NONPROFITS: FUNDRAISING & DEVELOPMENT

The Charity Raffle in CA: An Update

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Around the United States, raffles are among the most popular fundraising methods for charitable organizations. Many groups, though, are unaware that raffles are governed by strict rules on a state-by-state basis.

A few years ago, in June 2015, we tackled the key misconception; that is, the payout to the winner can be whatever the organization wants it to be. **It's Just a Little Raffle: What's the Big Deal?** Each jurisdiction has rules on the allowable percentage to be paid to charity vs. to be paid to the winner. In many jurisdictions, a 50/50 payout is allowed. In California, the rules are more stringent. As of that June 2015 post, the payout limit was 90/10; that is, the winner can be awarded no more than 10% of the proceeds.

A few months later, In **Surprise Change to Charity Raffle Rules in California,** we posted news of a limited change approved by the California legislature that benefits just a handful of organizations that hold raffles. There was opposition, but it was a touted as a temporary change only, **scheduled** to sunset on December 31, 2018, if lawmakers did not make it permanent by then.

Now, with the sunset provision in the recent past, proponents were able to pass a bill late in last year's California legislative session, making it permanent. Now, certain nonprofits affiliated with major-league sports team may continue to hold 50/50 raffles in this state.

With this limited change now in place indefinitely, it's a good time to review the ground rules about raffles in California and – in particular – how much a sponsoring organization is permitted to pay out to a raffle winner.

The 90/10 Raffle Rule

California's raffle rules emerged two decades ago when "California's gambling industry was essentially unregulated." The Legislature tackled this Wild-West problem first in 1984 with weak legislation; this was changed in 1997 with the passage of the much-tougher "Gambling Control Act."

There was pushback, though, on this hardline approach; a consensus agreed there should be exceptions for tribal gaming and for some charitable activities and events including bingo. The revised raffle rules were then made via constitutional amendment. As we explained in **It's Just a Little Raffle: What's the Big Deal?**:

(Without going into a big rigamarole about how complex lawmaking can be in California, and why items you'd think could be accomplished by a regular amendment in the Legislature, can't be done that way), suffice it to say that the matter had to be approved by the voters in a March 2000 ballot initiative.

So, the voters amended the State Constitution (Art IV, Sec. 19) granting the legislature authority to permit certain nonprofit organizations to hold certain types of raffles. To do that, legislators amended Penal Code sec. 320.5, effective July 1, 2001, to authorize certain types of raffles under narrow conditions. There were additional requirements and restrictions added as well.
That's how the 90/10 payout rule came to be the law in California, notwithstanding the huge popularity of 50/50 raffles elsewhere in the United States. We pointed that out in ***How Your 50/50 Raffle is Like Drinking a Beer When You Were in High School*.** It's done a lot, but here in California, it's illegal. "What's legal now is akin to drinking non-alcoholic beer, which has been described by some as only just a bit 'better than being left empty-handed at a party.'"

Here's the bottom line: The Golden State allows only 90/10 or better raffles. At least 90% of a raffle's gross receipts must be paid directly to beneficial or charitable purposes in California. This works best, of course, when most or all of the raffled items are donated.
There are more rules and regulations that California organizations need to know about raffles; we've covered them earlier**, here**. Since the newest developments involve the 90/10 rule and the 50/50 narrow carve-out in 2015, we're focused on that aspect of the law in this post.
The 50/50 Narrow Raffle Exception
In the midst of the usual mountain of bills (including high-profile measures) awaiting California lawmakers each September trying to beat the clock before the 2015 Regular Session was adjourned, there was a small proposal to **tweak the charity raffle** rules just a bit to benefit major sports franchises and their associated nonprofits.

The tough 90/10 payout rule for California charity raffles was modified so that at major sporting events, Californians can enjoy a 50/50 raffle, like those held at other locations around the nation. Although the payout is lower than for raffles held by all other California organizations, the large number of attendees at sporting events **creates a windfall** for all concerned.
Though there was organized opposition from nonprofit organization associations, SB 549 passed both houses of the legislature by September 5th, with significant bipartisan votes. Along with many other newly enacted bills, the measure sat on the Governor's desk for almost the entire 30 days allotted to him to sign or veto it.
The California Association of Nonprofits, on behalf of a coalition of some 100 charity leaders, **stepped up lobbying efforts** to persuade Governor Brown to exercise his veto. Their key arguments were: (1) the charitable community was a key participant in the "multi-stakeholder process" that resulted in enactment of the 90/10 raffle law in 2000; (2) SB 549 would unfairly create an exception for "an exclusive set" of nonprofits; (3) a 50/50 split is contrary to the "intent" of the original law "that the primary purpose of any charitable raffle is to benefit a charity."

Despite this plea that "…laws governing charitable raffles should be tightly crafted with input from stakeholders throughout the sector and should treat charities equally," the California governor signed the bill on October 5, 2015.

There were important conditions, though: first, the law was temporary with a scheduled sunset at the end of 2018; second, there was to be an audit and report.

In the 2018 Regular Session, the California Association of Nonprofits and other opponents **put their weight against Assembly Bill 888** which would make the 50/50 national sports league carve-out permanent.

Despite legislators' promises in 2015 of a progress report on if and how California communities would benefit from the 50/50 raffles, "there has been **no audit or review** to see if this program is working or where the money is going." The first draft of this bill would have permitted these raffles to go on indefinitely without any oversight at all.

The final bill includes another sunset on these big raffles in 2024 and authorizes more money for auditing and compliance by the California Department of Justice. This measure passed the legislature and was signed into law by the governor.

Conclusion

CalNonprofits will continue this fight by coordinating with the Attorney General to make sure that there is **"meaningful oversight."** They will also renew their efforts to "make raffle rules simpler for smaller authentic charitable raffles."