

NONPROFIT AGENDAS: STRATEGIES AND SOLUTIONS FOR CONTINUING TO GROW YOUR NONPROFIT ORGANIZATION

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THE WORLD OF QUID PRO QUO: WHEN A DONATION ISN'T SIMPLY A DONATION

A contribution to a charity isn't always a charitable contribution for the donor, as in the case of "quid pro quo" donations. This exchange of one thing for another happens when a charity receives a contribution and, in return, provides the donor with goods or services.

For example, a person might make a donation to a nonprofit organization by buying tickets to the organization's gala, but he or she gets something back in the form of a "free" gourmet dinner and top-notch entertainment. The total amount of the dinner and entertainment is the "exchange of one thing for another" and is the revenue portion (i.e., nondeductible portion) of the ticket price.

Acknowledgement and disclosure

Quid pro quo arrangements create an obligation for the charity: You may ignore contributions of less than \$75, but if your organization receives more than \$75 *and* provides a benefit to the donor, you must advise the donor that it's a quid pro quo contribution.

With such contributions, donors can deduct only the amount *in excess* of the value of the goods or services. And the charity must put in writing:

- The amount donated,
- The goods or services provided in return, and
- A good faith estimate of their value.

The written acknowledgement must be provided when the donation is solicited or when it's received. If you're holding a charity dinner for which tickets are sold, for example, each ticket should disclose the tax-deductible portion of the ticket price. The disclosure must be in a readily visible format — in other words, no small print. Examples can be found in IRS Publication 1771, *Charitable Contributions — Substantiation and Disclosure Requirements*.

Your organization could be penalized for failing to furnish the proper acknowledgement and disclosure. Fines are \$10 per contribution, not to exceed \$5,000 for the fundraising event.

The quid pro quo amount

A key task for the charity is to value the goods or services. Let's say your organization takes a group of supporters to a high-end restaurant and pays for their meals. The supporters then make large donations. Determining quid pro quo is fairly simple in such cases: The amount your organization paid for the meal would be considered the fair market value, and only the amount of the contributions *in excess of this value* would be a tax-deductible contribution for the donor.

It's not as easy when some of the items given away have been donated to your organization. What would happen, for example, if your charity put on a gala dinner with live music, and the banquet facility charged you a reduced amount for the food as its contribution, and the band performed at no cost? To establish the value to be reported to the donor, you must determine

what it would cost someone to attend a similar event. In this instance, you'd need to research comparable costs at local restaurants or hotels for a dinner with entertainment.

Charity auctions

All items auctioned at a charity auction (silent or regular) must have a value placed on them. The charity should ask the donor to put a value on the item unless it's readily apparent, such as with a \$50 gift certificate. The value should be the amount that a willing buyer would pay for the item in an "arm's length" transaction — that is, in the marketplace.

The charity can then publish the item's value on bid cards or in a catalog of auction items. This serves as the acknowledgement, and the buyers will be entitled to a deduction for the amount paid *in excess of* that value.

When reporting is unnecessary

There are a few instances when quid pro quo reporting isn't necessary:

- Token exception — the contribution is for \$48 or more and the goods cost less than \$9.60, *or* the value of the benefit to the donor doesn't exceed 2% of the donation or \$96, whichever is less,
- Membership exception — membership benefits (free admission or free parking) are provided, but the annual membership fee is \$75 or less, and
- Intangible religious exception — religious benefits, such as religious services or classes, are provided by an organization operated exclusively for religious purposes (excluding travel, education and consumer goods).

In other situations, it's safer to report quid pro quo than not.

Crossing all the T's

Holding fundraising events is a sure-fire way to supplement your organization's income. But you need to understand your obligations if you're providing goods or services in return. The professionals at MP&S can provide advice about your specific events and how you should disclose the details.

Form 990, Schedule G

Fundraising events are usually reported on Schedule G, "Supplemental Information Regarding Fundraising or Gaming Activities." If you're required to file Schedule G (see Form 990 Part IV, questions 17 and 18), you'll need to maintain records of the gross receipts and expenses from each fundraising event.

Report them on Schedule G, Part II as follows:

Line 1 — gross receipts from the event,

Line 2 — charitable portion of the event proceeds (the portion in excess of the value of goods and services provided to the donor), and

Line 3 — fair market value of the event proceeds.

Example: A nonprofit organization has a gala dinner. Tickets cost \$200 (200 tickets are sold) and the value of the dinner is determined to be \$50.

Proceeds should be reported as:

Gross proceeds - 200 X \$200	\$40,000	Line 1
Value received by donors -200 X \$50	<u>\$10,000</u>	Line 3
Charitable contribution - 200 X \$150	\$30,000	Line 2

The fundraiser also should be reported on Part VIII of the 990: \$30,000 on Line 1c and \$10,000 on Line 8a.

SHOULD YOU HAVE AN ADVISORY BOARD?

A core group of board members governs your nonprofit, but have you considered adding an advisory board to the mix? Without a formal commitment, these informal board members can bring complementary skills and resources to the group, making them extremely valuable. Plus, an advisory board is a perfect testing ground for potential leaders.

Size up the general board

Take a good look at your general board members' demographics and collective profile. Does your organization lack representation by gender or from those of a certain age group? Are you light on representation from the communities that your organization serves? An advisory board offers an opportunity to add diversity to your leadership.

Also look at the skills each board member brings to the table. If your board lacks extensive fundraising experience, for example, an advisory board can help fill the gaps in your board without adding to it.

To start, identify specific demographics and skill sets that your nonprofit needs most. It's likely that you already know what your board members bring to the table and what experience the board lacks. However, consider asking each member to submit a one-page resume or biography to assist you in this process.

Your nonprofit, for example, may be new to grant writing and lack current board members with experience in that area. In such a case, you might seek an advisory board member who understands the grant process and can advise the board accordingly. That individual also may have a network of friends and associates who serve on the boards of grant-giving foundations.

And they, in turn, could learn about your organization and consider it for future funding.

Perhaps your not-for-profit traditionally has served people of one county, but is considering moving into another. If so, it makes sense to find someone in the other county to add to your team. That person might be affiliated with the local chamber of commerce, for instance, and be able to introduce your board members and the executive director to appropriate people in their community.

Once you've identified the demographic traits and skill sets you need, your general board can use their business and social connections to recruit advisory board members.

Waive commitment

Let's face it: Being a board member is a huge responsibility. You may run into people who are interested in your organization and its mission, but who don't have time to dedicate to board duties. The advisory role is a great way to get them involved. The time commitment is smaller and they don't need to sign on to a specific term of office. The advisory role also may appeal to recently retired individuals or stay-at-home moms wanting to get involved with a nonprofit on a limited basis.

This also is an ideal way to “test out” potential board members. If a spot opens on your current board, you’ll have a ready pool of potential board members from which to choose. They know the organization, they’re passionate about the cause, and they’re already active in the organization in some way.

Be careful, now

Advisory board members likely will be present at board meetings, so it’s important to be frank with them from the get-go about their role. Be sure to explain that advisory board members aren’t involved in the *governance* of your organization. For example, they can’t introduce motions or vote on them.

With advisory board members present, your meetings could grow to be 25% general board members and 75% advisory board members. To avoid confusion, make sure the two roles are distinct from one another.

How you use your advisory board members is up to you. Use them as much, or as little, as you need, just make sure they understand their role.

ACCOUNTABILITY: YOUR PUBLIC IS CALLING

In a downturned economy, in which donations to nonprofits are difficult for both individuals and organizations to make, being accountable carries more weight than ever. A nonprofit must not only conduct business ethically and transparently but also be able to publicly explain at all times the way it handles its finances and governance. Your nonprofit can meet this challenge if you understand the key areas of accountability and your board’s role.

Good governance sets the tone

There can be no accountability without governance. You must set in place the means and measures to keep your organization in compliance with all applicable laws, rules and guiding principles.

Author and nonprofit expert Steven Ott describes a nonprofit’s governance as “a product of its purposes, people, resources, contracts, clients, boundaries, community coalitions and networks, and actions as prescribed (or prohibited) in its articles of incorporation and bylaws, state laws and codes, and the IRS codes and rules.”

When it comes to accountability and governance, the buck unquestionably stops with your board. Focus your board’s attention on carrying out your organization’s mission — not on process-oriented details best handled at the staff or committee level.

Finances play a key role

You should conduct regular, board-approved audits that are attested to by the executive director and principal financial manager. If your nonprofit has no audit or finance committee, management should present internal financial statements to the board and review financial performance against approved budgets on at least a quarterly basis. In addition, your board should establish and regularly assess financial performance measurements that are open to public review.

Your organization must comply with all legally required reporting procedures — and certain financial practices that may apply to a specific activity. For example, you might need to provide key performance indicators or other reports linking operational results with financial information required by one of your major funders or perhaps by a national affiliate of your organization.

Programs act out your mission

As you carry out your initiatives, you must do so fairly and in the best interests of your constituents and community. Your status as a nonprofit means you're obligated to use your resources only toward your mission and to benefit the community that you serve. Programs should be evaluated accordingly.

Documents tell the story

Communication is a big part of accountability. Your annual report, for example, should explain your mission, activities and results for the preceding year. The report also needs to provide financial data for the year and list board members, management staff and other key employees.

You also should make available your nonprofit's Form 990s for the previous three years, which will give your public a good overview of your organization's exempt activities, finances, governance, compliance and compensation methods.

Let them rest assured

Accountability established at the governance level, and transparency provided by audited financial statements and IRS Form 990, provide assurance to the public that your tax-exempt entity is operating with integrity and effectiveness as it meets its goals. Your board and staff are likely doing exemplary work to fulfill your mission — and this is something your public ought to know.

NEWS FOR NONPROFITS

Could you lose to gaming?

Bingo games and poker nights are fairly common fundraising events for nonprofits that have obtained a state license to conduct them. New IRS publication 3079, *Tax-exempt Organizations and Gaming*, explains the effect that gaming could have on an organization's tax-exempt status and the reporting requirements. For example:

Your type of tax-exempt status matters. Gaming activities affect each organization differently, based on the IRS code section under which it's exempt. Commonly, 501(c)(3) entities consider gaming a charitable activity when, in fact, it isn't. Yes, income earned from gaming activities can be used toward the organization's charitable programs. But gaming doesn't further the nonprofit's tax-exempt purpose because the organization's sole mission can't be to conduct gaming. Thus, *substantial* gaming will jeopardize a tax-exempt status.

The IRS considers how much money you raise and spend on an unrelated activity — and the resources devoted to it — to determine substantiality. *Insubstantial* gaming usually won't jeopardize a nonprofit's exempt status, but could subject it to unrelated business income tax. And social clubs and fraternal and veteran organizations may engage in gaming activities (for members only) without jeopardizing their exempt status.

Reporting requirements vary. A flow chart in IRS publication 3079 can help you determine if your organization's gaming income is taxable. Nonprofits with more than \$15,000 of gross receipts from a gaming (or fundraising) activity could be required to file Schedule G and, possibly, Form 990-T, "Exempt Organization Business Income Tax Return."

Schedule G requires organizations to report, for each gaming activity, the total percentage of volunteers to total workers. However, organizations required to file the full Form 990, must report the total number of volunteers (both full- and part-time) or a reasonable estimate on the tax return.

Recordkeeping is crucial. If volunteers perform “substantially all” (at least 85%) of the work at a gaming event, such activities usually aren’t considered an unrelated trade or business — and aren’t subject to tax. So, it’s important that you keep track of volunteer labor and compensation at gaming events.

Most volunteers receive insignificant monetary benefits at gaming events. But “compensation” can include nonmonetary benefits, such as free food or drink. Also, if volunteers receive goods or services at a reduced price in return for their services it counts as compensation depending on the:

- Quantity and quality of the work performed,
- Cost to the nonprofit, and
- Connection between the benefit received and the services performed (whether the benefit is comparable to the work performed).

For more information about gaming’s implications, consult your MP&S tax advisor.

SPOTLIGHT ON MP&S

John Bonora Receives CFF Credential

Director John Bonora has been awarded the Certified in Financial Forensics (CFF) credential by the American Institute of Certified Public Accountants. The CFF credential is granted to CPAs with considerable professional experience in financial forensics.

The Importance of the Forensic Accountant

Bankruptcy is rampant. According to the United States Bankruptcy Court, there were 1.4 million bankruptcy filings in fiscal year 2009, a 32 percent increase over 2008. Bankruptcy filings for 2010 are higher still. In a recent white paper, Director Sareena Sawhney discusses why forensic accountants should be an essential part of the bankruptcy team.

MP&S FAST FACTS

- Among the 35 largest accounting firm in the nation and a leader in accounting and auditing (*Accounting Today*)
- The 13th largest accounting firm in the New York Area (*Crain’s New York Business*)

FOR FURTHER INFORMATION

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