



External and Business Affairs – Advancement Services

Raffles and Opportunity Drawings The Regulations and Rules

If you are considering holding a raffle or opportunity drawing for your fundraiser this year, we want to inform you of important compliance requirements under CA State law as well as under Federal Income tax law.

CA State Law

First, we no longer recommend holding opportunity drawings upon the counsel from the Office of the President (“OP”), as most opportunity drawings are actually raffles which are regulated under CA State law (Penal Code section 320.5 and related regulations).

Opportunity Drawings

The State stipulates that you can hold an opportunity drawing (and not have to file with the State) if all of the following are true:

- 1) It involves a general and indiscriminate distributing of the tickets.
- 2) The tickets given away have the same winning opportunities as the tickets for which a donation is given.
- 3) The scheme does not require any of the participants to pay for a chance to win and that fact is clearly advertised.

Selling tickets and stating that you will give a ticket away for free “if asked” does not comply with these requirements and really is a raffle. Regardless, prizes awarded in an opportunity drawing are treated the same way as prizes won in a raffle in the eyes of the IRS (more on that later). Ticket sales are not a charitable donation, as they represent the purchase of a chance to win, and are considered 100% quid pro quo. You must state on the tickets that “ticket price is not tax deductible”.

Raffles

If participants are required to purchase a ticket in order to have a chance to win a prize, the drawing is subject to the provisions of Penal Code section 320.5 and related regulations as a raffle.

According to State law, all raffles must be registered with State of CA at least 60 days before holding the raffle. The UC San Diego Foundation (“Foundation”) will file an annual registration statement which will cover all raffles for a year (the State’s fiscal year is Sept 1 through Aug 31st). In addition to filing a

registration statement, a financial report must be filed with the State for each raffle. A copy of the financial report is included at the end of this memo.

The responsibility for an accurate and timely completion of the financial report lies with the department holding the raffle, and must be remitted to and certified by the CFO of the UC San Diego Foundation.

The financial report requires reporting on the raffle proceeds as well as the expenses (and sources from which the expenses were paid) for conducting the raffle. The report also has a section of true/false certifications that must be answered and signed by the CFO of the UC San Diego Foundation. These certifications are, essentially, the requirements for conducting a raffle in accordance with State law; therefore, it is the department's responsibility to understand the law before a raffle is held.

The financial form, informative FAQ's and other information about conducting raffles in California can be found at the State's website: <http://aq.ca.gov/charities/raffles.php>

Ticket sales are not a charitable donation, as they represent the purchase of a chance to win, and are considered 100% quid pro quo. You must state on the tickets that "ticket price is not tax deductible".

All raffles must comply with the "90/10 rule" where 90% of the proceeds must go to charity and only 10% of the proceeds may be expended winnings or raffle related expenses. This is very difficult to achieve, obviously, unless all, or nearly all, of the prizes are donated, in addition to getting the ticket sales proceeds. You may recall "50/50" raffles where you award 50% of the raffle proceeds as a prize to the winner? They are now illegal in California for a charitable entity to conduct under these new rules. They don't comply with the 90/10 rule. So, if you plan to purchase prizes or award cash from the proceeds of the raffle ticket sales, it is very likely you cannot meet the 90/10 rule.

Also your raffle needs to be registered under the UC San Diego Foundation as, per OP directive; raffles cannot be registered in name of The Regents (a campus foundation may register). So you would need to make sure you use the UC San Foundation tax ID number of the solicitation/invitations.

Federal Income tax regulations

The IRS defines raffles as a form of a lottery. As such, a raffle generally refers to a method for the distribution of prizes among persons who have paid for a chance to win such prizes, usually determined by the numbers, or symbols, on tickets drawn. Therefore, opportunity drawings also fall under this definition.

The IRS has 1) filing requirements and 2) tax withholding requirements for raffle prizes.

Filing requirements

If you plan on raffling 1) items over \$600 in FMV or a cash prize over \$600 **and** 2) if the prize value is 300 times larger than the "wager" (the price for one raffle ticket), the Foundation is responsible for reporting the winner of the prize, their social security number and the value to the prize to the IRS.

Example 1:

Jane Triton buys 1 raffle ticket for \$20. Her ticket wins the raffle and gets a prize worth \$1,000.

- Test 1: The prize is over \$600 in value
- Test 2: 300 times her wager of \$20 is \$6,000, less \$20 or \$5980.

Must we obtain her tax id information and report on her prize winnings to the IRS? **NO**, because the value of her prize was less than 300 times the value of her wager.

Example 2:

Joe Triton buys 20 raffles tickets at \$1 each for \$20. He wins the raffle and gets a prize worth \$1,000.

- Test 1: The prize is over \$600 in value
- Test 2: Note: we only look at one wager because only one ticket won. So 300 times his wager of \$1 is \$300

Must we report on his prize winnings? **YES**, because the value of his prize was more than \$600 and more than 300 times the value of his wager.

If we need to report the prize winnings to the IRS, we will need the winner of the prize to complete a tax identification form (form 5754) before they take possession of the prize. Any raffle or opportunity drawing brochures (distributed to patrons prior to a drawing) that describes the prizes and their value, must also have language stating that the winner of the raffle prizes may be subject to gambling winnings reporting and income tax withholding. We do not want our patrons to be surprised.

Tax withholding requirements

In addition to winnings reporting there is also tax withholding requirements. Simply put, if the value of the prize is over \$5,000 (net of the value of one wager), we must withhold or collect taxes from the winner before they take possession of their prize, whether the prize was cash or non-cash.

As you can see, this criteria “supersedes” the filing requirements test number “2” if the value of the item is over \$5,000.

Cash prizes

If the prize is cash, a withholding tax of 25% (as of 2010) must be withheld from the winnings. The tax will be on the cash value less the value of the wager.

Example:

Jane Triton purchases a raffle ticket for \$1. She wins a cash prize of \$6,000. Because the proceeds from her wager is greater than \$5,000 (\$6,000 less \$1), we must withhold \$1,599 (\$5,999 times 25%) from the winnings.

We also have filing requirements. We must complete a W2-G form and have the prize winner sign it before we give them their prize.

Non Cash prizes

There are two other methods for collecting withholding taxes from non-cash prizes (such as cars, luxury vacations, etc.) if the prizes over \$5,000, net of the wager.

- 1) The winner pays the withholding tax via cash, check or credit card. The amount withheld for taxes is 28% of the fair market value of the noncash item, less the value of the wager. We must receive the tax payment before the winner takes possession of their prize.
- 2) The department, via the Foundation, is willing to pay the withholding tax on behalf of the winner. In this case the tax withholding amount is 33.33% (as of 2010) of the fair market value of the non-cash item less, the value of the wager. The withholding tax is higher because the winnings are now higher – they include BOTH the value of prize and of the tax payment made on their behalf.

As with cash prizes, the winner will need to sign a completed W2-G form before taking possession of the prize.

As a result, proper and reasonable efforts to determine the fair market value of non-cash prizes, and to document them in detail with sources (such as prices published on websites for services, rooms, dinners,

etc, or on ebay if a tangible item, or by formal appraisal if a valuable item) is **critical**. The valuation of the non-cash prizes is the primary determiner of the reporting requirements.

Summary

We must comply with State and Federal law when holding opportunity drawings or raffles. If we hold a true opportunity drawing (giving away chances to win) we may avoid having to file a financial report with the State. However, depending upon the value of the opportunity drawing prizes, we may still have reporting and tax withholding requirements under Federal IRS law.

As noted above, under Federal IRS law, there are different tax rates required for different types of prizes. Additionally there are specific tax forms that must be collected from the prize winners at the raffle as well as other forms that must be remitted to the IRS within a designated time period.

Finding out about a raffle ***after it was held*** does not excuse us from following the State and Federal regulations. If tax reporting is required or if we were responsible for collecting withholding tax, we cannot use ignorance of the laws as a justification for non-compliance. We must comply, even if it is after the fact. This could create an embarrassing situation for the department to ask donors for social security numbers as well as inform donors their prize winnings will be remitted to the IRS.

For these reasons we discourage holding of raffles. If you still want to hold one, we recommend you contact Gift Processing early in your planning process so we can help you and also make sure we follow not only State but IRS guidelines and all the documentation and reporting requirements we will need to comply with the law.

NONPROFIT RAFFLE REPORT



A separate report must be completed for each raffle conducted during a reporting year (September 1 through August 31).

Reports are due on or before September 1.
(California Penal Code section 320.5)

MAIL TO:
Office of the Attorney General
Registry of Charitable Trusts
P.O. Box 903447
Sacramento, CA 94203-4470

STREET ADDRESS:
1300 I Street
Sacramento, CA 95814
Telephone: (916) 445-2021

WEBSITE ADDRESS:
<http://ag.ca.gov/charities/>

Part A: General Organization Reporting Information

Name of Organization	Provide at least one of the following: Raffle Registration Number: _____ Federal Tax Identification Number/Employer Identification Number: _____ Corporate Number: _____ Organization Number: _____ Charitable Trust Number: _____
Address of Organization	
City or Town, State and ZIP Code	
E-mail Address:	
Telephone Number:	
Fax Number:	

Part B: Raffle Information (A separate report must be completed for each raffle held during this reporting year.)

1.	Date of raffle: _____ Location of raffle: _____ City _____ County _____			
2.	Total funds received from sale of raffle tickets: \$ _____			
3.	Total expenses for conducting the raffle: \$ _____			
4.	Were funds <i>from sources other than ticket sales</i> used to pay for administration or other costs of conducting the raffle? If yes, 4(A) How much money <i>from sources other than ticket sales</i> was spent for the administration or other costs of conducting the raffle? _____ 4(B) What was the source of this money? _____	<table border="1"> <tr> <td>Yes <input type="checkbox"/></td> <td>No <input type="checkbox"/></td> </tr> </table>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Yes <input type="checkbox"/>	No <input type="checkbox"/>			

5. Were some or all of the funds used for the benefit of another eligible organization?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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5(A) If the answer to 5 above is yes, then provide the following information for each organization for which the funds were used. Attach additional sheets of paper, if necessary.

Recipient Organization	\$ Amount of Proceeds to Organization
Address of Organization	Contact Person for Organization
City, State, and ZIP Code	Organization's Telephone Number

Part C: Certification by Fiduciary of Reporting Organization

For the raffle held on _____, I hereby certify that:		True	False
1) At least 90% of the total funds received from the sale of raffle tickets was used for the beneficial or charitable purposes of the eligible organization conducting the raffle or for the benefit of another eligible organization.			
2) None of the funds required to be used for beneficial or charitable purposes were provided to an officer, director or member (as defined by Corporations Code section 5056) of the organization which conducted the raffle.			
3) No person involved in or connected with the conduct of the raffle was compensated by the organization conducting the raffle from raffle proceeds required to be used for beneficial or charitable purposes.			
4) No gaming machine, apparatus or device, including but not limited to one which meets the definition of a slot machine as contained California Penal Code sections 330a, 330b, or 330.1, was used in conducting the raffle.			
5) No individual corporation, partnership or other legal entity has or holds a financial interest in the conduct of the raffle other than the organization conducting the raffle or any private, nonprofit eligible organization which received funds from the raffle.			
6) No raffle was conducted, and no raffle tickets were sold, traded, or redeemed, within an operating racetrack enclosure, satellite wagering facility, or gambling establishment.			
7) The raffle was not announced, mentioned, referred to, advertised, operated, or conducted in any way over the Internet other than an announcement of the raffle on the web site of the organization conducting the raffle. Tickets were not sold, traded or redeemed over the Internet.			

If you answered "False" to any question in Part C, Items 1 through 7, please explain the circumstances that support your answer. Use additional sheets of paper, if necessary, for your explanation. If you answered "False" to more than one question, be sure to reference the item number next to each explanation.

In signing this Nonprofit Raffle Report I hereby certify that all of the information contained here is true and correct.

Signature of Fiduciary Who Prepared the Report

Date

Printed Name of Fiduciary

Title of Fiduciary