



The Standards for excellence

An Ethics & Accountability Program for the Nonprofit Sector

DISCLOSE IT!

A Charitable Nonprofit's Guide to Public Disclosure Requirements

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Because nonprofits serve important public purposes, nonprofit organizations are granted exemption from most federal, state and local taxes, and donors are granted a tax deduction for contributions to 501(c)(3) charities. Along with these privileges comes the responsibility to provide details about their operations to members of the public. As the *Standards for Excellence: An Ethics and Accountability Code for the Nonprofit Sector* states, it is important that all nonprofits comply with both the letter and the spirit of federal and state laws which require disclosure of information to the public.

The following is a summary of public disclosure requirements for charitable nonprofits, including:

- Proper registration for soliciting contributions;
- Disclosure requirements in fundraising solicitations;
- Disclosure requirements regarding the deductibility of your donors contributions;
- Disclosure requirements in fundraising receipts and acknowledgments;
- Disclosure requirements regarding financial documents that must be provided to a member of the public upon request; and
- Detailed disclosure requirements for contests, sweepstakes and promotions.

Take a few minutes, and make sure that your organization is complying with these procedures.

BEFORE YOU SOLICIT CONTRIBUTIONS BE SURE YOUR ORGANIZATION AND THE FUNDRAISERS IT WORKS WITH ARE PROPERLY REGISTERED

☐ **501(c)(3) status** -- With a few exceptions, only contributions to nonprofits that have been designated as tax exempt under section 501(c)(3) of the Internal Revenue Code are tax deductible as charitable contributions.

☐ **State registration under the Applicable State Laws** – In many states, nonprofits that wish to solicit contributions in that state must register with the appropriate charity regulator in that state. In many cases, this regulator exists in the office of the Attorney General or Secretary of State. For more information on the regulator for your state, you may wish to visit the website for the National Association of State Charity Officials at www.nasconet.org and click on US Charity Offices. Another useful website that you might want to consult is www.multistatefiling.org which identifies the 35 states that accept the multi-state Uniform Registration Statement and the 4 states that do not accept this form. The site also has a section that details the law in each state and identifies what additional materials and information are required in each state.

In addition, some state charity regulators also regulate and require registration for professional solicitors and/or fundraising counsel. You may wish to consult your state charity regulator for more information.

- **Proper registration for fundraising in other states** -- If you solicit charitable contributions in multiple states, you may need to be registered in the more than one state. Each state has its own requirements/thresholds/definitions for charitable solicitation registration. See the websites listed above for more information.
- **Proper licensure for organizations soliciting gifts of automobiles** -- A nonprofit that accepts gifts of automobiles may also be subject to additional state requirements, such as becoming properly licensed as an automobile dealer. Please consult your state's motor vehicle administration, charity regulator, and the Internal Revenue Service for more information about auto donations.

DISCLOSURE REQUIREMENTS IN FUNDRAISING SOLICITATIONS

Do you raise money through solicitations to support the mission of your organization? For many charitable nonprofits, the answer to this question is a resounding YES, however, many nonprofits do not fully understand and follow the disclosure requirements for solicitations. These days, solicitations for charitable contributions take many forms: direct mail campaign letters, newspaper advertisements, personal letters from celebrities or board members, e-mail messages, etc.

- **Tell donors that you are recognized as tax exempt under section 501(c)(3)** of the Internal Revenue Code. Donations to nonprofits with 501(c)(3) tax exempt status are tax deductible as charitable contributions.

To take the guesswork out for donors, it is advisable for nonprofits to include a statement like,

ABC Nonprofit is a 501(c)(3) nonprofit organization -- donations to which are tax deductible to the fullest extent allowed by law. on all solicitations.¹

- **Under some state laws, solicitations must also include a special disclosure statement** notifying the public about the availability of current financial statements for the nonprofit or about the fact that registration does not imply an endorsement of the state agency for the nonprofits. The disclosure statement itself can be stated in a variety of ways.

¹ Exceptionally generous donors may donate so much to charitable nonprofits that they reach the maximum threshold where they are not permitted to take deductions for all of their contributions. It is the donor's responsibility to make this determination. Donors who do not itemize their income taxes generally cannot deduct charitable contributions from their taxes.

Here is an example of a statement that includes the disclosure language for several different states in the US:

A copy of our ABC Nonprofit's last financial statement may be obtained by contacting: ABC Nonprofit, 123 Main Street, Any Town, Any State, xxxxx, xxx-xxx-xxxx.

Many states have created their own requirements for disclosure language:

ARKANSAS: "The headquarters of this organization is located at (insert the address of the non-Arkansas headquarters). The Arkansas address is that of a (insert either "mail drop box" or "mail-handling facility") located in the state." This special disclosure language is required of charitable organizations that solicit in the state, use an Arkansas address, including a return address, but do not maintain any staff an office at that address.

DELAWARE – Any person soliciting a charitable contribution must disclose prior to making the solicitation the name of the charitable organization.

FLORIDA: "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICES BY CALLING, TOLL-FREE WITHIN THE STATE 800-HELP-FLA. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION BY THE STATE." FLORIDA REGISTRATION # _____."

GEORGIA: "A full and fair description of _____ and its financial statement are available upon request at the address indicated above."

ILLINOIS: "Contracts and reports regarding _____ are on file with the Illinois Attorney General." There are also special disclosure requirements in Illinois related to charitable organizations and the purposes for which they solicit contributions. There are additional special disclosure requirements related to those groups that spend considerable program services expenditures to inform or educate the public.

IOWA: While there is no required language for a disclosure statement in Iowa, the organization is required to provide specific financial disclosure information upon request to individuals who request such information.

A charitable organization must provide, upon request and without cost to the requesting party, financial disclosure information concerning contributions received and disbursements for the organization's last complete fiscal year, or, if the organization has not completed a full fiscal year, for its current fiscal year, to the person requesting the information within five days of the request.

MAINE: While there is no required language for a disclosure statement in Maine, the organization is required to provide the name and address of the charitable organization for which the solicitation is requested.

MARYLAND: A copy of the current financial statement of ABC CHARITY is available by writing INSERT ADDRESS OF CHARITY or by calling INSERT CHARITY PHONE NUMBER. Documents and information submitted under the Maryland Charitable Solicitations Act are also available for the cost of postage and copies, from the Maryland Secretary of State, State House, Annapolis, Maryland 21401.

The disclosure statement must be displayed conspicuously on a charitable solicitation and on a receipt for a charitable contribution.

MICHIGAN: While there is no required disclosure language, the Michigan Attorney General strongly encourages including the group's charitable registration number:

ABC CHARITY MISC # _____.

MINNESOTA: While there is no specific disclosure statement, three items must be clearly disclosed on all written charitable solicitations: the name and location (city, state) of each organization on whose behalf the solicitation is made, tax deductibility, and a description of the charitable program for which the campaign is being carried out.

MISSISSIPPI: The following statement must be reproduced verbatim on written solicitations, confirmations, receipts and reminders of oral solicitations:

The official registration and financial information of ABC CHARITY may be obtained from the Mississippi Secretary of State's office by calling 1(888) 236-6167. Registration by the Secretary of State does not imply endorsement by the Secretary of State.

NEW JERSEY: The following disclosure must be "conspicuously printed" on any printed solicitation, written confirmation, receipt or written reminder of a contribution from an organization, independent paid fund raiser or solicitor:

INFORMATION FILED BY ABC CHARITY WITH THE NEW JERSEY ATTORNEY GENERAL CONCERNING THIS CHARITABLE SOLICITATION AND THE PERCENTAGE OF CONTRIBUTIONS RECEIVED BY THE CHARITY DURING THE LAST REPORTING PERIOD THAT WERE DEDICATED TO THE CHARITABLE PURPOSE MAY BE OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY BY CALLING (973) 504-6215 AND IS AVAILABLE ON THE INTERNET AT <http://www.njconsumeraffairs.gov/charity/chardir.htm>. REGISTRATION WITH THE ATTORNEY GENERAL DOES NOT IMPLY ENDORSEMENT.

In addition, prior to soliciting any contribution in writing, a charitable organization, unless exempt from registration, shall clearly and conspicuously disclose the following:

- The name of the individual making the solicitation;
- The individual making the solicitation is a volunteer; and
- The name of the charitable organization which will receive the contribution.

NEW YORK: Any solicitation, by any means, including oral and written solicitations, by or on behalf of a registered charitable organization, must include:

1. A statement that upon request, a person may obtain from the organization or from the attorney general, a copy of the last financial report filed by the organization with the attorney general. Such statement shall specify the address of the organization and the address of the attorney general, to which such request should be addressed and in the case of a written solicitation, must be placed conspicuously in the material with print no smaller than ten point bold face type or, alternatively, no smaller than the size print used for the most number of words in the statements.
2. A clear description of the programs and activities for which it has requested contributions or a statement that, upon request, a person may obtain from the organization such a description.
3. If any charitable organization makes contributions to another organization which is not its affiliate, the solicitation must include a statement that such contributions have been made and that a list of all organizations which have received contributions during the past twelve months from the soliciting organization may be obtained from that organization provided, however, a united way, federated fund or incorporated community appeal, by or through which a donation is merely transferred to a charity selected by the donor, need not include such donor selected organizations in the list. The term "affiliate" includes any chapter, branch, auxiliary, or other subordinate unit of any registered charitable organization, howsoever designated, whose policies, fund raising activities, and expenditures are supervised or controlled by such parent organization.

The written disclosure must be placed conspicuously in the materials with print no smaller than 10 point bold face type or, alternatively, no smaller than the size print used for the most number of words in the solicitation.

NORTH CAROLINA: A charitable organization soliciting in this State must include all of the following disclosures at the point of solicitation:

1. The name of the charitable organization and state of the principal place of business of the charitable organization.
2. A description of the purpose for which the solicitation is being made.

Every charitable organization that is required to obtain a license to solicit contributions must conspicuously display in type of a minimum size nine points, the following statement on every printed solicitation, written confirmation, receipt, or reminder of a contribution:

"Financial information about this organization and a copy of its license are available from the State Solicitation Licensing Branch at 1-888-830-4989 (within North Carolina) or (919) 807-2214 (outside of North Carolina). The license is not an

endorsement by the State."

The statement must be made conspicuous by use of one or more of the following: underlining, a border, or bold type. When the solicitation consists of more than one piece, the statement must be displayed prominently in the solicitation materials, but not necessarily on every page.

OHIO: While there is no specific disclosure statement, soliciting organizations must disclose the name of the organization, and principle business location (city), and information about whether the organizations have received their determination letter for federal income tax exemption.

OREGON: "The headquarters of this organization is located at (insert the address of the non-Oregon headquarters). The Oregon address is that of a (insert either "mail drop box" or "mail-handling facility") located in the state." This special disclosure language is required of charitable organizations that solicit in the state, use an Oregon address, including a return address, but do not maintain and staff an office at that address.

In addition, the state requires that any time a written solicitation mentions the organization's or solicitor's registration or filing should be followed by a statement that registration does not indicate endorsement, sanction, or approval of the solicitation or the organization.

PENNSYLVANIA: A charitable organization soliciting in Pennsylvania shall include all of the following disclosures at the point of solicitation:

1. Its legal name as registered with the department and location and, if different, the legal name and address of the charitable organization as registered with the department on whose behalf the solicitation is being conducted. Any use of a project or program name in a solicitation must be immediately followed by a disclosure of the legal name of the charitable organization as registered.
2. A full and fair description of the charitable purpose or purposes for which the solicitation is being made, and a source from which written information is available.

The following must also be reproduced verbatim and "conspicuously printed" in any solicitation materials, including any written confirmation, receipt, and reminder of a contribution:

"The official registration and financial information of [legal name of the charity as registered with the department] may be obtained from the Pennsylvania Department of State by calling toll-free, within Pennsylvania, 1-800-732-0999. Registration does not imply endorsement."

RHODE ISLAND: While there is no specific disclosure statement, written solicitations must include a description of the programs and activities or must include a note that, upon written request, a person may obtain such a description from the organization. In

addition, any written solicitation must whether or not contributions are deductible for federal income tax purposes. These requirements must be satisfied by written notice to the donor or prospective donor once during the solicitation process (which includes the confirmation/receipt step).

In addition, in Rhode Island, specific information or a notice of the availability of such information about other organizations (other than defined affiliates) that have received contributions from the nonprofit in the most recently completed fiscal year is required. Exemptions exist for United Ways, federated funds or incorporated community appeals.

VIRGINIA: Every charitable organization, required to be registered, soliciting contributions from prospective contributors, shall disclose to the potential donor contemporaneously at the point of a written request or on a written receipt for donations made in response to an oral request that a financial statement is available from the State Office of Consumer Affairs in the Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218.

WASHINGTON: A charitable organization that directly solicits contributions from the public in this state must make the following clear and conspicuous disclosures at the point of solicitation:

1. The name of the individual making the solicitation; and
2. The identity of the charitable organization and the city of the principal place of business of the charitable organization.

In the case of a solicitation by advertisement or mass distribution, including posters, leaflets, automatic dialing machines, publication, and audio or video broadcasts, it must be clearly and conspicuously disclosed in the body of the solicitation material that: The potential donor can obtain additional financial disclosure information from the office of the Secretary of State at 1-800-332-4483

WEST VIRGINIA: All registered charitable organizations are required to disclose in writing:

1. The name of a representative of the charitable organization to whom inquiries can be made;
2. The name of the charitable organization;
3. The purpose of the solicitation;
4. A clear description of programs for which funds are requested and the source from which written information is available; and
5. The number of the raffle, bingo or other such state permit used for fund raising. If the organization only has a general state charitable solicitation license and not a raffle, bingo or other such state fundraising permit, no registration number is assigned, and this disclosure is not applicable.

The following printed statement is also required:

“West Virginia residents may obtain a summary of the registration and financial

documents from the Secretary of State, State Capitol, Charleston, WV 25305. Registration does not imply endorsement.”

The disclosure statement must be conspicuously displayed on any written or printed solicitation. When the solicitation consists of more than one piece, “the statement must be displayed on a prominent part of the solicitation materials.”

WISCONSIN: While there is no specific required disclosure statement, situations where unpaid solicitors seek contributions for charitable organizations (that fall into the group of charitable organizations that must be registered), need to state the following details before accepting contributions: name and location of organization, that a financial statement of the charitable organization (including assets, liabilities, fund balances, revenue and expenses for the preceding fiscal year) will be provided to the person upon request; and a clear description of the primary charitable purpose for which the solicitation is made.

In addition to these disclosure requirements, certain states have special disclosure requirements for nonprofits working with police, fire fighters, other public safety, and/or veterans. Some states, like California, have specific disclosure requirements for nonprofits that utilize paid solicitors. . Likewise, Minnesota requires name, address, and a statement about the deductibility of the contribution, and a description of the specific charitable program or the general programs of the organization. Delaware requires that anyone soliciting must disclose the name of the charitable organization in advance of the solicitation.

Many states (such as North Carolina and Pennsylvania to name just a few) have very specific rules about the size of the font, the manner in which the disclosure statement should appear and the way that the organization and the use of the solicited funds should be used.

Other helpful resources on the subject: Nonprofit Fundraising Registration: The 50 State Guide, NOLO Press, Stephen Fishman and Ronald J. Barrett 50 State Charity Registration Guide (2012) and Perlman + Perlman LLC Attorneys at Law, www.perlmanandperlman.com.

- **Disclosure of value of items provided to donors --** You are required by law to disclose the fair market value of goods or services provided to donors in return for gifts of \$75 and over. For example, in an invitation to an annual dinner dance, you must disclose the fair market value of the dinner and entertainment.

Sample Text for Solicitation for Tickets to Annual Dinner Dance:

The ticket price for the event is \$150. For tax purposes, only \$100 is tax-deductible. The balance of \$50 represents the fair market value of the food and entertainment for the event.

For more information about determining the deductibility of contributions and determining the fair market value of goods and services given in return for contributions, see the next

section entitled, **DISCLOSE TO DONORS HOW MUCH OF THEIR CONTRIBUTIONS ARE DEDUCTIBLE.**

- **Disclosure statements should be conspicuous** -- If you need a magnifying glass to read the disclosure statements, they are NOT conspicuous. While there are no hard and fast rules about what is or is not conspicuous, you should certainly think twice if your disclosure statements are smaller than 10-point type. Whether the disclosure statement is conspicuous depends upon many circumstances (i.e., the size of the type, placement on the page, etc.) You should consider if the disclosure statement is likely to be noticed, read, and understood by a person casually reading the solicitation.

DISCLOSE TO DONORS HOW MUCH OF THEIR CONTRIBUTIONS ARE DEDUCTIBLE

Does your organization hold a special event where dinner or entertainment is provided? Do you give contributors a subscription to a magazine or promotional merchandise (a mug, book, etc.)? Do you provide donors with membership benefits in return for a contribution? If so, your organization needs to be familiar with the IRS rules that apply when donors receive something in exchange for their contribution. You should know the following:

- **The IRS presumes that donations are not tax-deductible** -- The IRS requires taxpayers to prove that the amount they pay exceeds the fair market value of the food, entertainment, merchandise, or other goods and/or services that the donor receives. You should **NOT** state in solicitation materials, catalogs, or tickets that the donor's payment is tax-deductible if the donor is receiving something of value in exchange for the contribution.
- **The IRS is clamping down on organizations which do not follow the disclosure requirements** -- A law enacted by Congress in 1993 establishes strict rules governing the sale of tickets for special events, the sale of auction items, and other situations where the donor is receiving something of value in return for his/her donation. After years of advising charities that they should tell donors that some portion of the ticket price is not tax deductible, and years of frustration in watching frequent and flagrant violations of this rule, the IRS is clamping down.

VIOLATIONS: The penalties for violating these requirements can be severe. A charity may be assessed a penalty of \$10 per contribution, up to a maximum of \$5,000 per fundraising event.

- **Disclosure of deductibility when donors receive something in return for contributions** -- The 1993 law applies to any contribution over \$75, where donor is receiving something of value in return. In these cases, the charity must tell the donor that the only portion of the contribution that is tax deductible is the amount that exceeds the fair market value of whatever the donor received in return. The charity must also provide the donor with an estimate of the fair market value for the goods or services provided to the donor. For example, if you sponsor a gala for which tickets are \$100 and where food and entertainment with a fair market value of \$50 is provided, you must include on the solicitation materials a statement to the effect that only \$50 of the ticket price is tax deductible, and that the fair market value of admission to the event (including the food and entertainment) is \$50.

- **Determining fair market value** -- If the fair market value of the food, entertainment, merchandise or other goods or services is equal to or greater than the cost of the ticket or amount of the contribution, then no portion of the contribution is deductible. If this is the case, you should state on the ticket, or in the catalog or solicitation materials that the ticket price or donation is NOT tax-deductible.

Fair market value is the retail value of the goods or services to the donor. It is not the wholesale value or wholesale cost, nor is it affected by whether or not the charity received any of the goods or services as donations. The charity must provide the donor with a good faith estimate of the fair market value of the goods or services that were provided. The IRS will accept the charity's estimate of value provided it is based on some reasonable methodology. You should retain records demonstrating how you determined the fair market value of such items.

Although these mandatory requirements for fundraising solicitations are only applicable to payments over \$75, it would be a good idea to adopt these procedures regardless of the amount involved.

- **Giving items of insubstantial value to donors** -- The full amount of the payment may be tax-deductible if the item you provide to the donor is of insubstantial market value. The IRS considers the benefit to the donor insubstantial if:
 - (a) the fair market value of what the donor receives is less than either 2% of the amount of the contribution or \$102 for 2013, whichever is less; or

(b) the amount of the contribution exceeded \$51 or more, the benefits received by the donor are token items that include the logo or name of the organization, and the cost of the token item was less than \$10.20 (for 2013).

- **No deductibility for raffle tickets** -- Payments for raffle tickets, lottery tickets, or door prize tickets are not tax-deductible.
- **When the donor refuses items of value** -- The donor may deduct the full value of the charitable contribution by refusing the goods or services offered. For instance, in situations where the donation includes tickets to an event, if the donor returns the tickets to the organization for resale, the donor can deduct the full amount paid for the ticket. Merely not using the goods or services provided (e.g. not using the dinner tickets) is not enough.

DEDUCTIBILITY AND CHARITABLE AUCTIONS:

Regulations also clarify the legal procedures for charitable auctions. The regulations make clear that the charity must make a good faith estimate of the fair market value of the items to be auctioned. Successful bidders must then be told that only the portion of their payment that exceeds the fair market value is deductible as a charitable contribution.

- **Good faith estimates of auctioned goods or services** -- When making a good faith estimate of the value of goods or services provided to a donor (at an auction or otherwise), the regulations provide that any reasonable methodology will suffice. Assigning a value that is within the range of typical retail prices is acceptable, even if the charity chooses the lower end of the price range. When the goods or services are unique, the estimate of fair market value may be made based upon the fair market values of similar merchandise or services. You should retain records demonstrating how you determined the fair market value of such items.

DEDUCTIBILITY AND MEMBERSHIP BENEFITS:

Annual membership benefits offered to a donor for a payment of \$75 or less per year may be disregarded if the benefits are rights or privileges that can be exercised **frequently** during the membership period (i.e., free parking or discounted admission to organization's facilities, free or discounted parking, preferred access to goods or services, discounts on purchases of goods or services).

- **Disregarding free admission in the deductibility equation** -- Free admission to an event may also be disregarded, provided that the event is open only to members and cost (excluding allocable overhead) for the event is no more than \$10.20 per person in 2013.
- **Do not disregard admission to a series or limited number of performances in the deductibility equation** -- It is important to emphasize that in order to be disregarded, the membership benefits must be capable of being exercised frequently. Thus, a membership benefit package that grants the donor the right to visit a museum, zoo, gallery or other facility on a daily or weekly basis will qualify. A membership that allows a donor to attend some or all of a limited number of performances (e.g., a series of four performances during a theater season) will not satisfy the frequency requirement.
- **Newsletters generally disregarded in the deductibility equation** -- A newsletter sent to members or contributors may generally be disregarded, provided it is not of commercial quality.

- **Special considerations for organizations with levels of membership** -- Finally, for organizations that offer levels of membership benefits which vary according to the amount contributed, benefits for membership categories that cost \$75 or less can be disregarded when a part of a higher cost membership benefit package. However, the benefits disregarded must be identical to those involved in the less expensive membership category.

Example: Museum Offering a Membership Category over \$75 and Membership Category under \$75

A museum offers two membership categories, *Bronze* membership (at a cost of \$60/year), and *Silver* membership (at a cost of \$200/year). Membership benefits consist of free admissions, free parking and gift shop discounts for *Bronze* members and free parking, gift shop discounts for goods and services, and special commemorative silver bowls (valued at \$35) for *Silver* members. For donors contributing \$60, free admissions, free parking and gift shop discount are disregarded and the entire \$60 is a tax-deductible contribution. For donors contributing \$200, free admissions, free parking and gift shop discount are disregarded. However, the silver bowl may not be disregarded. Thus, the museum must notify the donor that only \$165 of the \$200 contribution is deductible.

BENEFITS PROVIDED TO EMPLOYEES OF CORPORATE CONTRIBUTORS:

Sometimes a charity may provide membership benefits or other goods/services to the employees of a corporate contributor. Here, too, benefits that would be disregarded if provided to an individual contributor may also be disregarded if provided to employees of a contributor. Moreover, in this situation, the charity may merely provide a description of the goods/services **offered** to the employees of the corporate donor and is **not** required to make a good faith estimate of the fair market value.

BENEFITS PROVIDED ON THE BASIS OF A MATCHED CONTRIBUTION:

Many employers have programs to match contributions made by their employees. In some cases, the employee-donor may be eligible to receive goods or services in return - based on the total amount contributed by both employee and employer. When goods or services are provided to an employee in exchange for a matched contribution, the benefits received by the employee will affect the deductibility of the employee's contribution only. The benefits, however, will not reduce the deductibility of the employer's deductible charitable contribution. Receipts or notices given to employees or employers in this situation should reflect their own contribution, any benefits received by each, and the value of such benefits.

Example: Matching Contributions

An employee makes a \$500 contribution to a charity; it is then matched by his/her employer with an additional \$500. The charity provides the employee with goods/services based on the combined contribution of \$1,000 and does not provide any additional benefit to the employer. The receipt given to the employee must include: the amount of the employee's contribution, a description of the goods/services provided, and the organization's good faith estimate of the fair market value of the benefit received. The receipt provided to the employer for the matched payment must list that no good or service was provided to the employer in consideration of its \$500 contribution.

DISCLOSURE REQUIREMENTS IN FUNDRAISING RECEIPTS/ACKNOWLEDGMENTS

Do you issue receipts for contributions? Donors who itemize their taxes and wish to claim a deduction for a cash contribution must have a bank record (cancelled check or bank statement) or written communication from the charity (receipt or other acknowledgement). There is no minimum threshold on the amount of the gift that requires written substantiation as in the past. This new law is in effect for all contributions made in tax years beginning August 17, 2006 and later.

For contributions of \$250 or more, however, a cancelled check or bank statement alone is not enough. For these larger donation amounts a receipt or written acknowledgment from the charity is required. The law does not specify any particular form for the receipt, but certainly the document should include the name and address of the donor, and the amount of the donation. Many nonprofits issue receipts in the form of acknowledgment or thank you letters. In 2002, the IRS began accepting electronic receipts as a valid method to acknowledge a gift to a public charity.

- In many states, all receipts should include the disclosure statement as outlined in that state's charitable solicitation law – Again, consult the state agency that regulates charities for more information.**
- Issue receipts where the donor does not receive anything of value in return for his/her contribution.**

Sample Text to be Included in Receipt/Letter Acknowledging donation of \$250 or more where the donor does not receive anything of value in return for his/her contribution:

Thank you for your contribution of \$250 on [date]. You should retain this receipt/letter in your records for tax purposes. As you may be aware, the IRS no longer will accept a canceled check as substantiation of a charitable contribution of \$250 or more.

[Select one]:

This letter further serves to verify that you did not receive anything of value in exchange for your contribution. Therefore, the entire amount of your donation is tax-deductible.

OR

This letter further serves to verify that the items you received in exchange for your donation were insubstantial under IRS guidelines. Therefore, the entire amount of your donation is tax-deductible.

The full amount of the donations may be tax-deductible if the item you provide to the donor is considered to be of insubstantial market value. See the previous section, DISCLOSE TO DONORS HOW MUCH OF THEIR CONTRIBUTIONS ARE DEDUCTIBLE for more information on gifts of insubstantial value.

- **Issue receipts where the donor gives a non-cash or in-kind donation** -- Many nonprofits solicit and receive in-kind gifts each year. Some examples include: computer equipment, furniture, cars, and clothing. In tax years beginning after August 17, 2006 or later, donors are generally only able to take a deduction for charitable contributions of clothing or household items if they are in good used condition or better. Donation of a single item of clothing or household property that is not in good used condition or better is only allowed if the claimed value is \$500 or more and the value is substantiated by an appraisal from a qualified appraiser.

A receipt is required for non-cash donations with a value estimated to be \$250 or more. While not required, if the value of the in-kind gifts have an estimated value of less than \$250, it is a good idea to provide a receipt or acknowledgment anyway so that the donor has some proof that the gift was given. However, it is advisable to prepare a receipt that merely describes the donated property instead of attempting to place a value on it. The donor is responsible for valuing the property him/herself.

Sample Text for Receipt/Letter Acknowledging donation of non-cash or in-kind donation

Thank you for your donation of a Hewlett Packard Desk Jet 500 printer. The Internal Revenue Code prohibits our organization from placing a value on your donated gift. ABC Nonprofit is a 501(c)(3) tax-exempt organization. No goods or services were provided by ABC Nonprofit in return for the contribution. Your contribution is deductible to the fullest extent allowed by law. You should retain this receipt for tax purposes.

When a donor wishes to take a tax deduction for noncash gifts when the value for all of the noncash gifts is more than \$500 (i.e., household items, artwork, automobile, car, etc.), the donor must file IRS Form 8283. In certain cases, the donor also needs to get a qualified appraisal.² Then, if the organization sells all or part of the donated good (worth more than \$5,000) within three years, the organization must report its sale on IRS Form 8282 (Donee Information Form) and must give a copy of the Form to the donor as well.

- **Issue receipts where the donor receives goods or services** -- When an organization provides donors with goods or services in return for contributions, the organization should first determine whether a receipt is required. First a charity should subtract the value of any goods or services that were provided to the donor from the amount of the donation. For example, if a donor made a gift of \$275 and in exchange received goods or services valued at \$50, then the deductible portion of the gift is only \$225 and the receipt requirement is not triggered. That said, it is helpful to donors to provide a receipt that outlines the deductibility of a gift even when not legally mandated. See the previous section, **DISCLOSE TO DONORS HOW MUCH OF THEIR CONTRIBUTION IS DEDUCTIBLE** for more information.

Sample Text for Receipt/Letter Acknowledging donations where the donor receives something of value in return for his/her contribution:

Thank you for your donation of \$300.00 for the ABC Nonprofit's Annual Gala Celebration. ABC Nonprofit is a 501(c)(3) tax-exempt organization. This letter

² In the cases of donations of automobiles, boats, or planes, there are additional restrictions and requirements. See IRS Publication 526 for more information.

further serves to verify that you received dinner and entertainment, which had a fair market value of \$70.00. Therefore, only \$230.00 of your donation is tax-deductible).

- **Substantiate contributions made by payroll deductions** -- Special procedures for substantiating charitable contributions are applicable when a contribution is made through a workplace campaign. When contributions are withheld from a taxpayer's wages and payment is made by the taxpayer's employer to a charitable organization, substantiation of the contribution can be made through a combination of two documents:

(1) a pay stub, Form W-2, or other document furnished by the taxpayer's employer that documents the amount withheld from the taxpayer's wages,

AND

(2) a pledge card or other document (receipt/letter) prepared by the organization that states the organization did not provide any goods or services as whole or partial consideration for any contributions made by payroll deduction. (The donor did not receive anything of value for their contribution.)

NOTE: Each payment made by payroll deduction is treated as a separate payment for purposes of applying the \$250 threshold.

DISCLOSURE REQUIREMENTS REGARDING FINANCIAL DOCUMENTS THAT MUST BE PROVIDED TO A MEMBER OF THE PUBLIC UPON REQUEST

Federal tax documents must be available for inspection by the public -- The following federal tax documents should be available for inspection, upon request during normal business hours, at your principal office and any regional or district office with three or more full-time employees (or the part-time equivalent). The Taxpayer's Bill of Rights enacted in 1996, also requires that you honor in-person or written requests for copies of these documents.

- The annual federal tax return, **form 990**, for the preceding three years. The copy available for public inspection should include all attachments, schedules, and the form 990-T, the Exempt Organization Business Income Tax Return (for form 990-Ts filed after August 17, 2006), except you may omit: lists of names and addresses of contributors.
- The original application for tax exempt status, **form 1023 or 1024**, with all materials submitted in support of the application.
- The IRS's determination letter issued in response to your application for tax exempt status, or any IRS letters issued in response to your annual tax return.

When providing public access to these federal tax documents:

- Documents must be provided free of charge, except that you may charge a reasonable fee for reproduction and mailing costs. You **MAY** charge \$1.00 for the first page and \$0.15 for each additional page of copying.
- You **MAY NOT** require the person making the request to tell you the reason they want to see the materials.

While there is a limited exception to the requirement that you have the materials available at regional and branch offices, we recommend you have the materials available at any site with three or more full-time equivalent employees.

Some states also have public disclosure requirements for nonprofits' financial documents. Consult your state's charity regulatory authority for more information.

DETAILED DISCLOSURES ARE REQUIRED FOR CONTESTS, SWEEPSTAKES AND PROMOTIONS

Any fundraising program involving a contest, sweepstakes, or promotion for which a prize, or a chance to win a prize, is offered in exchange for a contribution will trigger an additional set of disclosure requirements. Because raffle tickets, lottery tickets, and contest entry fees are not deductible as charitable contributions, nonprofits should take care to avoid referring to the price of a raffle ticket as a donation or a contribution. Charities offering raffles or other games of chance should contact the appropriate local jurisdiction to obtain permits and learn about restrictions for such activities under specific local laws.

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About the Standards for Excellence Institute

The Standards for Excellence Institute is a national initiative established to promote the highest standards of ethics and accountability in nonprofit governance, management and operations, and to facilitate adherence to those standards by all nonprofit organizations. The Institute uses as a vehicle the Standards for Excellence program, a system of nonprofit sector industry self-regulation originated by the Maryland Association of Nonprofit Organizations and currently replicated by licensed partners in Colorado Springs, Delaware, Ohio, Oklahoma, Pennsylvania, Louisiana, and West Virginia. The program is also being offered to chapters of The Arc nationwide through The Arc of the United States, and to Catholic nonprofit organizations nationwide through the National Leadership Roundtable on Church Management

The centerpiece of the Institute's program is the *Standards for Excellence: An Ethics and Accountability Code for the Nonprofit Sector*. The Institute also makes available to member organizations a comprehensive system of educational tools to enable individual nonprofit organizations to improve their governance and management practices. Standards for Excellence certification is available to individual organizations through a rigorous peer review process in selected locations and nationwide through the Standards for Excellence Institute.

For more information about joining the Standards for Excellence Institute or to obtain additional copies of the booklet or educational resource packets visit our website at www.standardsforexcellenceinstitute.org.