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FUNDRAISING & MISCELLANEOUS TAX REGULATIONS

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- ▶ OR just point your phone's camera at the QR code to join directly



Agenda

Federal Tax Regulations and Filings

Pennsylvania Specific Regulations

Payments to Individuals

What is Considered Fundraising?

- Straight-forward
 - Fund Drives
 - Soliciting
 - Social Media/Website
 - Grant Writing
- Not So Much...
 - Gaming
 - Fundraising Events

Gaming Includes

- Bingo
- Pull tabs/instant bingo
- Texas Hold-Em Poker and other card games with betting
- Raffles
- Scratch-offs and other gaming tickets
- Casino nights/Las Vegas nights
- Coin-operated gambling devices

Can Gaming Effect Your Tax Exempt Status?

- **Section 501(c)(3)**
 - Has to be an “insubstantial” part of activities; gaming not a charitable activity
 - Gaming can’t result in inurement or prohibited private benefit to individuals/entities
 - Gaming proceeds can’t be diverted to private purposes
- Excess gaming could cause an organization to fail the “public support” test

Can Gaming Effect Your Tax Exempt Status?

- **Section 501(c)(4)**
 - Can't be a primary activity; gaming unlikely to promote social welfare
 - Gaming can't result in inurement or prohibited private benefit to individuals/entities
 - Gaming proceeds can't be diverted for private purposes
- **Similar considerations for Section 501(c)(5) and 501(c)(6)**

Can Gaming Effect Your Tax Exempt Status?

- **Section 501(c)(7), 501(c)(8), and 501(c)(10) - Social Clubs and Fraternal Organizations**
 - Gaming only with members = OK; gaming open to public does not further exempt purpose
 - 501(c)(7) Social Clubs: have limits on receipts from nonmembers
- **Section 501(c)(19) – Veterans’ Organizations**
 - Gaming only with members and bona fide guests = OK; gaming open to public does not further exempt purpose

Can Gaming Effect Your Tax Exempt Status?

- **Section 527– Political Organizations**
 - May conduct raffles to raise funds; would be taxable unless the raffle conducted during a political fundraising or entertainment event
 - Income from bingo may be exempt function income

Can Gaming Generate Unrelated Business Income (UBI)?

- Considered a trade or business
- Regularly carried on
- Not substantially related to the organization's exempt purpose

UBI Exceptions

- Exceptions:
 - Certain bingo games
 - Substantially conducted by volunteer labor
 - Qualified public entertainment activities

UBI Exceptions

- Certain Bingo Games
 - Meets definition under the IRC and Regulations
 - Has to be cards with markers; bets placed; winners distributed in presence of all bettors
 - Game has to be legal in jurisdiction being conducted
 - For-profit organizations are banned from conducting regular bingo games in the jurisdiction

UBI Exceptions

- Volunteer Labor
 - “Substantially conducted” not defined but generally viewed to be 85% (measured by hours worked)
 - Taking this exception? Keep hours worked records
 - “Compensation” interpreted broadly - would include payment for labor, tips, and free goods/services
 - Reduce activity fees for working event would invalidate them as volunteers

UBI Exceptions

- Qualified Public Entertainment
 - Public Entertainment Activity: Activity traditionally conducted at a fair or expo promoting agriculture and education
 - Conducted by a qualifying organization ((c)(3),(c)(4), or (c)(5)) that regularly conducts such a fair or expo as one of its substantial exempt purposes

UBI Filing

- Form 990-T
 - If gross receipts equals or exceeds \$1,000
 - Tax over \$500 requires quarterly estimated tax payments

Fundraising Events

- Raising funds by selling goods and services for more than their fair market value (FMV), with the result that the excess portion of the payment is a gift
- Engaging in some event or activity that is more than just a solicitation of funds
 - Dinners, dances, door-to-door sales, concerts, carnivals, sports events, and auctions

Fundraising Events

- Do **not** include events or activities that substantially further the organization's exempt purpose even if they also raise funds
 - Should be considered program services
- Do not include gaming activity
 - If both are conducted, activity must be allocated between them

Fundraising Event Example

- Dinner and Auction
 - Ticket Cost: \$300
 - Includes auction of donated items
 - FMV of Dinner is \$75
- Reporting
 - \$300 ticket less \$75 FMV = \$225 contribution revenue
 - \$75 FMV of Dinner reported as fundraising event income
 - FMV of donated items reported as non-cash contributions and cost of good sold
 - Excess received for auction items reported as cash contributions

Form 990 Reporting

- 17** Did the organization report a total of more than \$15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11e? *If "Yes," complete Schedule G, Part I.* See instructions
- 18** Did the organization report more than \$15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? *If "Yes," complete Schedule G, Part II*
- 19** Did the organization report more than \$15,000 of gross income from gaming activities on Part VIII, line 9a? *If "Yes," complete Schedule G, Part III*

Form 990 Schedule G

- Payments to professional fundraising
 - \$15,000 threshold applies to the following:
 - Outside organizations to plan and manage fundraising activities, campaigns, events, maintain donor lists, prepare fundraising manuals, and conduct other activity involved with soliciting contributions
 - Fees paid to officers, directors, trustees, key employees
 - Other employees are excluded
 - Printing and mailing services are excluded

Form 990 Schedule G

Part I Fundraising Activities. Complete if the organization answered "Yes" on Form 990, Part IV, line 17. Form 990-EZ filers are not required to complete this part.

- 1** Indicate whether the organization raised funds through any of the following activities. Check all that apply.
- | | |
|--|---|
| a <input type="checkbox"/> Mail solicitations | e <input type="checkbox"/> Solicitation of non-government grants |
| b <input type="checkbox"/> Internet and email solicitations | f <input type="checkbox"/> Solicitation of government grants |
| c <input type="checkbox"/> Phone solicitations | g <input type="checkbox"/> Special fundraising events |
| d <input type="checkbox"/> In-person solicitations | |
- 2a** Did the organization have a written or oral agreement with any individual (including officers, directors, trustees, or key employees listed in Form 990, Part VII) or entity in connection with professional fundraising services? **Yes** **No**
- b** If "Yes," list the 10 highest paid individuals or entities (fundraisers) pursuant to agreements under which the fundraiser is to be compensated at least \$5,000 by the organization.

| | (i) Name and address of individual or entity (fundraiser) | (ii) Activity | (iii) Did fundraiser have custody or control of contributions? | | (iv) Gross receipts from activity | (v) Amount paid to (or retained by) fundraiser listed in col. (i) | (vi) Amount paid to (or retained by) organization |
|--------------|---|---------------|--|-------------------------------------|-----------------------------------|---|---|
| | | | Yes | No | | | |
| 1 | | | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| 2 | | | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| 3 | | | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| 4 | | | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| 5 | | | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | | |
| 6 | | | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| 7 | | | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| 8 | | | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| 9 | | | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| 10 | | | <input type="checkbox"/> | <input type="checkbox"/> | | | |
| Total | | | | | | | |

3 List all states in which the organization is registered or licensed to solicit contributions or has been notified it is exempt from registration or licensing.

Form 990 Schedule G

Part II Fundraising Events. Complete if the organization answered "Yes" on Form 990, Part IV, line 18, or reported more than \$15,000 of fundraising event contributions and gross income on Form 990-EZ, lines 1 and 6b. List events with gross receipts greater than \$5,000.

| | | (a) Event #1 <small>(event type)</small> | (b) Event #2 <small>(event type)</small> | (c) Other events <small>(total number)</small> | (d) Total events <small>(add col. (a) through col. (c))</small> |
|--|---|---|---|---|--|
| Revenue | 1 Gross receipts | | | | |
| | 2 Less: Contributions | | | | |
| | 3 Gross income (line 1 minus line 2) | | | | |
| Direct Expenses | 4 Cash prizes | | | | |
| | 5 Noncash prizes | | | | |
| | 6 Rent/facility costs | | | | |
| | 7 Food and beverages | | | | |
| | 8 Entertainment | | | | |
| | 9 Other direct expenses | | | | |
| | 10 Direct expense summary. Add lines 4 through 9 in column (d) | | | | |
| 11 Net income summary. Subtract line 10 from line 3, column (d) | | | | | |

Form 990 Schedule G

Part III Gaming. Complete if the organization answered "Yes" on Form 990, Part IV, line 19, or reported more than \$15,000 on Form 990-EZ, line 6a.

| | | (a) Bingo | (b) Pull tabs/instant bingo/progressive bingo | (c) Other gaming | (d) Total gaming (add col. (a) through col. (c)) |
|-----------------|---|---|---|---|--|
| Revenue | 1 Gross revenue | | | | |
| | 2 Cash prizes | | | | |
| Direct Expenses | 3 Noncash prizes | | | | |
| | 4 Rent/facility costs | | | | |
| | 5 Other direct expenses | | | | |
| | 6 Volunteer labor | <input type="checkbox"/> Yes _____ % <input type="checkbox"/> No | <input type="checkbox"/> Yes _____ % <input type="checkbox"/> No | <input type="checkbox"/> Yes _____ % <input type="checkbox"/> No | |
| | 7 Direct expense summary. Add lines 2 through 5 in column (d) | | | | |
| | 8 Net gaming income summary. Subtract line 7 from line 1, column (d) | | | | |

9 Enter the state(s) in which the organization conducts gaming activities: _____

a Is the organization licensed to conduct gaming activities in each of these states? Yes No

b If "No," explain: _____

10a Were any of the organization's gaming licenses revoked, suspended, or terminated during the tax year? Yes No

b If "Yes," explain: _____

Form 990 Schedule G

- 11** Does the organization conduct gaming activities with nonmembers? Yes No
- 12** Is the organization a grantor, beneficiary or trustee of a trust, or a member of a partnership or other entity formed to administer charitable gaming? Yes No
- 13** Indicate the percentage of gaming activity conducted in:
- | | | |
|--------------------------------------|------------|---|
| a The organization's facility | 13a | % |
| b An outside facility | 13b | % |
- 14** Enter the name and address of the person who prepares the organization's gaming/special events books and records:

Name

Address

- 15a** Does the organization have a contract with a third party from whom the organization receives gaming revenue? Yes No
- b** If "Yes," enter the amount of gaming revenue received by the organization \$ and the amount of gaming revenue retained by the third party \$
- c** If "Yes," enter name and address of the third party:

Name

Address

- 16** Gaming manager information:

Name

Gaming manager compensation \$

Description of services provided

Director/officer Employee Independent contractor

- 17** Mandatory distributions:

- a** Is the organization required under state law to make charitable distributions from the gaming proceeds to retain the state gaming license? Yes No
- b** Enter the amount of distributions required under state law to be distributed to other exempt organizations or spent in the organization's own exempt activities during the tax year \$

Part IV Supplemental Information. Provide the explanations required by Part I, line 2b, columns (iii) and (v); and Part III, lines 9, 9b, 10b, 15b, 15c, 16, and 17b, as applicable. Also provide any additional information. See instructions.

Pennsylvania Specific Regulations

Legal Forms of Gambling in PA

- Race Horse Industry Reform Act
- PA Lottery
- **Bingo conducted pursuant to the bingo law**
- Race Horse Development and Gaming Act
- **Local Option Small Games of Chance Act**
- Sport Raffle Charities Act (SRCA)

Small Games of Chance

- Pennsylvania Local Option Small Games of Chance Act of 1988
 - Amended by Act 2 and 184 of 2012
 - Amended by Act 90 and 92 of 2013
- Licensed eligible organizations can conduct:
 - Pull-tab games
 - Punchboards
 - Raffles
 - Daily, weekly, 50/50 drawings
 - Race night games
 - Pools

Small Games of Chance License

- Issued by County Treasurers
 - Annual License
 - Monthly License
 - Special Raffle Permits

Eligible Organizations

- Charitable, religious, fraternal, or veterans' organization
- Club, civic, and service association
- Affiliated non-profit organization of a major league sports team
- Must be in existence for one year

Prize Limits

- Prize for a single chance in any game may not exceed \$2,000
- An organization is limited to awarding \$35,000 in prizes during an operating week
- No more than \$15,000 may be awarded in raffles

Prize Limits Exceptions

- Raffles under special permit
 - Up to 10 special permits and may award up to \$150,000 from all special permit raffles
 - Volunteer fire, ambulance, rescue, or conservation organizations that are **not club licensees** are permitted up to 12 special permits and may award up to \$250,000 from all special permit raffles

Prize Limit Exceptions

- Daily and weekly drawing carryovers
 - Prize is carried over when there is no winner
- 100 percent payout drawing
 - Not subject to the \$35,000 weekly prize limit

Use of Proceeds or Net Revenue

- Eligible Organizations
 - Use for “Public Interest Purpose”
- Clubs
 - 40% used towards club expenses
 - 60% used towards “Public Interest Purpose”
 - Expended within one year except:
 - For a substantial public interest purchase or project
- Organizations with proceeds in excess of \$40,000
 - Required to keep all small games of chance proceeds in a bank account separate from other funds

Reporting

- Pertaining to **Clubs**
 - If proceeds are in excess of \$20,000 in a calendar year, annual reports are required
 - Proceeds received from each game of chance conducted, itemized by week
 - Amount of prizes paid for all games of chance, itemized by week
 - Costs incurred related to the conduct of games of chance
 - Verification and itemization of amounts distributed for public interest

Record Keeping

- The following items must be retained for 2 years:
 - Sales invoices
 - Gross receipts from each game of chance
 - Cost of each game of chance and other related expenses
 - Total prizes paid for each game of chance and each prize's FMV
 - The proceeds from each game of chance
 - Details on how proceeds from games of chance were used or disbursed by the organization
 - A list of winners names and addresses for prizes in excess for \$600
 - Copies of W-2G's issued
 - Invoice of purchase price for merchandise prizes

PA BCO-10

- Required under the Pennsylvania Solicitation of Funds for Charitable Purpose Act
- Must register with the PA Bureau of Charitable Organizations unless excluded or exempt from the Act

PA BCO-10

- Initial registration
 - Prior to compensating any person for soliciting contributions
 - Within 30 days of receiving more than \$25,000 in gross contributions for those that do not compensate any person for soliciting contributions
- Renewal
 - Required each year no later than the 15th day of the eleventh month following the close of the organization's fiscal year

PA BCO-10

- What's required?
 - Completed BCO-10 Form
 - Contact information and background of the organization
 - Compensated persons/professional solicitors
 - Officers, directors, trustees, employee relationships
 - Applicable Form 990 with electronic signature page
 - Complied, reviewed, or audited financial statements, as applicable
 - Registration fee
 - Initial registrants:
 - IRS exemption letter
 - Charter/articles of incorporation
 - By-laws

PA BCO-10

| Gross Annual Contributions¹ | Registration Fee |
|---|-------------------------|
| Section 162.7(a) organizations | \$15 |
| \$25,000 or less | \$15 |
| \$25,001 to less than \$100,000 | \$100 |
| \$100,000 to less than \$500,000 | \$150 |
| Greater than \$500,000 | \$250 |

| Gross Annual Contributions | Type of Financial Statements Required |
|-----------------------------------|---|
| Section 162.7(a) organizations | None |
| \$25,000 or less | Internally Prepared, Compiled, Reviewed, or Audited |
| \$25,000 to less than \$100,000 | Internally Prepared, Compiled, Reviewed, or Audited |
| \$100,000 to less than \$250,000 | Compiled, Reviewed or Audited |
| \$250,000 to less than \$750,000 | Reviewed or Audited |
| \$750,000 or more | Audited |

PA BCO-10

- Gross annual contributions
 - All contributions received (even if outside of PA)
 - Sum Part VIII lines 1a, 1b, 1c, 1d, 1f, 8a, and 9a from Form 990
 - Government grants are **excluded**

Exemptions

- Under \$25,000 threshold and do not compensate for solicitation of contributions
- Education institution
- Hospital or hospital foundation
- Public/nonprofit library organization
- Parent/teacher association or organization

Exemptions

- All of the below must meet the following:
 - All fundraising is carried on by volunteers, members, or auxiliary of
 - No compensation directly or indirectly for the fundraising activities
 1. Veterans' organization chartered under federal law
 2. Volunteer fire company
 3. Ambulance association
 4. Rescue squad association
 5. Senior citizen center

Payments to Individuals

Reporting of Winnings and Withholding Income Tax

- Threshold at which winnings become reportable depend on the type of game involved
- For all winnings other than poker, keno, bingo, or slot machines, report payment of winnings (includes raffle prizes) when the amount paid is:
 - \$600 or more and
 - At least 300x the wager

IRS Pub. 3079: Summary of Reportable Winnings

Summary of Reportable Winnings

| Type of Game | Winnings Amount at Least: | Reduced by Amount of Wager? |
|---|---|-----------------------------|
| Bingo | \$1,200 | No |
| Slot machines | \$1,200 | No |
| Keno | \$1,500 | Yes |
| Other wagering transactions (instant bingo, pull-tabs, raffles and so on) | \$600 and at least 300 times the wager | At option of payer |
| Poker tournaments | \$5,000.01 | Yes |

Form W-2G, Certain Gaming Winnings

3232

VOID

CORRECTED

| | | | |
|--|--|---|-------------------------------|
| PAYER'S name, street address, city or town, state or province, country, and ZIP or foreign postal code | | 1 Reportable winnings | 2 Date won |
| | | \$ | |
| | | 3 Type of wager | 4 Federal income tax withheld |
| | | | \$ |
| PAYER'S TIN | | 5 Transaction | 6 Race |
| | | | |
| PAYER'S telephone no. | | 7 Winnings from identical wagers | 8 Cashier |
| | | \$ | |
| WINNER'S name | | 9 WINNER'S TIN | 10 Window |
| | | | |
| Street address (including apt. no.) | | 11 First identification no. | 12 Second identification no. |
| | | | |
| City or town, state or province, country, and ZIP or foreign postal code | | 13 State/Payer's state identification no. | 14 State winnings |
| | | | \$ |
| | | 15 State income tax withheld | 16 Local winnings |
| | | \$ | \$ |
| | | 17 Local income tax withheld | 18 Name of locality |
| | | \$ | |

OMB No. 1545-0238
Form W-2G
Certain
Gambling
Winnings
 (Rev. December 2023)
 For calendar year
 20 ____

For Privacy Act and Paperwork Reduction Act Notice, see the **current General Instructions for Certain Information Returns.**

File with Form 1096

Copy A
For Internal Revenue Service Center

Under penalties of perjury, I declare that, to the best of my knowledge and belief, the name, address, and taxpayer identification number that I have furnished correctly identify me as the recipient of this payment and any payments from identical wagers, and that no other person is entitled to any part of these payments.

Signature: _____ **Date:** _____

Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page

Reporting Winning and Withholding Income Tax

- You must withhold income tax from winnings if proceeds are more than \$5,000 and wager was placed:
 - Lottery, raffle, poker tournament(*), sweepstakes, other waging pool
 - Any other waging activity if proceeds are at least 300x the amount wagered
 - Non-cash proceeds (i.e. a car) are measured by the fair market value of the item won

()need not withhold poker tournament winnings if reported on Form W-2G*

IRS Pub. 3079: Summary of Withholding Requirements

Summary of Withholding Requirements

| Type of Gaming | Regular Withholding at 24% if Winnings Are: | Backup Withholding at 24% if Winner Does Not Provide TIN and Winnings Are: |
|---|---|--|
| Bingo | N/A | ≥ \$1,200 |
| Slot machines | N/A | ≥ \$1,200 |
| Keno | N/A | ≥ \$1,500 |
| Sweepstakes, wagering pools, lotteries and raffles | > \$5000 | \$600 to \$5,000 |
| Wagering transactions when winnings are at least 300 times the amount wagered | > \$5,000 | \$600 to \$5,000 |
| Poker tournaments | N/A if winnings are reported on Form W-2G | > \$5,000 |

Payments to “Volunteers”

Scenario:

- An individual volunteers at a local non-profit organization and is named the head of the fundraising committee.
- The committee decides to put on a monthly raffle. To incentive others to sell tickets, the organization decides to pay the seller of the winning ticket \$1,000 for each drawing
- Additionally, the organization decides to pay the head of the fundraising committee \$500 per drawing for their efforts in coordinating the raffle.

Payments to “Volunteers”

- Are the sellers and the head of the fundraising committee truly volunteers?
- What are the “volunteers” subject too?
 - Sellers
 - Same as the winners in most cases
 - Head of fundraising committee
 - W-2 or 1099?

Payments to “Volunteers”

- Employee = W-2
- Subcontractor = 1099
- But what really is a Subcontractor?
 - Behavioral Control
 - Financial Control
 - Type of Relationship

Payments to “Volunteers”

- Behavioral Control
 - When and where to do the work
 - What tools or equipment to use
 - Assist with the work
 - Where to purchase supplies and services
 - What work must be performed and in what sequence/order

Payments to “Volunteers”

- Financial Control
 - The extent to which the worker has unreimbursed business expenses
 - The extent of the worker’s investment
 - The extent the worker makes the service available to the market
 - How the worker is paid
 - The extent the worker can realize a profit or loss

Payments to “Volunteers”

- Type of Relationship
 - Payment of benefits
 - The permanency of the relationship
 - The extent to which the services performed are a key aspect of regular business
- Form SS-8 can be filed with the IRS to make the determination

Sources

- PPC 990 Deskbook
- PA REV-1750
- BCO-10 Instructions
- IRS Publication 15-A

Questions? Contact Me!



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