



**State Leaders Conference  
Boston, February 22, 2007**

**Charitable Contributions, Silent Auctions and Raffles**

✓ ***Are all ENA State Councils eligible to accept tax deductible charitable contributions?***

ENA State Councils which are exempt under IRS Code Section 501(c)(3) are eligible to accept tax deductible charitable contributions. Section 501(c)(6) organizations are not eligible to accept tax deductible charitable contributions (they may receive other payments which may be deductible as business expenses if they serve a business purpose, but that is beyond the scope of this handout).

✓ ***Is there anything a State Council must do to maintain its eligibility to accept tax deductible charitable contributions?***

Generally, the IRS requires that a State Council file a Form 990 annually, if the Council meets the gross revenues test, in order to maintain its 501(c)(3) status.\* In addition, many states regulate public charities such as 501(c)(3) organizations. Often states require such organizations to file a state form 990 or similar report. There may be an audit requirement as well for larger organizations. Even small organizations who do not file a federal Form 990 may have state filing requirements.

As soon as national ENA confirms that you have been added to ENA's 501(c) (3) group exemption, you should determine what requirements may apply to your Council. Separate handouts on federal and state filing requirements are available on ENA's Web site.

\*The Pension Protection Act of 2006 includes a new requirement affecting small exempt organizations. Tax-exempt organizations not required to file Form 990 because their annual gross receipts are generally less than \$25,000 will now be required to file an "annual notice" with the IRS containing basic contact and financial information.

The notice requirement is *effective for fiscal years beginning after 2006*. This means that the earliest date on which the filing will be required will be sometime after December 31, 2007. State Councils should be aware of this new requirement, however, so that they can be prepared to report financial information to the IRS, although the IRS has not yet published a copy of the annual notice form.

✓ ***What is the allowable charitable deduction for silent auction items?***

***Donor***

The rule is that the donor is responsible for determining the value of the silent auction item for purposes of federal tax treatment of the contribution.

***Successful Bidder***

The rule is that if a successful bidder pays more than fair market value for merchandise, goods, or services, the amount paid that is more than the value of the item can be a charitable contribution if the bidder paid with the intent to make a charitable contribution.

Example:

Mr. Donor contributes to the ENA State Council for its silent auction, a condominium stay for two for a week which he valued at \$850. Ms. Bidder, the successful bidder pays \$500.

**Question 1:**

*Which amount should the State Council tell Mr. Donor he can deduct – the \$850 at which he valued the stay or the \$500 it earned for the State Council?*



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Answer: Mr. Donor is responsible for determining what he can deduct, if anything. The State Council should not advise him to what extent the contribution is deductible. The rules regarding the determination of the proper amount to deduct for contributions of property are complex and their interpretation is the responsibility of the donor.

The State Council should include the following in their acknowledgement letter to Mr. Donor:

A description (but not the value) of the noncash property contributed to the State Council by the donor; and

A statement that the State Council did not provide any goods or services in consideration for any of the property contributed to the State Council.

(If the State Council did provide goods or services to the donor, the Council must provide a description and good-faith estimate of the value of those goods and services.)

### Question 2:

*Which amount should the State Council tell Ms. Bidder she can deduct?*

Answer: Ms. Bidder did not pay more than the fair rental value. Therefore, she has not made a deductible charitable contribution. If she had paid more than the \$850, the amount contributed in excess of the \$850 is generally deductible as a charitable contribution.

In all cases where the successful bidder paid more than \$75, the State Council must inform the bidder that only the amount in excess of the value of the goods or services provided by the organization is deductible as a charitable contribution. The State Council must also include its good-faith estimate of the value of the goods or services provided to the bidder.

✓ ***What is the allowable charitable deduction for the purchase of a raffle ticket?***

The IRS has consistently enforced the rule that the amount paid for the chance to win a prize is equal to the market value of the chance of winning. As a result, there is no charitable contribution deduction allowed for purchase of a raffle ticket.

✓ ***Does the State Council need a license to conduct a silent auction or a raffle?***

Generally, silent auctions are not licensed. However, states and many municipalities have licensing regulations for the conduct of raffles. They often have rules relating to the maximum price per ticket, record keeping, age of buyers and sellers, size and nature of the prize, etc. Some states require licenses only when tickets are sold to the public, but exempt raffles conducted for members only. Some states allow a maximum number of public raffles each year, without a license.

If your State Council regularly has raffles, you should know whether the raffles are in compliance with your state's regulations. Often such information is on the Web site for your state's department of revenue or gaming commission.