

Fundraising Guidelines

Auction:

A sale in which property or services are sold to the highest bidder and a commonly used fund raising technique.

For tax purposes, the non-profit sponsoring the auction must tell the bidders "the fair market value" (*q.v.*) of the item by documentation. The sale is only a contribution to the extent that it exceeds the fair market value. The program should specifically state that fact and set the minimum bid for each item at its fair market value. The statement "contributions are deductible as provided by law" is not an acceptable disclosure. (Cf. Contributions, *Quid pro quo*)

Certain items donated for auction require special treatment:

- Personal services and the use of rental property, in most instances, are not deductible by the donor as a contribution.
- For any property, other than readily negotiable securities, with a fair market value exceeding \$5,000.00 the donor must provide IRS Form 8283 and the Diocese may be required to file Form 8282. Parishes should contact the Office of Financial Services for guidance.

Bingo:

A game of chance exempted from taxation under Federal and California laws as a fund raising activity if certain criteria are met. The game must be run entirely by volunteers. Otherwise, the revenues are subject to "unrelated business income tax" (*q.v.*). Payments to play are not charitable contributions and receipts given to players should so state. There are other state and -local standards to be met for proper operation of bingo. Those listed here apply to taxes.

Contribution:

A free will gift of property or goods and as such tax deductible if given to a tax exempt nonprofit. Note that services of volunteers are not tax deductible by them but their out of pocket expenses in connection with such services are.

For contributions made on or after January 1, 2007, a taxpayer may not take a deduction unless the person can substantiate the contribution with a contemporaneous written acknowledgement. While it is technically the burden of the taxpayer to request the acknowledgement, it is the Diocese of San Jose's policy that all contributions, whatever the amount, should be acknowledged.

Contributions made to certain fundraising activities where goods or services are received are called *quid pro quo* and require special treatment. It is the organization's responsibility to inform the donor that contributions are deductible only to the extent that the contributed amount exceeds the fair market value. Failure to provide the required disclosure statement for payments of more than \$75 subjects the organization to a penalty of \$10 per contribution to a maximum of \$5,000 per fund raising event.

Note that payments to an organization organized solely for religious purposes for which the taxpayer receives solely an intangible religious benefit generally not sold in a commercial transaction outside a donative context are excluded from the *quid pro quo* rule.

Sample Acknowledgement Letter:

(Date)

Dear (Contributor):

This will acknowledge receipt of, and extend our heartfelt thanks for, your {date} gift of \${amount – if cash, check, credit card, etc.} [or, if a gift of property is involved, a description, not valuation, of the contributed property other than cash].

If no goods or services were provided in exchange, then.....

As you know, {name of charitable organization} did not provide goods and services in connection with your contribution.

Or

As you know, {name of charitable organization} did provide solely intangible religious benefits of {describe religious benefits such as “Sunday pew rental”} in connection with your contribution.

If goods or services **were** provided in exchange, then.....

As you know, {name of charitable organization} did provide goods and services in connection with your contribution; namely {describe goods or services}. Please note that the amount of the contribution deductible for Federal income tax purposes is limited to the excess of the amount of money or property contributed over the fair market value of the goods or services provided by a charitable organization. {name of charitable organization}'s good faith estimate of the fair market value of any such goods or services is \${amount}.

Thank You,

Signature

{Beneficiary's Representative name}

Federal ID# 94-2734503

Tax Deductible

A charitable contribution is a donation or gift (of money or property) to, or for the use of, a qualified organization. It is voluntary and is made without getting, or expecting to get, anything of equal value. Qualified organizations include nonprofit groups that are religious, charitable, educational, scientific, or literary in purpose, or that work to prevent cruelty to children or animals. The contributions must be made to a qualified organization and not set aside for use by a specific person. The Diocese of San Jose is a “qualified organization”.

If someone receives a benefit as a result of making a contribution to a qualified organization, they can deduct only the amount of the contribution that is more than the value of the benefit they receive. If they pay more than fair market value for merchandise, goods, or services, the amount they pay that is more than the value of the item can be a charitable contribution. For the excess amount to qualify, they must pay it with the intent to make a charitable contribution. A qualified organization must provide a written statement if it receives a payment to it that is more than \$75 and is partly a contribution and partly for goods or services. Failure to provide the required disclosure statement for payments of more than \$75 subjects the organization to a penalty of \$10 per contribution to a maximum of \$5,000 per fund raising event. The statement must say that someone can deduct only the amount of the payment that is more than the value of the goods or services received. It must also give a good faith estimate of the value of those goods or services. The organization can provide the statement either when it solicits or when it receives the payment. **Exception.** An organization will not have to give you this statement if the only benefit received is an intangible religious benefit (such as admission to a religious ceremony) that generally is not sold in commercial transactions outside the donative context. The sample acknowledgement letter found elsewhere in the Controller section of the Diocese of San Jose intranet site satisfies this requirement.

Please note that tuition, regardless of the amount, is not a charitable contribution. Additionally, raffle tickets and bingo expenses are not charitable contributions.

Gift of Money:

Regardless of the amount, to deduct a contribution of cash, check, or other monetary gift, a donor must maintain a bank record, payroll deduction records or a written communication from the organization **containing the name of the organization, the date of the contribution and amount of the contribution.** In addition, to claim a deduction for a single contribution of cash or property equaling \$250 or more a donor must have a bank record, payroll deduction records or a contemporaneous, written acknowledgment from the qualified organization **showing the amount of the cash and a description of any property contributed, and whether the organization provided any goods or services in exchange for the gift.** One document may satisfy both the written communication requirement for monetary gifts and the written acknowledgement requirement for all contributions of \$250 or more. While it is technically the burden of the taxpayer to request the acknowledgement, to assist donors it is the Diocese of San Jose's policy that all tax-deductible contributions, whatever the amount, should be acknowledged. In addition to regular offertory and extraordinary monetary gifts which should be acknowledged in a year-end statement, please consider the following:

- The parish should include special collections forwarded to The Chancery (any collection were an "exchange check is issued) on the year end statement to the donor, clearly identified as such.
- Parishes are responsible for acknowledging gifts of cash for their benefit which are routed via The Chancery except ADA.
- If a parish charges an amount for a wedding, etc., as a regular fee, then payments are not deductible. If a person gives a free-will offering to the parish in excess of your regular fee in gratitude for allowing them to use the facility, it is deductible and should be included on the year-end statement.
- Mass intentions are deductible and should be included on the year-end statement.

ParishSoft is an excellent tool for tracking these donations. The **Sample Acknowledgement Letter** above satisfies this requirement.

Gift of Property:

If property is contributed to a qualified organization, the amount of the charitable contribution is generally the fair market value of the property at the time of the contribution. The Diocese should not attempt to estimate the fair market value of donated property. That is the responsibility of the donor. The gift should be acknowledged with a letter. See the **Sample Acknowledgement Letter** above. Special rules apply to the gifts of cars, boats, or airplanes. In these cases the Diocese must supply the fair market value and report the contribution directly to the IRS as well as the donor.

Gift of Stock:

All gifts of stock are to be coordinated via The Chancery so as to comply with the acknowledgement and valuation responsibilities under the law. To accept a gift of stock, please direct your donor to: <http://www.dsj.org/wp-content/uploads/2014/06/Gifts-of-Stock-Transfers-Instructions.pdf>

Note: The Chancery will send the acknowledgement letter for all gifts of stock and include the tax deductible valuation (copying the parish on the communication). If the parish wishes to separately acknowledge the gift with a letter, please ensure that correct valuation is used.

Dinner/Gala:

Used as a fundraising activity. Tickets are priced in excess of the fair market value of the dinner as it might be purchased elsewhere. Note that even if elements of the dinner are donated, e.g., wine, they must be priced at fair market value. The purchase of the dinner ticket is a contribution only to the extent that the price exceeds the fair market value. A *quid pro quo* contribution receipt form should be used.

Fair Market Value:

The value of goods or services if purchased. Note that a nonprofit may acquire goods or services by outright gift or at a below-market cost but, when it offers those same goods or services to others; it must state their market value, not their acquisition value.

Fundraising:

The term is used broadly to cover all efforts by which a nonprofit organization acquires assets to support its work other than fees for its direct services. While a charitable donation is often implied, facts and circumstances may dictate otherwise. (ie, Auction, Bingo, Dinners, Raffle, Scrip)

Gambling:

Effective January 1, 2007, California law AB 839 allows eligible nonprofit organizations to use various gambling activities (excluding raffles and bingo, which are legal for nonprofits under different legal provisions) to further the purposes and mission of the nonprofit organization.

“The Roman Catholic Bishop of San Jose” and “The Roman Catholic Welfare Corporation of San Jose” (collectively the “Diocese of San Jose”), are organizations which are eligible to hold gambling fundraisers under this law.

The Diocese of San Jose authorizes its various parishes and schools to hold such fundraisers as long as the parishes and schools comply with the law and handle all administrative requirements. A non-exhaustive list of these requirements are:

- Register with Bureau of Gambling Control
- Obtain local law enforcement approval
- Conduct games in accordance with the law
- Maintain records and submit reports as required

More detail of these requirements can be found at: <http://oag.ca.gov/gambling/charitable>

Contact the Office of Financial Services for The Diocese of San Jose’s Certificate of Determination of Exemption letters.

Pledge:

A written promise to give cash or goods to an entity. Note that the entity, under generally accepted accounting principles, must book revenue in the amount pledged at the time the pledge is received. But an acknowledgement form can only be sent as and when the cash or goods are received.

Raffle:

Please see the definition from our attorney elsewhere in the Controller section of the Diocese of San Jose intranet site. Note that the term "donation" should not appear on tickets since the purchase of the chance is not a donation. Also, under certain circumstances, there is an obligation to report prize winners and withhold income taxes. Please see the requirements elsewhere in the Controller section of the Diocese of San Jose intranet site.

Scrip:

A fund raising activity involving the resale at face value of certificates for merchandise purchased at a discount. Note that the selling entity is acting as either a commission broker or a trader in commercial paper. Neither of these

activities is within the exempt purpose of a nonprofit entity and, so, the income earned is taxable unless all of the transactions are conducted by volunteers only. Purchases are *not tax deductible* and wording to that effect should appear on any promotional literature and on any receipt issued.

Swap Meets, Flea Markets, or Special Events:

If you operate a swap meet, flea market, or special event in California, state law requires you to document, in writing, the seller's permit status of all people who sell at your event. A *swap meet, flea market, or special event* is defined as any event where merchandise is for sale or exchange, *or* prospective sellers are charged a fee for space rental or prospective buyers are charged an admission fee.

Most vendors are required to hold seller's permits but some are not. People who sell new or used merchandise in California, including handicrafts, are generally required to hold a seller's permit. Vendors who are required to hold permits must give you, in writing, their name/contact information and seller's permit number. Vendors who are not required to hold seller's permits must still provide you, in writing, with their name/contact information and state why they do not need a seller's permit. The form to collect this information is attached.

For additional information, please see the following: <http://www.boe.ca.gov/formspubs/pub111/index.html>

Likewise, we have been advised, that anytime that we allow a third party to sell taxable merchandise on our property, or property that we control access to, that we must certify that the seller has a California reseller permit even though we are not organizing or profiting from the sales.

Please contact the Office of Financial Services for additional assistance or clarifications related to your situation.

Unrelated Business Income:

Income produced by a tax-exempt organization through a trade or business that is regularly carried on, and the activity of which is not substantially related to the organization's tax-exempt purpose. Such income is taxable. However, the income from any activity in which substantially all the work is performed by volunteers, is conducted for the convenience of its members, or involves the selling of merchandise which was substantially all donated is excluded from taxation. Therefore, **all-volunteer operation** of fund-raising activities that involve sales or Bingo is of **critical** importance.