

Crowdfunding Legal Issues
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My previous article discussed how I have come to embrace crowdfunding as an enhancement to the fundraising activities of an organization. But I also cautioned that implementation requires full integration with the advancement/development office. I listed a few reasons why I feel this is important. One reason I left out – because it deserves its own discussion – is that if you do it wrong, you could get into legal trouble!

Fundraising activities must be conducted under the jurisdiction of federal and state law. If we represent a nonprofit organization and want our participants to be able to claim a tax-deduction for their contributions, there are strict IRS regulations we must adhere to. And state laws also control the manner in which fundraising activities can be conducted. If the advancement office is not involved in helping groups understand these rules, not only can fines be levied, but we stand the chance of losing our tax-exempt status. I don't mean to rain on your parade, but this is the reality. Crowdfunding, just like direct mail and phonathons and personal solicitations all must comply with a gazillion laws.

Did you know that some 28 states have their own solicitation registration requirements you must follow (at some cost) before you ask for a penny from a donor who lives in those states – no matter how you solicit those dollars? Sadly, you just cannot go asking for money without playing by federal and state laws.

I am not going to go into the various state regulations here. Too many and too boring. That's for your advancement office to discuss with you. But here are some of the key legal requirements you should be aware of when crowdfunding in order to stay on the right side of the law:

- **Don't Give Away the Farm!** Lots of organizations like to give incentives to folk encouraging them to give. T-shirts, bumper stickers, coffee mugs, and the like. And that's just fine. But the IRS actually has imposed limits on what you can give if you want to protect the full deductibility of the gift. In 2016 (yes, that's right – the IRS changes the limits every single year so you need to be on top of this) you can only provide these tchotchkes if the donor makes a *minimum* gift of \$53, and the combined value of all benefits is under \$10.60.
- **Giving Away The Farm Can Be a Pain.** Yes, you can give donors benefits/incentives that exceed these limits and still offer *some* deductibility. But then it gets complicated. You have to cross t's and dot i's and issue very detailed receipts that reflect not only the total amount paid, but describe in detail the benefits that were provided, what their values were (itemized), and the net tax-deductible amount (or at least a statement telling the donor to do the math and calculate their deduction – but that's not very donor-centric).
- **What Happens in Vegas Should Happen in Vegas.** Don't turn your crowdfunding site into a gambling venue. I know, you're saying you would never do that – “We are simply asking for donations and will enter all donors into a drawing for an iPad – pre-loaded

with Pokémon Go.” Actually, that’s gambling or, put into IRS terms, a “game of chance.” 2 things to consider before you do this

- Any payment that results in some form of drawing/raffle entry – regardless of the amount paid and the value of the prize – 100% negates the tax-deductibility of the payment.
- Even if you don’t care about tax-deductibility, every state has its own laws pertaining to “gaming.” Some do not allow it at all. Others have interstate gaming restrictions. Others have limits on the number of these activities an organization can conduct each year if not their primary business. And others could cause a nonprofit organization to lose its tax-exempt status. Leave gambling to the dice-throwers in Vegas.

The laws governing fundraising activities are not intense, but as crowdfunders we need to know that they apply to us just as they do all fundraising activities. All the more reason to seek advice from your advancement office before you launch – just make sure those t’s are crossed and I’s are dotted!