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Not-for-Profit Law

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Top Ten Things to Know about Not-for-Profit Raffles in New York State

Summary

Raffles are an excellent way for not-for-profit organizations in New York State to raise funds for charitable causes. However, to ensure transparency and prevent abuses, the State has strict rules and regulations that dictate how raffles can be conducted.

If your organization is considering organizing a raffle, it is important to understand the legal framework that applies to raffles to ensure compliant and successful fundraising efforts. This Legally Sound outlines ten key legal considerations for non-profit raffles in New York State.

February 3, 2025

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Top Ten Things to Know about Not-for-Profit Raffles in New York State

1. Who Can Hold a Raffle?

Under New York State law, not all organizations are allowed to conduct raffles. Only “authorized organizations” may run a raffle.[1] These organizations include:

- Charitable and religious organizations
- Educational and fraternal organizations
- Volunteer firefighter and veteran organizations[2]

In each case, such authorized organizations must have been in existence for at least one year prior to the raffle.[3]

Further, authorized organizations may not be formed primarily for the purpose of conducting raffles and other games of chance.[4] More specifically, at least 75% of their activities must consist of activities other than conducting raffles and games of chance.[5] All raffles must be operated in furtherance of the organization’s tax-exempt mission, and all raffle proceeds must be used to support the lawful, charitable purposes of the organization.[6]

2. Raffle Registration and License: Do you Need One?

In New York, it is illegal to conduct a raffle without the required registration or license.[7] The legal requirements vary according to the net proceeds that an organization anticipates receiving from its raffle(s). The three primary categories of raffles are:

- Less than \$5,000: If the raffle is anticipated to generate net proceeds of less than \$5,000, the organization does not need to register with the New York State Gaming Commission.[8]

[1] NY GEN MUN § 190-a; NY GEN MUN § 189(14).

[2] NY GEN MUN § 190-a(2).

[3] Id.

[4] NY GEN MUN § 190-a(3).

[5] NY GEN MUN § 190-a(2)(b).

[6] See 26 U.S. Code § 501(c)(3); NY GEN MUN § 190-a(4).

[7] 9 NYCRR 4820.24m; NY GEN MUN § 189.

[8] NY GEN MUN § 190-a(1); New York State Gaming Commission Guidelines for Conducting Raffles (8/24).

[9] NY GEN MUN § 190(4); New York State Gaming Commission Guidelines for Conducting Raffles (8/24).

- \$5,000 to \$29,999: If the raffle is anticipated to generate at least \$5,000 but less than \$30,000 in net proceeds, the organization must obtain a Games of Chance Identification Number from the Commission and submit a Verified Statement of Raffle Ticket Operations.[9]
- \$30,000 or More: If the raffle is anticipated to generate net proceeds of \$30,000 or more, the organization must obtain a Games of Chance License from the Commission.[10]

Note the following exception: if an organization derives aggregate net proceeds from multiple raffles in a year that is \$30,000 or greater, such organization is subject to the License requirement. [11] Also, if an organization does not anticipate making \$30,000 in net proceeds but in fact does, it must retroactively obtain a License.[12]

The License application process involves:

- Submitting a multi-form Application for Games of Chance License to the Gaming Commission, which includes information about the raffle and the organization's officers, directors, and individuals in charge of the raffle[13]
- Paying a \$25 License fee[14]
- Displaying the License during the raffle[15]
- If applicable, remitting an additional license fee of 2% of net profits over \$30,000[16]

The registration and application process can take several weeks to several months, so it's essential to plan ahead and ensure that all paperwork is filed in a timely manner.

3. Ticket Sales: New York and Local Restrictions

New York State imposes specific restrictions on how raffle tickets can be sold, including:

- Timing: No sale of raffle tickets is permitted more than 180 days prior to the date on which the raffle will be conducted.[17]

[10] NY GEN MUN § 189; New York State Gaming Commission Guidelines for Conducting Raffles (8/24).

[11] NY GEN MUN § 190-a(1).

[12] NY GEN MUN § 190(4).

[13] NY GEN MUN § 190; Forms GC-2, GC-2A, and GC-2B, Application for Games of Chance License (8/2024).

[14] New York State Gaming Commission Raffles Overview, <https://gaming.ny.gov/raffles>.

[15] 9 NYCRR 4603.13.

[16] NY GEN MUN § 195-f(4).

[17] NY GEN MUN § 189(13)(d).

- **Sales:** Tickets can be sold through physical sales or online. However, additional rules apply to the sale of raffle tickets online, and transactions should be processed through a legitimate, secure platform.[18] Approval of the Commission is required for online raffles via a separate Internet Raffle Application.[19] Tickets may only be sold to purchasers aged eighteen years and older.[20]
- **Ticket Information:** Each raffle ticket must contain certain information, including the name and ID number of the organization conducting the raffle, the location and time of the drawing, the ticket serial number, the ticket price, a clear description of the prize(s) being offered, a statement that the "ticket holder need not be present to win", and the purchaser's contact information (to appear on the ticket stub).[21] (Note that these requirements do not apply to 50/50 tickets).[22]
- **Location:** There are additional rules which apply to raffles conducted outside of an organization's premises.[23] Further, in order to conduct ticket sales or a raffle drawing outside of the organization's local municipality, it must submit a consent form to the Commission.[24] Specific municipalities may also have their own local games of chance laws.

4. Prize Structure: Requirements to Know

Some key New York guidelines and best practices with respect to prizes include:

- **Prize Value:** No prize can be worth more than \$300,000.[25]
- **Prize Type:** Alcohol may not be awarded as a prize.[26]
- **Recordkeeping:** It's important for organizations to maintain accurate records of all raffles and prize awards, including the number of tickets sold, winner's name, winning ticket number, and prize details.[27] This not only ensures transparency but also helps avoid legal and accounting issues down the road.

[18] See NYCRR 4620.22(b)(7); NY GEN MUN § 189(16).

[19] NYCRR 4620.22(b)(7)(vi); Instructions to Internet/Mobile Raffle Application Form.

[20] NY GEN MUN § 195-a; NY GEN MUN § 190-a(3).

[21] 9 NYCRR 4620.22(a)(1).

[22] Id.

[23] See NYCRR 4620.22(b).

[24] Instructions to Form GC-RCF: Raffle Consent Form.

[25] 9 NYCRR 4620.22(b); NY GEN MUN § 189(5)(b).

[26] 9 NYCRR 4620.22(b)(12).

[27] See, e.g., IRS Publication 3079 (Rev. 10-2018), Tax-Exempt Organizations and Gaming.

5. Drawing the Winner: Rules and Best Practices

The drawing of raffle winners must be conducted in a fair and transparent manner. Organizations should adhere to the following:

- **Organizational Involvement:** Under New York law, the raffle must be managed by the organization's bona fide members or their relatives, who may not receive consideration for their participation.[28]
- **Public Drawing:** New York requires that the drawing be conducted publicly (i.e., in plain view of the ticket purchasers).[29]
- **Impartiality:** The method of drawing tickets should be clearly announced and ensure that each player has an equal chance of winning.[30]
- **Results:** We recommend that raffle results be posted on the organization's website, social media, or through similar communications channels. This increases transparency and can generate positive publicity for the organization.

6. The Applicability of Unrelated Business Income Tax (UBIT)

Turning to federal tax law for a moment, Unrelated Business Income Tax (UBIT) is a tax that applies to income generated by tax-exempt organizations from regularly carried on business activities that are not substantially related to their charitable, tax-exempt purpose.[31] In the context of raffles, it's important to determine whether the income generated from a raffle could be considered unrelated business income.

- **Raffles:** Even if raffle proceeds are used to support the organization's mission, the IRS generally considers raffles to be unrelated to exempt purposes.[32] Thus, if raffles are a regularly carried on trade or business operation (i.e., they occur more than occasionally or sporadically), the organization might be required to pay UBIT on the raffle income.[33] Note, however, that there is an exception for certain activities conducted with substantially all volunteer labor.[34]

[28] NY GEN MUN § 189(10); NY GEN MUN § 189(11); NYCRR 4620.22(b)(13); NYCRR 4620.22(b)(14).

[29] 9 NYCRR 4620.22(b)(4).

[30] 9 NYCRR 4620.22(b)(3); 9 NYCRR 4620.22(a).

[31] IRS Publication 598, Tax on Unrelated Business Income of Exempt Organizations (Rev. March 2021).

[32] IRS Publication 3079 (Rev. 10-2018), Tax-Exempt Organizations and Gaming.

[33] Id.

[34] Id.

- **Fundraising vs UBIT:** The line between permitted charitable fundraising and unrelated business activity can sometimes be murky, so it's crucial to evaluate each raffle on a case-by-case basis and consult a tax or legal expert when necessary.

7. Withholding and Reporting: How the IRS Treats Prize Winnings

When it comes to raffle winnings, those winnings are considered income subject to income tax. Federal withholding and reporting rules for the organization include:

- **Reporting:** If raffle prizes are: 1) valued at \$600 or more after deducting the cost of a ticket; and 2) are at least 300 times the amount of a ticket, the winnings must be reported on IRS Form W-2G.[35]
- **Withholding and Reporting on Cash:** In addition, if raffle prizes exceed \$5,000 after deducting the cost of a ticket, federal income tax withholding and reporting on Form W-2G and Form 945 is required.[36] The withholding rate for cash winnings is 24%, and such amount must be withheld from the winnings by the organization and remitted to the IRS.[37]
- **Withholding and Reporting on Noncash:** For noncash prizes, there are two ways to accomplish withholding. First, the winner can pay the organization the 24% withholding tax in cash so the organization can remit it to the IRS.[38] This is likely not ideal for the winner. Second, the organization can pay the withholding tax on behalf of the winner. However, in this case the rate is 31.58% (instead of 24%).[39] Note also that alternative backup withholding can apply in special circumstances.[40]

8. Are Raffle Tickets Deductible?

In many fundraising scenarios, charitable contributions are tax deductible for donors.[41] However, contrary to popular belief, ticket purchases for raffles are generally considered non-deductible for federal income tax purposes.[42]

[35] See 26 U.S. Code § 3402(q); Instructions for Forms W-2G and 5754 (Rev. January 2021).

[36] Id.

[37] Id.

[38] Id.

[39] See 26 U.S. Code § 3402(q); Instructions for Forms W-2G and 5754 (Rev. January 2021).

[40] See 26 CFR § 31.3406(g)-2(d).

- **Non-Deductibility:** The IRS usually treats raffle ticket purchases as payments for a chance to win a prize, not as charitable donations.[43] Exceptions may apply for certain taxpayers in special circumstances.
- **Exceptions for Contributions Above Ticket Price:** If a ticket purchaser makes an additional, separate donation above the ticket price, that contribution may be deductible.[44] For example, if a ticket costs \$100 but a person donates an additional \$50 as a charitable gift, the \$50 portion may be deductible as a donation, while the \$100 spent on the raffle ticket may not be. In this case, a written acknowledgement for any donation portion would be required.[45]

9. Remember to Report

After a raffle is concluded, the organization needs to comply with certain reporting requirements:

- **Financial Reports:** Organizations must report to the relevant municipal clerk and/or the Gaming Commission certain raffle information, which may, depending on the raffle, include information on gross receipts, expenditures, net proceeds, ticket sales, schedule of prizes, and winners.[46]
- **Tax Compliance:** The organization must ensure that the raffle's financial results are appropriately reported on or attached to its Form 990 and Form CHAR500 for tax purposes. [47]

[41]See 26 U.S. Code § 170.

[42]See Rev. Rul. 83-130; 1983-2 C.B. 148.

[43]Id.

[44]See Rev. Rul. 67-246; 1967-2 C.B. 104.

[45]See Publication 1771, Charitable Contributions - Substantiation and Disclosure Requirements.

[46] NY GEN MUN § 195-f; 9 NY ADC § 4624.1; Instructions to Form GC-7R Financial Statement of Raffle Operations.

[47]See Instructions for Form 990 Return of Organization Exempt From Income Tax (2024); Instructions for Form CHAR500 Annual Filing; 9 NY ADC § 4624.1(a); NY GEN MUN § 195-f(3).

10. Penalties for Non-Compliance

Failure to comply with the legal requirements governing raffles in New York State can result in adverse consequences for not-for-profit organizations. These may include penalties, fines, suspension of the organization's raffle license, action by the Attorney General, and in some cases even criminal charges.[48] Also, in order to avoid jeopardizing their tax-exempt status, organizations must ensure that they comply with withholding requirements appropriately and that all raffle revenue is properly reported for tax purposes.[49]

Conclusion: Conducting a Successful Raffle

Raffles can be an effective and fun way for not-for-profit organizations to raise funds for their charitable mission. However, conducting a raffle in New York State requires careful attention to various legal rules and requirements.

Before launching your raffle initiative, be sure to consult with a qualified legal or tax professional on the ins and outs of charitable gaming law. By doing so, you can focus on raising funds for your mission while avoiding legal complications.

[48] See, e.g., 9 NY ADC § 4602.10; 9 NY ADC § 4626.15; NY GEN MUN § 194; NY GEN MUN § 195-j; NY GEN MUN § 195-k; A.G. Underwood Announces Settlement With Scam Veterans' Charity (May 29, 2018) (<https://ag.ny.gov/press-release/2018/ag-underwood-announces-settlement-scam-veterans-charity>) .

[49] See IRS Publication 3079 (Rev. 10-2018), Tax-Exempt Organizations and Gaming.

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About Meliora Law

Meliora Law is a women-owned boutique firm located in New York's Capital District. Our attorneys are experienced in corporate law, transactions, tax, health care, trusts and estates, and not-for-profit law, and are committed to providing exceptional legal services to clients through practical and innovative solutions.

Meliora Law was founded as a response to the changing legal environment and the needs and desires of our clients. Our goal is to build lasting relationships with our clients and deliver services that are reflective of and responsive to client needs and practicalities. Intentionally nimble, we are constantly innovating new ways to better serve clients, including streamlined mechanisms for client communication and project management, the development of alternative fee arrangements and flexible payment models, and a growing array of flat fee packages for legal services.

About the Author



Vittoria Buzzelli is a Corporate and Not-for-Profit Attorney at Meliora Law, PLLC. She has experience advising a variety of not-for-profit and tax-exempt organizations. With an in-depth understanding of the complex regulatory landscape facing such organizations, Vittoria has helped numerous organizations navigate the intricacies of nonprofit, tax, governance, and fundraising laws.

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