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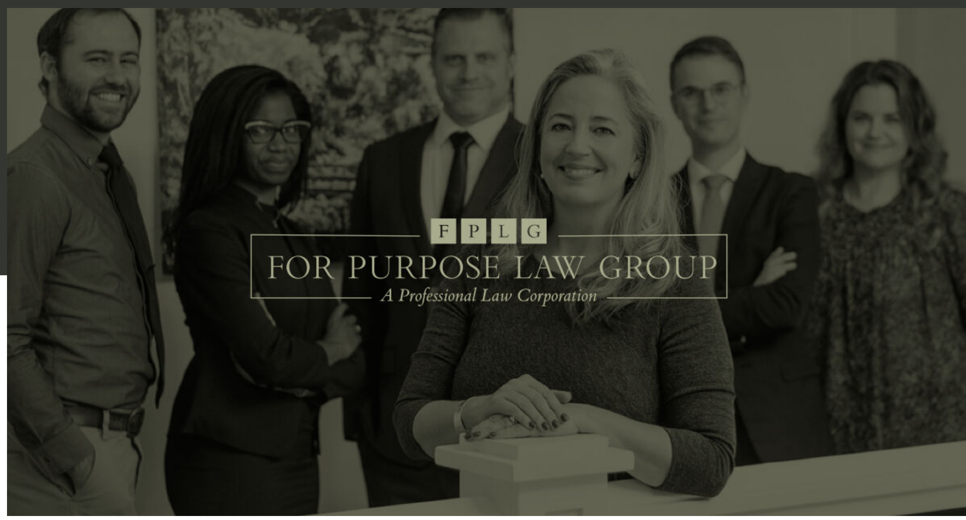
NONPROFITS: FUNDRAISING & DEVELOPMENT

Year-End Fundraising: Two Key Points

12.12.17 | Linda J. Rosenthal, JD



For a tax-exempt public charity, December can be a nerve-wracking time. The stopwatch is ticking, and the race to the fundraising finish line is in sight: the chance to persuade prospects to make that December 31st deductibility deadline.

So we remind you of two simple truths we've written about before but bear repeating now to help you through this festive but frantic season.

First: A 501(c)(3) doesn't have to accept every crazy gift offered; and

Second: A 501(c)(3) doesn't have to spend down a surplus by the stroke of midnight on New Year's Eve.

Fundraising: Sometimes, Just Say No.

Back in about 400 A.D., St Jerome, in *The Letter to the Ephesians,* wrote: "*Noli equi dentes inspicere donati*"; that is, "never inspect the teeth of a given horse." (A horse's teeth are an indication of its age and value.)

This saying next appears in print in 1546, in John Heywood's collection of "*all the prouerbes [proverbs] in the Englishe tongue*." It shows up there as "*No man ought to looke a geuen hors in the mouth.*"

Centuries later, it comes down to us as "don't look a gift horse in the mouth."

> *That phrase is "used much like 'beggars can't be choosers'. If you are given something of value don't criticize it for what it isn't.*

Modern charities should ditch that ancient advice. Some gifts just aren't worth the trouble.

In *Who Would Run Away From a Big Charitable Gift? You Should . . . Sometimes*, we explained that some donations should be politely declined. "It happens all the time, and experienced board members, staff, and fundraisers generally know when to run away – and not look back." Consider an example we cited in that post:

> *In the early '80s, a leading charity in the Midwest was thrilled to receive a gift of two paint factories – until the Environmental Protection Agency came calling. The two properties were declared Superfund sites. It cost the organization more than $2 million to settle liabilities under CERCLA.*

A second example was a donation of "*a house and lot* –

> *purportedly valued at $50,000. But there was a squatter on the premises, making the property unsellable, even after a 50% drop in price. The [donee-organization] had little choice but to donate it over to a next-door church.*

Real property donations may look great at first blush, but these "… gifts are some of the most dangerous for a charity" because they "…create unnecessary or unworkable problems, or will channel away focus from the organization's exempt purposes or squander resources…." "There can be problems, as well, with donations of personal property." For instance, "a wealthy alumnus gave his alma mater the gift of a 53-foot Hatteras, docked in Florida." But the college was slapped with large harbormaster's bills, insurance costs, and other carrying costs for the 2 years it took to "sell the boat, at half of the expected resale price."

Too Much Fundraising Success

But what if the year-end appeal is *not* plagued by offers of toxic gifts or other shortfalls or problems? A surprising number of nonprofits – especially the newer or smaller ones – are filled with dread at the prospect of fundraising efforts that are more successful than expected. In *Uh Oh. It's the End of the Year and We Have Money Left Over!*, we addressed this concern.

> *You're a nonprofit. You're panicking.*
> *That November fundraiser was a huge success. You have money to burn. But will your tax exemption go up in smoke on December 31st?*
> *No — so relax.*

Being a "nonprofit" organization" doesn't mean that you can never have a "profit." A "Simply put, even though a nonprofit is not created for a profit-making purpose, it is allowed to make some profits along the way to fund its good works." Under both state and federal law, a 501(c)(3) organization can, under the right circumstances, have a surplus.

Indeed, "spending down all income each year" would be "fiscally irresponsible." Having some money in the bank account at year's end is not only allowed — it's the prudent way to run an organization.

> *For instance, if a nonprofit had to spend 100% of its funds each year, it would have no way to pay ordinary operating expenses coming due in early January. There would be a frantic race each December to use existing funds — down to the last penny — for the tax-exempt purposes, followed by a massive fundraising campaign each January 1st. Maintaining a financial cushion is good money-management and it's legal.*

Of course, "if a nonprofit's unrelated money-making activities get too big and swallow up the charitable goals, then the organization can lose its tax exemption."

Conclusion

As you and your organization spend the last days and hours of the annual fundraising rush, consider these two "worries" crossed off your list. Also, if you have any questions that still need to be answered – our experienced nonprofit, exempt organization's attorneys are here to help you.