



Fast Fundraising Facts & Other Essentials

SPECIAL EDITION Tax Implications of Internet Activities

The Internet is becoming more and more a part of nonprofit organizations' operations from fundraising, to communications with donors, to distribution of reports and information. The IRS is still in the process of ironing out its rules and regulations with regard to the Internet and nonprofits. What follows are common questions and proposed answers for nonprofits to consider based on current published rules and regulations.

This edition is written by Kim McNulty, CPA, an accountant who focuses her practice on nonprofit accounting.

QUESTION: Can a nonprofit satisfy the donor substantiation requirements under Section 170(f)(8) for written acknowledgements of a contribution of \$250 or more with a printed web page confirmation or copy of a confirmation e-mail from the recipient organization?

ANSWER. Yes, a donor satisfies the requirement for a written acknowledgement by obtaining written confirmation transmitted through a web page or by email as long as the acknowledgement contains the following information: 1) name of organization, 2) amount of cash contribution, 3) description (but not value) of non-cash contributions, 4) statement that no goods or services were provided by the organization in return for the contribution, if that is the case, 5) description and good faith estimate of the value of goods or services, if any, that an organization provided in return for the contribution, and 6) statement that

goods or services, if any, that an organization provided in return for the contribution consisted entirely of intangible religious benefits, if that is the case. For more information on the substantiation and disclosure requirements, see IRS Publication 1771.

QUESTION: Can a nonprofit meet the requirement that it provide an appropriate disclosure for "quid pro quo" contributions if it puts a notice on an Internet-based solicitation or in an electronic confirmation after receiving such a contribution?

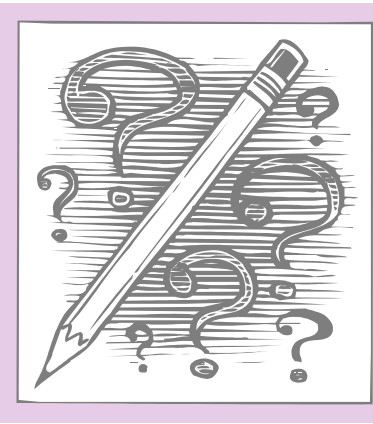
ANSWER. IRS Publication 1771 does not answer this question specifically, however, given that this publication approves the use of electronic receipts for acknowledgement purposes, it is

reasonable to conclude that the IRS will also accept electronic notices for disclosure of quid pro quo gifts, provided they are sent in manner likely to come to the donor's attention.

QUESTION: If a nonprofit places a solicitation for contributions on its web site, must it register in all states

that require registration by charities soliciting in the state?

ANSWER. Currently 39 states require charities that solicit contributions in that state to register. This question is a state question rather than a federal question and there are no definitive answers at this point. At a minimum, a nonprofit needs to register with its home state if applicable. Organizations may want to consult with legal advisors about the need for other state registrations needed. **Continued.....**



What About Unrelated Business Income Tax?

QUESTION: What is the potential unrelated business income tax impact of selling nonprofit merchandise such as t-shirts, coffee mugs, etc., through a nonprofit's web site?

ANSWER: Selling merchandise for a profit is a trade or business. The fact that the merchandise carries a nonprofit's logo does not make the sales of such items related to the nonprofit's purpose. Sales of some items, such as educational videos related to the nonprofit's mission, are related and generally are not subject to unrelated business income tax. Nonprofit logo items, such as t-shirts, that are not closely tied to the organization's exempt purpose activities, are more than likely not related and may be subject to unrelated business income tax.

To determine whether the sales of these items are subject to unrelated business income tax, nonprofits can use current guidance on the definition of unrelated business tax activities. One requirement of an unrelated business activity is that the activity must be regularly carried on. Because web sites are generally accessible 365 days a year, and there is unlimited access to the purchasing of merchandise from the nonprofit's web site, the IRS may consider the sales activity to meet the frequency and duration elements of the "regularly carried on" test. Therefore, assuming the merchandise is not in and of itself related to the organization's exempt purpose, the sales of these items over the Internet may be subject to unrelated business income tax.

The rules for determination of unrelated business activities are complex, even without consideration of the use of the Internet. Nonprofits should seek the advice of their CPAs and attorneys in evaluating all potential unrelated business activities.

QUESTION: If a nonprofit places a link to a corporate sponsor's web site, will the sponsorship payments be subject to unrelated business income tax?

ANSWER. The answer to this question has not been confirmed by the IRS, but it is reasonable to assume the payment from the corporate sponsor would not be subject to unrelated business income tax. The current rules and regulations with regards to sponsorship payments allow nonprofits to provide an acknowledgement for sponsorship payments and avoid unrelated business income tax. However,

acknowledgements cannot be advertising. Acknowledgements can include the sponsor's name, address, logo, and slogan. A link to the sponsor's web site is nothing more than an address for a web page combined with a tool the user may employ, solely at the user's discretion, to go to the linked site. There would appear to be no basis for treating the link differently from the sponsor's mailing address.

QUESTION: If a nonprofit raises revenue by offering a link on its site to a web-based merchant, such as Amazon.com, will the revenue that the merchant pays to the nonprofit be subject to unrelated business income tax?

ANSWER: The answer depends on whether the nonprofit is advertising for the merchant, in which case, it would be subject to unrelated business income tax, unless the merchant's goods can be viewed as related to the nonprofit's exempt purpose. An organization's agreement with these merchants could fall under the same determinations which occur with corporate sponsor links discussed above, meaning, as long as the nonprofit does not promote, endorse, or advertise for the business, but just displays the link in the form of the merchant's name or logo, it may not be subject to unrelated business income tax. A message in connection with a link that contains qualitative or comparative language, price information, or other indications of savings or value, an endorsement, or an inducement to purchase or use the merchant's products or services, would generally be considered advertising, and such revenue generated from this activity would be subject to unrelated business income tax.

Note: Find IRS publications online at www.irs.gov.

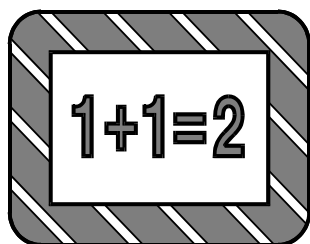
AND A FINAL QUESTION ABOUT LOBBYING

QUESTION: Does providing a hyperlink to the website of another organization that engages in lobbying activity constitute lobbying by a charitable organization?

ANSWER: The answer should be no. Similar to the discussions above regarding links to other web sites, the nonprofit should be able to provide a link to another web site for a clearly identified non-lobbying purpose and not have the link cause the lobbying conducted on the other web site be attributed to the nonprofit.

About Kim McNulty, CPA, Guest Columnist

Kim McNulty, CPA, has been in public accounting for fifteen years. Her experience includes nonprofit organizations, construction companies, employee benefits plans, manufacturing and real estate.



For the past nine years, Kim's experience has largely focused on nonprofit clients. She regularly teaches nonprofit seminars and is an instructor for the Nonprofit Management

Assistance Certificate classes, which are a part of the University of New Mexico Division of Continuing Education and Community Services programs.

Kim is a founding partner of McNultyZahm, LLC in Albuquerque, New Mexico. You can reach her at (505) 830-9446. Her email address is kim@mz-cpa.com.

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Email me at Jean@jblockinc.com to discuss volume discounts for staff or volunteers.

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HOW CAN I HELP YOU? TAKE THIS QUICKIE QUIZ

- | | | |
|---|------------------------------|-----------------------------|
| Is your Board of Directors functioning at its highest level? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| How successful is your current fundraising? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Do volunteers need help asking for money and in-kind resources? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Does your organization have a dynamic strategic plan? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Are you having fun? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

Please give me a call if you want to turn any NO into a YES. I can help with:

- turning your Board into a dynamic group of volunteers,
- facilitating a strategic planning session,
- analyzing your current fundraising and suggesting some new ideas, and
- training volunteers and staff in becoming more effective fundraisers.

Here is what people have said about my training and facilitation:

"Jean Block is a powerhouse in the Non-Profit world. You don't move about these circles long before her name is prominent in the conversation. Her commitment to training, fundraising, motivating, and cultivation is unsurpassed. To say she is an influence is to miss the point. She gives new meaning to the word enthusiasm! You don't know Jean, you experience her! She is a force unlike any other I have every met."

Randy Gleason
UNM Children's Hospital

"I attended the Corporate Sponsorship Workshop - WOW! You were amazing! What an OPPORTUNITY for me! Your presentation style was EXCELLENT. By far the best workshop I've been to in a long time (content and style both!)."

Vicki Kopplin
Epilepsy Foundation of Minnesota

"I attended your workshop in St. Louis and left there feeling so uplifted by your motivation. Your training - to make us all savvy marketers - has paid off. Even in this economy, our underwriting is up and our auction donations have blown away everyone in town! We simply feel empowered to ask anyone and everyone AND to tell them WHY we are their market. It's working! Thank you!"

Kirsten Wagmeister
Junior League of Evansville

"Thank you for the awesome training sessions...As someone (who) would normally walk over hot coals before asking for \$, I was amazed by your session. I actually feel fired up at fundraising. I went right home and called two friends with ideas for their non-profits. I hope to give a presentation to my Board encouraging them to have you train us."

Heather Harden, Finance Council Director
Junior League of Champaign-Urbana

"I just have to tell you that you made such an incredible impact when you spoke to our Board. I can't begin to tell you how many times your words of wisdom have been brought up at our Executive, Board and Committee meetings. In fact, just today, in two different conversations I was having, your ideas were quoted by others. Thank you for inspiring us to think in a new direction."

Kim Erdel
Junior League of Springfield, Missouri

"Jean conducted an extremely well organized and productive [Board] retreat, one that I can say with confidence that our members count as the finest ever conducted for us. Jean's follow-up report was in-depth and meaty, and both Board and staff have referred to it time and again. The knowledge of boardsmanship the members took with them has made a remarkable difference in their levels of commitment and support."

Eileen Cook, Executive Director
Casa Esperanza