501(c)3 gaming activities

Bingo and Gaming Activities Here are three other activities that may raise “red flags” to the I.R.S. as it relates to your 501c3 nonprofit:

1) Bingo activities

2) Gaming activities

3) Hiring other people or organizations to offer bingo or gaming activities for you

If you want to structure your 501c3 nonprofit to engage in any of these activities, you’ll need to include the following if you want to avoid issues with the I.R.S.:

List the income you make from the activities (or project what you expect to make)

List the expenses you paid from the activities (or project what you anticipate owing)

If you’re hiring someone, you’ll need to share how the arrangement is structured.

Make sure you include the following:

Share how you plan to negotiate at “arm’s length”

List their salary or wage for the work they are going to perform Share how they will be chosen among other applicants

Share that you will research the fair market rate to pay a person in this position to make sure that they are not being overpaid Include a copy of your contract with the person for the I.R.S. to review

Fundraising Activities

The specific fundraising activities that you engage in or plan to engage in are also of particular interest to the I.R.S.

Here are some best practices to consider:

If you hire someone to fundraise for you, you'll need to share the income and expenses from their work, share who is doing the fundraising for you and provide a copy of the contract to the I.R.S. for review.

If you're going to fundraise for other organizations, you'll need to share with the I.R.S. what you're planning to do, whom you're going to do it for and once again attach a copy of the agreement.

If you're going to give donors the option to tell you how they want their donation spent, you'll need to let the I.R.S. know that you are going to (1) keep separate accounts

for any donor that has the right to tell you how to use the funds; (2) let the I.R.S. know if the donor will have a say in the investments and distributions of the funds from their particular account; (3) provide specifics regarding the donor's level of involvement with giving advice as well as a copy of the documentation that you give to the donor. In addition to these main areas, if your nonprofit will be working with Managers, Developers, Joint Ventures and Partnerships, if you are starting a Childcare Organization, Cooperative service organization, Charitable Risk Pool, starting a School, Opening a Hospital or Offering Medical Care, providing Housing for low-income, the elderly or handicapped, Offering Scholarships, Fellowships, Student Loans or Grants, operating in

foreign country, etc., you will need to provide additional disclosures and carefully structure your organization as to position yourself to pass I.R.S. scrutiny. An extensive discussion of these activities exceeds the scope of this book. However, if you are considering any of these structures and need assistance, my law firm works one-on-one with clients opening these types of nonprofits and handles all of the paperwork necessary to put them in the best position to be approved by the I.R.S. Now that we covered how to legally structure your nonprofit to avoid I.R.S. trouble, let's talk about how to avoid getting kicked off of your own board of directors.

Chisholm, Audrey. Start A 501c3 Nonprofit That Doesn't Ruin Your Life: How to Legally Structure Your Nonprofit to Avoid I.R.S. Trouble, Lawsuits, Financial Scandals & More! (Nonprofit Law Series) (Kindle Locations 1661-1667). Greenlight Books & Publishing, LLC. Kindle Edition.

Fundraising Registration (Solicitation Licenses) Raising money has always been a potential source of liability for nonprofit organizations. Here are the general things you need to know. Generally speaking, if your 501c3 nonprofit wants to ask people or organizations in a particular state for donations, you will need to register in that state to "solicit" for donations if they require solicitation or fundraising registration. Currently, there are 40 states that require fundraising registration. (These are the states that do not have this requirement: Wyoming, Arizona, Vermont, Delaware, Texas, Idaho, South Dakota, Indiana, Nebraska, Iowa, Montana). Unfortunately, there isn't a national registry, so you have to register in each state individually.

The good news is that if you have a new nonprofit – you may be exempt from the requirement in many states if your revenue is under $25,000. But each state's requirements are different. You typically have to renew the Solicitation License or Fundraising Registration with each state every year. For example, in Florida, the Solicitation License is filed with the Florida Department of Agriculture and Consumer Services Division of Consumer Services and the expiration date for charitable organizations and sponsors is one (1) year from the initial date of compliance with registration requirements. If your nonprofit plans to raise money in other states, you should consider speaking with a nonprofit attorney about registering in those states to make sure that you are in compliance with the law.

DISCLAIMER

Website Disclaimer When Tax Exempt Status Is Approved Once your tax-exempt status is approved by the I.R.S., you can use the following language on your website: Revolution Leadership, Inc. is a federally recognized recognized 501c3 tax-exempt nonprofit organization. As such, donations are tax-deductible to the fullest extent of the law. This is standard language that you can use on your website to let donors and prospective stakeholders know that they can get a tax write-off for donating to your charity.

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When to Register Your Nonprofit to Do Business in Other States Once you have started your nonprofit in one state, you may need to register it as a "foreign corporation" to operate in other states. Generally, there are three primary reasons why a nonprofit may need to register in another state: Nonprofit Operations If your nonprofit is operating in another state, it may need to register as a "foreign corporation" so that it can get a "certificate of authority" to legally do business in that state.

If you want to know if the work that you are doing with your nonprofit qualifies as operating in another state, the state will look at the following factors: (1) if your nonprofit has an office or employee in that state; (2) if your nonprofit has a physical presence (3) if a substantial part of your nonprofit operations take place in that state; or (4) if your nonprofit has a substantial connection to the state. Generally, if you're only fundraising across or engaging in an isolated activity, that is not enough to qualify as operating within the state for the purpose of having to register in that state. Fundraising If your nonprofit is asking for donations within a certain state, some states will require that you register for a solicitation license in addition to the 501c3 approval that you've already

obtained from the I.R.S. If the state that you're raising money in requires it, you will need to file a solicitation license in that state as described in the section on Fundraising Registration in this book. Buying Items If your nonprofit is buying items in another state and wants the order to be exempt from sales tax, the nonprofit may have to apply for a "Sales and Use Tax Exemption." if their I.R.S. Letter of

Determination is not enough for that particular store or vendor. Now that we have learned about ways to stay out of legal trouble when raising money, let's explore the things you should do before accepting major donations to be in compliance with the law.

Chapter 11: Three Things You Should Do Before Accepting Major Donations A good way to protect yourself and the reputation of your nonprofit is to make sure you are handling donations that you receive for your nonprofit properly. Here are three things you should do before accepting major donations: Donor Contribution Statements The I.R.S. only requires that you give a contribution statement to donors that make a donation of over $250. If you are able, I recommend that you issue donor contribution statements for all donations. Here are a few reasons why this may be a helpful practice for you. First, providing a Donor Contribution

Statement documents that the amount received was a donation and that there is no expectation of goods and services in exchange for the amount. Although this should be clear when someone gives, it never hurts to put it in writing just in case it is not. Secondly, a written Contribution Statement conveys your appreciation for the donation. In the Contribution Statements we include in our packages for our clients, we always include language that shares the nonprofit's heartfelt appreciation for the donation. Lastly, a written Contribution Statement is an opportunity for you to highlight recent accomplishments and describe the impact your nonprofit is making as a result of their contribution. This serves a two-fold purpose. First, it allows the donor to know that they are supporting an organization that is winning and actually executing its mission successfully as reflected in the

accomplishments you share in the contribution statement. Secondly, they are able to see that their funds are being well spent which will hopefully encourage them to donate again in the future. Donor Receipt Another best practice is to always provide donors with a receipt after they make a donation. Generally, if they donate through PayPal or other merchant processors, the website will automatically generate a receipt and provide it to them electronically. For accounting purposes, having a receipt on file will help you have accurate records as it relates to the actual funds that were received by your nonprofit as well as the sources of those funds. Donor Agreement If a donor ever approaches you and wants to

make a major gift, I would highly recommend that you consider having a nonprofit attorney prepare a Donor Agreement. A Donor Agreement is a legal contract that outlines the terms of a charitable gift. It will lay out the rules for the donation and also make sure that both parties are in compliance with the law. A donor agreement is absolutely critical if the major gift comes with any types of restrictions or stipulations. My law firm drafts Donor Agreements for clients all of the time. They help the parties to avoid misunderstandings. They are specifically designed to discourage the donor from later requesting their money back or claiming that they are owed certain benefits or services in exchange for the gift - even if such terms were never apart of the original understanding. Trust me, these things do happen, so it is well worth it to legally protect yourself and have a signed Donor Agreement in

1. Individual Donations - In general, individual donations to charitable organizations may be deducted up to 50% of the person's adjusted gross income. If a person donates more than 50% of their adjusted gross income, the excess may be carried forward for up to five years. 2. Business Donations - If a business makes a charitable donation, the I.R.S. will generally classify it as a personal

expense and the corporation cannot deduct it as a business expense. Instead, it would be viewed as an itemized tax deduction. Again, the business should consult with a certified public accountant

accountant to review the schedules it files for its taxes to find out how to maximize tax benefits relating to the gift.

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Allows Others to Understand Your Nonprofit. In the future, you may decide that you would like to apply for grants or apply for a bank loan. In each of these scenarios, you will likely need to have financial statements statements prepared for your nonprofit so that the other parties (lenders, funding sources, etc.) can assess the financial health of your nonprofit. 3 Types of Financial Statements There are three (3) primary types of financial statements: Income Statement (also known as the Profit & Loss Statement), Balance Sheet and Statement of Cash Flows. It would take an entire book to discuss how powerful each of these financial statements is and explain all of the ways that they can benefit your nonprofit. However, here is a brief overview of each statement: Income Statement / Profit & Loss Statement (P&L) – On the most basic level, the Income Statement tells you how much money your nonprofit brought in and the bills the nonprofit had during a certain period of time. In order to make money in a nonprofit, you will need to have money left over after you pay all of your bills. This is a basic definition of "profit". The P&L lets you see the "bottom line" or your profit or loss after everything was paid during a specific time period (month, quarter, year, etc.) Here are just a few things an income statement will tell you about your nonprofit: How well is your nonprofit performing Is your nonprofit profitable (making money after the bills are paid)? Are you over budget or paying too much in some

Balance Sheet – The Balance Sheet lets you see your assets (things you own) and your liabilities (what you owe others) at any given moment in your nonprofit. Examples of assets would be cash in your bank account, all equipment your nonprofit owns and accounts receivable (money other people owe you). Examples of liabilities would be credit card debt, and loans and wages owed to employees. Here are just a few of the things a balance sheet will let you know about your nonprofit: If you need more cash reserves (money saved) If you can handle more debt

If you can handle growing or expanding If you need to be more aggressive with collecting money owed to you Statement of Cash Flows – To put it simply, a Statement of Cash Flows tells you where your money is coming from and how it is being spent during a period of time. Some nonprofits are profitable but go out of business because they did not have enough "cash on hand" to pay their bills. This can happen if the timing of when your bills are due and when you get paid is not aligned. Your Statement of Cash Flows can help you see if this is or will be a problem and correct it in advance.

Here are a few things you can learn about your nonprofit from reviewing your Statement of Cash

Flows: How much are you bringing in from sales and day-to-day nonprofit operations? How much money did you use to buy equipment or other assets? How much money did you borrow? Are you bringing in enough cash to pay your bills? How to Create Financial Statements Again, financial statements are a powerful tool for managing the performance of your nonprofit. Here are a few ways that you can create financial statements to increase the effectiveness of your nonprofit operations:

Do it Yourself. You can buy software or an app for your cell phone or tablet or you can use a cloud-based financial management website to manage your money and create financial statements. You can also create them using Microsoft Excel templates. Although it may take you some time to understand everything when you first start, taking the time to learn how to read and understand these financial statements will make you a savvier nonprofit founder, board member, officer or volunteer. Understanding financial statements will also help you communicate with others about your nonprofit. Consider visiting Lynda.com for online classes and tutorials regarding understanding and

creating financial statements. Hire a Bookkeeper or Accountant. Consider hiring a bookkeeper or accountant to prepare financial statements for your nonprofit. Keep in mind, it's never too late to begin using these powerful financial tools as you run your nonprofit. Now that we understand ways you can avoid financial fraud and the importance of reviewing the financials of your nonprofit regularly, let's talk how to avoid I.R.S. trouble when recruiting volunteers.

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As with most blessings, they can also be a curse if you are not careful in the way that you structure the volunteer opportunity. You need a Volunteer Agreement to help you to minimize the risk of the most common types of liability associated with building a team. My law firm prepares Volunteer Agreements for clients all of the time to help them build smart volunteer programs that avoid lawsuits. Here are just a few of the clauses that you will want to be included within your agreement to make sure you and your nonprofit are legally protected: The volunteer needs to acknowledge that they're agreeing to donate their services to your nonprofit;

The volunteer should acknowledge that they are not expecting and waive their right to any present or future payment (salary, wages, or other benefits) for the work they do for the nonprofit; The volunteer needs to be willing to complete any required training and follow the rules of the nonprofit; The volunteer will need to acknowledge that they are not an employee of the nonprofit; The volunteer should acknowledge that they will be held personally liable for any damages they cause to third parties for anything they do outside of their volunteer work; The volunteer should acknowledge that they will be held personally liable for any damages they cause to

third parties during their volunteer work if they were negligent; The volunteer should agree to confidentiality and non-disclosure terms about sensitive and confidential nonprofit information; The volunteer should agree that any work performed (e.g., presentations, etc.) while volunteering for the nonprofit becomes the property of the nonprofit; And more! If you make sure that you have a signed Volunteer Agreement on file for each of your volunteers, you will at least reduce the risk of some of the primary lawsuits and legal actions that take place when you have volunteers on your team. Now that we have discussed how to avoid liability when bringing volunteers into your nonprofit nonprofit organization, let's talk about how to legally pay yourself and others a salary.

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Articles of Incorporation This is the formal charter document for your nonprofit that is filed with your state. It should be prepared with asset protection clauses, limited liability clauses as well as the language that the I.R.S. and major grants require.

Federal Employer Identification Number (FEIN) The FEIN or taxpayer identification number is like a social security number for your nonprofit. This number allows donations that are given to your nonprofit to be viewed separately from personal income you receive that you have to report on your personal taxes.

Application for Tax-Exemption This is the actual application you filed with the I.R.S. (or that your nonprofit attorney filed on your behalf) to obtain tax-exempt status. You will need to keep a copy of this on file as well as any addendum you submitted or letters received from the I.R.S. I.R.S. Determination Letter (Tax exemption Letter) This is the letter the I.R.S. provides you with once your nonprofit is approved stating that you officially have tax-exempt status. You will need to keep this on file as most grants and funding opportunities require a copy of it. Bylaws These are the governing rules for your nonprofit. You will need to make sure the most recently adopted version of the Bylaws is on file and signed by the appropriate board members. Meeting Minutes Meeting minutes serve as a transcript that documents what took place during the official meetings you have with your board and committee members for your nonprofit. Letters & Correspondence from the I.R.S. If you ever send or receive a letter from the I.R.S., make sure you keep a copy in your business records. Nonprofit tax returns Make sure the Form 990s that you have filed for at least the last 3 years (or as many as you have if you are a new nonprofit) are kept in your Corporate Minute Book. Resolutions They document key votes and decisions that were made and formally adopted by your nonprofit. Asset Records As your nonprofit grows, you may acquire assets. Assets include things of value such as property, equipment, automobiles, etc. that are titled in the name of the nonprofit. As with financial records, you will want to keep the original (whenever possible) and/or a copy of everything that relates to the asset for your records. Here are some examples of the documents that you should be keeping as records for the assets belonging to your nonprofit: Bill of Sale, Receipts, Assignments or Transfer Documents Deeds and Title documents Proof of Insurance (e.g., Directors & Officers Insurance) and Policies Closing documents Loans, Notes or Mortgages Human Resources & Vendor Records As your nonprofit hires people, you will want to keep accurate and complete records of their employment. Here are some examples of the documents that should be kept as records of the employees and vendors of your nonprofit: Employment Agreements; Background check records; I-9 Forms; Independent Contractor Agreements; Personnel files; Timesheets; Wages, taxes withheld, resolutions approving wages, and industry research Substantiating rates; Vendor Contracts; Bids; Proof of compliance with conflict of interest policies; 1099-MISC tax forms for fees paid to independent contractors; Financial Records When it comes to financial records, the general rule is to keep a copy of everything that relates to money that comes into the nonprofit as well as money that leaves the nonprofit. Here are some examples of the documents that you should be keeping as records for your nonprofit: Nonprofit bank account statements. Keeping your bank account statements is important because your bookkeeper may need them when preparing your financials. You may also need them in order to get a loan for the nonprofit in the future. Here are a few guidelines for managing your nonprofit bank account: Have a separate bank account for your nonprofit. Do not buy personal items using your nonprofit account. This is called co-mingling. Instead, write yourself a salary check from your nonprofit account (based on the executive compensation rules we discuss in this book), deposit it into your personal account and then pay the personal bill out of your personal bank account. Check your bank statements (called "reconciling") each month to make sure the balances are correct and that you have not been charged for bank fees or fees you did not approve. Nonprofit Bank Account Deposit Slips. Particularly if you accept cash, you should make copies or download your deposit slips from your bank's website as evidence that the funds were deposited. This is important because if you are ever audited by the I.R.S., you may need these records to prove the income you received. Copies of checks received. Keep records of the money you are paid. This is important because the I.R.S. may require that you prove the income you listed on your nonprofit's annual tax return. Canceled checks. These are checks that you have written to other people to pay bills that have already cleared or been deposited. Keep a copy of them for your records to prove that you have paid your vendors. Canceled checks also prove that you paid for nonprofit expenses that you are deducting. Receipts from purchases. Receipts prove that the funds you spent from your nonprofit account were used for legitimate tax-deductible nonprofit expenses. Keeping copies of receipts from nonprofit purchases allows you to be prepared in case the I.R.S. audits you and asks you to provide evidence of the money you spent for your nonprofit. Nonprofit credit card statements (if you have any) Any invoices that you have submitted to vendors. This shows payments that vendors owe you and allows you to keep track of the money you should be receiving. Budget Budgets allow you to plan for how you will spend donations that the nonprofit receives. You should keep records of this information so that you can compare past years with future years to monitor your growth. Contracts. Anytime you agree to hire someone (e.g., attorney, accountant, event planner, graphic designer) or you agree to perform a service for someone (e. g., speak at an event, plan a conference, etc.) you need a contract in writing. This ensures that both parties understand the terms (how much they will be paid, when the work is due, who owns the rights) and protects you if you ever need to sue them for not performing. You should always keep a copy of the contract signed by both parties but at the minimum signed by the other party. Corporate Minute Book One of the best ways to keep track of all of your nonprofit records and important legal documents is to invest in a Corporate Minute Book. A Corporate Minute Book is an elegant, custom-made portfolio with your nonprofit name engraved, that is specifically designed to keep all of your important nonprofit legal documents. Corporate Minute Books often include actual nonprofit seals that you can use to signify that a document is an official document of your nonprofit. Corporate Minute Books often include ledgers to document donations and expenses. You will want to keep the signed originals of the various documents referenced in this chapter in your Corporate Minute Book for easy reference and access if and when needed. You should, of course, keep digital or scanned copies of these key documents as a backup. You can save them on an external hard drive as well as maintain a cloud-based copy in the event that something happens to your originals. My law firm offers Corporate Minute Books for purchase by our clients as well as provide a Digital Minute Book which allows bank-grade level security cloud-based storage for key documents for safekeeping. If you would like to order one, feel free to contact our law firm at http://www.ChisholmFirm.com or any vendor that offers them. Do you have to show people your financials or other records when asked? A question I am often asked by nonprofits is "Do you have to show people your financials or other nonprofit records when asked?" The Public Disclosure

Rule is a rule promulgated by the I.R.S. that tells you when you need to share your nonprofit's information with someone that asks from the general public. The rules say that when someone asks, tax-exempt organizations must make certain documents available to the public for inspection. Here are the documents that you have to make available: Application for Tax-exemption I.R.S. Determination letter Last 3 filed nonprofit annual returns You can only charge the person that asks to see the records for copies – but you cannot charge them for the right to inspect. You don't have to provide the actual information that you used to prepare the documents, just the documents you filed. Now that we've covered how to make decisions for your nonprofit as well as the types of records you should keep to stay in compliance, how to avoid losing your entire nonprofit by keeping up with annual filings.

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