity's facilities or events
- Discounts on purchases at the charity's gift shop
- Free or discounted parking
- Free or discounted admission to member-only events sponsored by the charity, where a per-person costs (not including overhead) is within the "**low-cost articles**" limits.

Grants from Donor Advised Funds

Grants from donor-advised funds to your organization:

- Do not result in a charitable deduction to the donor advisor. Do NOT send the donor advisor a gift acknowledgment. Instead, you can say something to the effect of:

  "*Thank you for recommending a grant of $_____ from the [name of fund] at the Battle Creek Community Foundation. Please note that we received the grant on [date] and we greatly appreciate your support of our mission.*"
- May NOT be used to purchase event tickets to your events or sponsor the event (unless the sponsorship is a "qualified sponsorship" discussed below).
- May NOT be used to pay for auction items.

Effect of these above rules

The donor may only deduct as a charitable contribution the difference in value between what they contributed and what they received from the charity.

Sponsorships – "Qualified" or Unrelated Business Taxable Income?

Charities often seek the support of "sponsors" either to events or throughout the year. Receipting of sponsorships must follow the general rules described above. For example, a charity may have an event where the "Platinum sponsors receive a table for 10 persons at our Annual Gala in exchange for a contribution of $5,000." In this example, the charity will need to provide to the sponsor a receipt something to the effect of:

> "Thank you for being a Platinum Sponsor of our Annual Gala. This is to acknowledge that you contributed $5,000 as a sponsor. Please note that in exchange for this gift we provided you with a table for ten people at the Annual Gala that has a value of $1,000. Please consult with your tax advisor as to the value of any tax deduction you may be able to deduct in connection with this sponsorship." But see discussion of "substantial return benefit" below.

That said, this is the treatment of a "qualified sponsorship." Sponsorships that are not "qualified" result in two major changes in tax treatment:

1. The donor may no longer claim a charitable deduction as the donor has received consideration with a value equal to that of the amount paid for the sponsorship. (A business donor may be able to claim a "reasonable expense" deduction for the sponsorship, likely under the argument that it is an advertising expense.)
2. The charity now has recognized unrelated business income for the sponsorship, that net of expenses the charity must pay corporate rate (currently 21%) taxes on the net revenue. (Also, the charity should not provide a charitable receipt to the sponsor in this situation as no charitable gift was made.) The charity will then be required to file Form 990-T for the year in addition to its series 990 tax return.

A series of U.S. Treasury Department rulings (notably Rev. Rul. 67-246 and Rev. Rul. 77-367) have provided guidance on what is a "qualified sponsorship" (as defined under IRC §513(i) and Trea. Reg. §1.513-4(b)) and what sponsorships become unrelated business taxable income to the charity under IRC §§511 and 512. The IRS summarizes these rules at: https://www.irs.gov/charities-non-profits/advertising-or-qualified-sponsorship-payments

> IRC §513(i)(2)(A) provides:
> " The term "qualified sponsorship payment" means any payment made by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the name or logo (or product lines) of such person's trade or business in connection with the activities of the organization that receives such payment. Such a use or acknowledgement does not include advertising such person's products or services (including messages containing qualitative or comparative language, price information, or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services)." [emphasis added]

A "substantial return benefit" to be disregarded is defined as:

> ". . . benefits are disregarded if the fair market value of all the benefits provided to the payor or persons designated by the payor in connection with the payment during the organization's taxable year is not more than 2% of the amount of the payment. If the aggregate fair market value of the benefits exceeds 2% of the amount of the payment, then (except as provide in paragraph (c)(2)(iv) of this section) the entire fair market value of such benefits, not merely the excess amount, is a substantial return benefit. Fair market value is determined as provided in paragraph (d)(1) of his section." Treasury Regulation §1.513-4(c)(2)(ii)

A substantial return benefit does not include the use of the name, logo or product line name or logo of the payor's trade or business. Treas. Reg. §1.513-4(c)(iv) provides:

> "(iv) Use or acknowledgment. For purposes of this section, a substantial return benefit does not include the use or acknowledgment of the name or logo (or product lines) of the payor's trade or business in connection with the activities of the exempt organization. **Use or acknowledgment does not include advertising as described in paragraph (c)(2)(v) of this section**, *but may include the following: exclusive sponsorship arrangements; logos and slogans that do not contain qualitative or comparative descriptions of the payor's products, services, facilities or company; a list of the payor's locations, telephone numbers, or Internet address; value-neutral descriptions, including displays or visual depictions, of the payor's product-line or services; and the payor's brand or trade names and product or service listings. Logos or slogans that are an established part of a payor's identity are not considered to contain qualitative or comparative descriptions. Mere display or distribution, whether for free or remuneration, of a payor's product by the payor or the exempt organization to the general public at the sponsored activity is not considered an inducement to purchase, sell or use the payor's product for purposes of this section and, thus, will not affect the determination of whether a payment is a qualified sponsorship payment."* [emphasis added]

As provided in the preceding, "advertising" is considered a substantial return benefit. Treas. Reg. §1.513-4(c)(v) provides a definition of advertising:

> "For purposes of this section, the term advertising means any message or other programming material which is broadcast or otherwise transmitted, published, displayed or distributed, and which promotes or markets any trade or business, or any service, facility or product. *Advertising includes messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use any company, service, facility or product. A single message that contains both advertising and an acknowledgment is advertising*. This section does not apply to activities conducted

by a payor on its own. For example, if a payor purchases broadcast time from a television station to advertise its product during commercial breaks in a sponsored program, the exempt organization's activities are not thereby converted to advertising." [emphasis added]

Note: linking to a sponsor's general website is a permissible acknowledgment but linking to the sponsor's sales website is an inducement to buy that results in a substantial return benefit.

It should be noted that any sponsorship the amount of payment of which is contingent "upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events" is not a qualified sponsorship. IRC §513(i)(2)(b)(i)

Other Fundraising Event Considerations

Auction Items

Need to provide a written acknowledgment to the donor (winning bidder) so you will need to obtain their name and address. The donor (i) does not get a charitable deduction if the winning bid is below the value of the item won and (ii) only gets a deduction for the amount paid in excess of the value of the item won. This will be reflected on the acknowledgment you provide.

The charity may need to pay Michigan sales tax (check other state rules if auction out of state) on items sold at auction if the charity or the donor of the item did not already paid the sales tax on the item auctioned.

Donors of auction items are only allowed to deduct the lesser of fair market value or cost basis of the item donated. Your receipt for auction items should simply describe what was contributed to be auctioned and not contain a value. Though, you need to determine the fair market value for purposes of sales tax and receipts to the winning bidder.

Raffles

Require Michigan charitable gaming license. Also note:

- Michigan law prohibits the same of raffle tickets by anyone under the age of 18
- Federal law and U.S. Postal regulations prohibit the mailing of raffle tickets (limited exception for "suggested donation" tickets)
- Online raffles have special rules in Michigan and may result in violation of Federal gaming laws if undertaken across state borders
- Take caution with respect to any liquor auctions/raffles. Value of liquor cannot exceed $200 (MCL §436.2015) and other rules may apply.
- Special rules for Michigan 50/50 raffles

Visit Michigan Charitable Gaming website at https://www.michigan.gov/cg for more information on applicable charitable gaming rules.

Helpful IRS Publications

526 – Charitable Contributions
561 – Determining the Value of Donated Property
598 – Tax on Unrelated Business Income of Exempt Organizations
1771 – Charitable Contributions – Substantiation and Disclosure Requirements
4302 – A Charity's Guide to Vehicle Donation
4303 – A Donor's Guide to Vehicle Donation