

FUNDRAISING 101



How to Impress Donors and Stay out of Trouble

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PBPA Corporate Counsel

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Mission of Pro Bono Partnership of Atlanta

To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals.

We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.

Client Criteria

In order to be a client of Pro Bono Partnership of Atlanta, an organization must:

- Be a 501(c)(3) nonprofit.
- Be located in or serve the greater Atlanta area.
- Serve low-income or disadvantaged individuals.
- Be unable to afford legal services.

Visit our website at www.pbpatl.org to apply.

PBPA Learning Center for Georgia Nonprofits

www.pbpatl.org/resources

ARTICLES

WORKSHOPS



WEBCASTS

PODCASTS

Legal Information

This webinar presents general guidelines for Georgia nonprofit organizations and should not be construed as legal advice. Always consult an attorney to address your particular situation.

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Good Practices Make for Good Fundraising

- Helps you comply with ethical standards
- Enhances the credibility of your organization: donors expect you to understand the laws governing nonprofits
- Avoids misunderstandings with donors
- More efficient and avoids the time it takes to fix mistakes
- Reduces the impact of inevitable turnover of staff

TOPICS

1. General principles
2. Government filings
3. Managing donations
4. Gift acceptance policies
5. Managing grants
6. Unrelated business income tax
7. Events
8. Gaming
9. Fundraising with others
10. Alternative methods of fundraising



1. General Principles



Mission-Based Fundraising

- Raise money consistent with your mission as stated in your 501(c)(3) application
- Example: A donor or foundation wants to give you funds to expand your scope of work.
- Example: The nonprofit is 75 years old and has strayed from its original purpose.

ACTION ITEM: Review your Form 1023

Public Support Test

- Publicly supported if meet:
 - **Donative Charity Test (set up to attract public support)**
 - 1/3 of total income from government grants, grants from other charities, and members of the public (2 % limit on funding from one donor that can be counted in the numerator)
 - OR 10% facts and circumstances test that indicates it is working to attract public support
 - **Gross Receipts Charity Test (sell services or materials to the public)**
 - More than 1/3 of support from public
 - Not more than 1/3 of income from gross investment income and unrelated business tax income
 - **Unusual grant exception – exclusion from the test**
 - Disinterested persons
- **ACTION ITEM:** Talk to your accountant

2. Government Filings



Charitable Solicitation Registration - Georgia

- You must register in Georgia unless you are exempt:
 - Educational Institutions
 - Religious Organizations
 - Fraternal, civic, benevolent, patriotic, and social organizations, when solicitation of contributions is carried on by persons without any form of compensation and which solicitation is confined to their membership
 - Charities with no paid solicitor & total revenue from contributions less than \$25,000.00 for both the immediately preceding and current calendar years
- Form C-100 –
http://sos.georgia.gov/securities/charitable_organization.htm
- More information: <https://pbpatl.org/registering-for-charitable-solicitation/>
- ACTION ITEM: Register or confirm registration
- ACTION ITEM: Calendar renewal date (prior to actual date)
- ACTION ITEM: Check on contact address for government filings



Out of State Fundraising: Rules vary from state to state

ACTION ITEM: Review report of out of state donations

ACTION ITEM: Consult with an attorney for advice on out of state registration

Consultants and Solicitors

- Consultants
 - No registration requirement in Georgia (but may be required in other states)
 - Have a contract
 - Do not allow access to funds
- Solicitors
 - Must register with the Secretary of State
 - Submit financial reports

Consultants and Solicitors

- Commissions and Fees
 - IRS: improper benefit?
 - Association of Fundraising Professionals
 - Members shall **not accept compensation or enter into a contract that is based on a percentage of contributions; nor shall members accept finder's fees or contingent fees.**
 - Members shall be permitted to accept **performance-based compensation**, such as **bonuses**, only if such bonuses are in accord with prevailing practices within the members' own organizations and are not based on a percentage of contributions.

CONSULTANTS AND SOLICITORS: <https://pbpatl.org/solicitors-consultants-grant-writers-working-with-third-party-fundraisers/>

3. Managing Donations



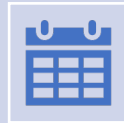
Acknowledgements and Donative Intent

IRS defines a charitable contribution as a donation or gift to, or for the use of, a qualified organization. It is voluntary and is made without getting, or expecting to get, anything of equal value.

Substantiation & Acknowledgements



A donor cannot claim a deduction for any single contribution > \$250 without a written acknowledgement



Contemporaneous



Substantiation & Acknowledgements

- The acknowledgement should include:
 - Name of charity,
 - Amount of cash contribution or description of non-cash contribution, and
 - One of the following:
 - Statement that no goods or services were provided (if that is the case), or
 - Description and good faith estimate of the value of goods the charity provided in return for the donation.

ACTION ITEM: Review acknowledgment templates.

ACTION ITEM: Adopt/review Standard Operating Procedure (SOP) for data entry.

Sample

monetary donation of > \$250 + no goods or services provided in return cash, credit,
check, debit

Pro Bono Partnership of Atlanta
999 Peachtree Street, N.E.
Suite 2300 Atlanta, Georgia 30309
September 1, 2022

Mr. Keanu Reeves
1 Hollywood Drive
Beverly Hills, California 90210

Dear Keanu,

Thank you for your contribution of \$100 that we received on August 25, 2022. No goods or services were provided in exchange for your contribution.

Sincerely,

Rachel Spears
Executive Director

PBPA is a 501(c)(3) tax-exempt organization. Your contribution is tax-deductible to the extent permitted by law.

Quid Pro Quo Rule

- Good or services provided (including privileges) with donation of more than \$75 must get a written acknowledgement
 - Example
 - Donor gives \$100 - no acknowledgement required
 - Donor gives \$100 and gets a concert ticket – acknowledgement required
- Good faith value of goods or services
- Inform donor that they can only deduct Donation minus FMV

Sample

Quid pro quo donation of \$75.00 or more + goods or services provided
in return

Pro Bono Partnership of Atlanta
999 Peachtree Street, N.E.
Suite 2300 Atlanta, Georgia 30309
September 1, 2022

Mr. Keanu Reeves
1 Hollywood Drive
Beverly Hills, California 90210

Dear Keanu,

Thank you for your contribution of \$80 that we received on August 25, 2022. In exchange for your contribution, you received a ticket to our Movie Night Event worth an estimated fair market value of \$50. Therefore, for Federal income tax purposes, your contribution deduction is limited to \$30.

Sincerely,
Rachel Spears
Executive Director

PBPA is a 501(c)(3) tax-exempt organization. Your contribution is tax-deductible to the extent permitted by law.

Gift Acknowledgement: Goods and Services

- Token exception – no quid pro quo if insubstantial
 - Value changes every year
 - 2022: if a donor makes a donation of \$58.50 or more, and the value of the item with logo is no more than \$11.70
 - Not more than 2 % of donation or \$117 (2022) whichever is less

GIFTS OF SMALL ITEMS: <https://pbpatl.org/the-rules-for-giving-small-items-in-return-for-a-contribution/>

Amount of the Contribution (Non-Cash Contributions)

- Do not provide the value even if you know it
- Donated items must be in “good used condition” or better
- Quid pro quo rules apply
- Services not deductible – send a thank you letter and nothing else
 - feel free to track for grant reporting
 - accountant may ask for time given by certain professionals
- Unreimbursed expenses > \$250 incurred must be acknowledged by the charity - good faith estimate of value
 - Don't pay board members but you can reimburse expenses
 - Volunteer expenses

- ACTION ITEM: Review in kind donation template and policy
- ACTION ITEM: Adopt reimbursement policy

- PLANNED GIVING: <https://pbpatl.org/planned-giving-accepting-and-attracting-donations/>

Non-Cash Contributions

- >\$250 and <\$500: Provide an acknowledgement for donations
- >\$500 – Donor has to complete a Form 8283
- >\$5,000
 - Form 8283 & Form 8282
 - Review rules about appraisals
 - Don't sign a blank form

Sample

Contributions in-kind + non-monetary contributions

Pro Bono Partnership of Atlanta
999 Peachtree Street, N.E.
Suite 2300 Atlanta, Georgia 30309
September 1, 2022

Mr. Keanu Reeves
1 Hollywood Drive
Beverly Hills, California 90210

Dear Keanu,

Thank you for your donation of DVDs to be auctioned at our fundraising event held on August 25, 2022. No goods or services were provided in return for your contribution.

Thank you again.
Sincerely,

Rachel Spears
Executive Director

PBPA is a 501(c)(3) tax-exempt organization. Your contribution is tax-deductible to the extent permitted by law.

Sample Services

Pro Bono Partnership of Atlanta
999 Peachtree Street, N.E.
Suite 2300 Atlanta, Georgia 30309
September 1, 2022

Mr. Keanu Reeves
1 Hollywood Drive
Beverly Hills, California 90210

Dear Keanu,

Thank you for providing your services [describe services] at our fundraising event on September 1, 2022. Please note that reasonable, unreimbursed expenses incurred while donating services may be tax-deductible.

Thank you again.
Sincerely,

Rachel Spears
Executive Director

Sample Stock

Pro Bono Partnership of Atlanta
999 Peachtree Street, N.E.
Suite 2300 Atlanta, Georgia 30309
September 1, 2022

Mr. Keanu Reeves
1 Hollywood Drive
Beverly Hills, California 90210

Dear Keanu,

Thank you for your donation of 20 shares of publicly traded stock of The Coca Cola Company on September 1, 2022. The value of the 20 shares of stock on September 1, 2022, based on the average per share value of the par dollar amount, is \$844.60. No goods or services were provided in return for your contribution.

Thank you again.
Sincerely,

Rachel Spears
Executive Director

PBPA is a 501(c)(3) tax-exempt organization. Your contribution is tax-deductible to the extent permitted by law.

Unique Gifts

- Schedule M – 990: Art, books, clothing, boats and planes, securities, historic structures, real estate, collectibles, food inventory, drugs and medical supplies, taxidermy, historical artifacts, scientific specimens, archeological artifacts
- Cars, Boats and Planes: In addition to Forms 8282 & 8283, there is Form 1098-C (goes to IRS and donor); Other requirements depending on how you use/sell the item
- VEHICLE DONATIONS: <https://pbpatl.org/vehicle-donations/>



Top Strategies for Managing Contributions

- Technology
 - Donor database w/ donor platform
- Policies and Procedures
 - Data entry
 - Pet peeve – address donations by a couple in a neutral manner
 - Timely and accurate acknowledgements
 - Recurring gifts (annual v. periodic acknowledgements?)
 - Tracking restricted gifts
- Templates
- MORE INFO: <https://pbpatl.org/webcast-thanking-donors-the-legal-way/> and <https://pbpatl.org/guide-to-sending-acknowledgments-for-donations/>
- ACCEPTING CREDIT CARD DONATIONS: <https://pbpatl.org/best-practices-in-accepting-credit-card-payments/>

4. Gift Acceptance Policy



Gift Acceptance Policy: Why You Need One

- Answers key questions
 - Should we accept this gift?
 - If we accept it, what do we do with it?
 - How do we answer those questions?
- Ethical standards
- Educates staff/board on potential issues
- Preserves (and enhances) donor relationships
- Avoids legal problems!

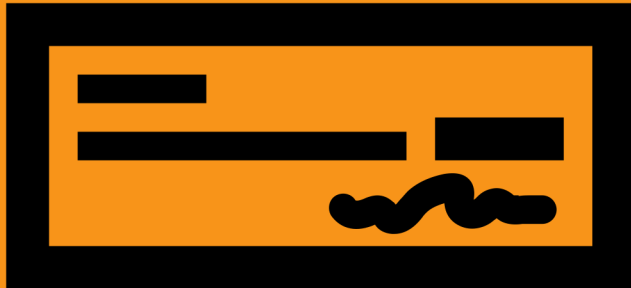
Should we accept this gift?

- Inconsistent with mission
- Conflict of interest
- Unusual gifts Examples: Real estate, vehicles, art
 - Issues: insurance, administrative time, costs, legal issues, liability, valuation, etc.
- Restricted gifts
 - Can you honor it?
 - Can you track it?
 - Do you fully understand it?
 - Example: Naming opportunities
 - How long does it last?
 - Consider Vanderbilt's dorm named Confederate Memorial Hall by the United Daughters of the Confederacy
 - Always have an agreement reviewed by legal counsel

Gift Acceptance Policy

- Ethical standards in fundraising
 - Example: commission-based fundraising is considered unethical by the Association of Fundraising Professionals
 - Example: donor competency
- Decision-making
 - Standard: staff for routine gifts; board for unusual
 - When is legal counsel needed?
- Do you need a written agreement?
- ACTION ITEM: Adopt a gift policy.
- GIFT ACCEPTANCE POLICIES: <https://pbpatl.org/webcast-gift-acceptance-policies/>

5. Managing Grants



Grants

- Grant proposal – be accurate and realistic
 - Budget
 - Scope of what you can provide
 - Be clear on your expectations of whether funds are restricted or general
- Grant agreement – this is a contract
- Restricted v. general support
- TIP: Do not provide grant writer cut of grant (but generally can include fundraising costs in budget)
- TIP: Calendar grant reporting requirements
- TIP: Set up accounting for restricted funds *in advance*
- TIP: Include program costs in restricted fund budget including accounting costs, etc.

GOVERNMENT GRANTS: <https://pbpatl.org/government-grants-how-to-ensure-your-nonprofit-is-in-compliance/>

6. Unrelated Business Income Tax & Sponsorship s



Unrelated Business Income Tax (UBIT)

- Income derived from trade or business activities not substantially related to the tax-exempt organization's purposes is taxable as if earned by a comparable for-profit enterprise.
- What is UBIT?
 - Trade or Business (to produce income)
 - Regularly carried on
 - Not substantially related to exempt purpose

Unrelated Business Income Tax (UBIT)

- What is “unrelated”?
 - “Making money for our organization” doesn’t count as “related”
 - Sale of merchandise **not related to the mission**
 - Advertising
- What is “regularly carried on”?
 - Depends on the circumstances
 - **Not inherently bad**
- **Exceptions may include:**
 - Passive income
 - Volunteer labor (i.e., clothing stores operated by volunteers)
 - Convenience of members (school cafeteria)
 - Bingo games (if legal and not sponsored by a for-profit)
 - Selling donated merchandise
 - < \$1,000 gross revenue
- Too much UBIT can threaten tax exempt status (5% ok, 20% too much)

ACTION ITEM: Talk to your CPA and/or consul with an attorney.

TIP: CPA should be *very familiar* with nonprofits to render an opinion.

Sponsorships

- Qualified Sponsorship v. Advertising
 - Advertising = unrelated business income
 - Corporate Sponsorship Rules
 - Acknowledgement of Sponsor: name & logo
 - No statements endorsing products
 - If website/email acknowledgement, no language endorsing or inducing site visitors to purchase or use sponsor's products
 - No other "substantial return benefit"
 - Substantial return benefit could = substantial private benefit = loss of exemption
 - Insubstantial value = all goods and services received from the charity by the sponsor must NOT exceed 2% of sponsorship payment for year



ACTION ITEM: Contact your attorney to draft a corporate sponsorship agreement.

7. Events



Risk Management

- Evaluate risk
 - Financial
 - Tax
 - Injury to property/individuals
 - Injury by volunteers, staff
- Three prongs of addressing risk
 - Procedures
 - Insurance
 - Waivers (volunteers and participants – not employees)
- Other considerations
 - Permits
 - Security
 - Community impacts (i.e. traffic)

Galas & Other Events

- Silent auctions - Taxable? What's being sold?
- Performances – do you need contracts? Sales tax issues?
- Events carried on by others – agency relationship
- Serving alcohol: <https://pbpatl.org/bottoms-up-serving-alcohol-at-your-nonprofits-event/>
- Other issues: <https://pbpatl.org/fundraising-issues-for-special-events/>
- Sales Tax: <https://pbpatl.org/webcast-what-is-t-latest-on-nonprofit-fundraising-and-sales-tax/>



Golf Tournaments & Fun Runs

<https://pbpatl.org/webcast-galas-tournaments-festivals-oh-my-part-ii-road-races-golf-tournaments-other-sporting-activities/>



Special Events & Gaming – Other Resources

- *View a webcast on Contests and Sweepstakes:*
 - <http://www.pbpatl.org/resources/contests-gaming>
 - <https://pbpatl.org/gambling-for-nonprofits-in-georgia/>
- *Read the following articles or publications:*
 - <http://www.pbpatl.org/wp-content/uploads/2013/03/Special-Events-Website-Article-2013.pdf>
 - <http://www.pbpatl.org/wp-content/uploads/2013/03/Raffles-2013.pdf>

8. Gaming



Gaming

- Gambling requires 3 elements:
 - Chance
 - Prize
 - Consideration (i.e. pays for a ticket)
- Casino nights and poker tournaments likely illegal gambling
- Permissible but regulated
 - Raffles – must be a 501(c)(3); licensed; approved by the sheriff
 - Bingo – more regulated than raffles
 - More information – <https://pbpatl.org/raffle-guide/>
- Sales Tax and UBIT Implications
- Federal Income Tax Withholding Implications
- Not a charitable donation

9. Fundraising with Others



Cause Marketing/ Commercial Co-Ventures

- ✓ *For-profit company uses charity's name to sell its products or services and makes a charitable donation based on sales*
- ✓ State law: Agreement in writing
- ✓ Private inurement issues
- ✓ Commerciality
- ✓ **Beware of referral fee arrangements or other “win-win” situations**



Third Party Fundraising

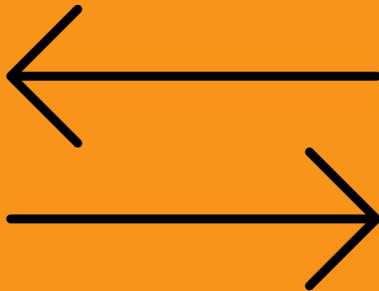
- Your name will be associated with the fundraiser
 - Gaming laws
 - Trademarks
 - Tax deductibility
 - Acknowledgements
 - Tracking donor information
 - Liability
- Get a written agreement
- Watch this webcast:
<https://pbpatl.org/webcast-when-others-fundraise-for-your-organization/>

Crowd-funding

- Individual sets up online fundraising campaign on behalf of charities
- Legal Issues:
 - Charitable solicitation laws – do you have to apply?
 - Substantiation and Acknowledgement – how will you acknowledge your donor?
 - Is the contribution deductible (is the crowd-funder a 501c3)? Is it really a paid solicitor?
 - Protecting your intellectual property?
 - Access/accounting of your donations?

Crowdfunding Risks: <https://pbpatl.org/risks-and-rewards-of-crowdfunding-for-nonprofits-3/>

10. Alternative Methods of Fundraising



Commerciality

- Organization cannot operate a commercial trade or business that is unrelated to the organization's purposes & requires substantial attention from the organization
- Making money to support the exempt mission is not related
- IRS may impose a penalty or revoke or deny tax-exemption if the organization operates a commercial trade or business that is unrelated to the organization's purposes & requires **substantial attention** from the organization.
- Key Question: Are you competing with a commercial for-profit business? (Court held: "Competition with commercial firms is strong evidence of a substantial nonexempt purpose.")

More resources

- FUNDRAISING MODELS: <https://pbpatl.org/fundraising-models/>
- ALTERNATIVE FUNDRAISING: <https://pbpatl.org/alternative-fundraising-what-every-nonprofit-should-know/>
- CROWDFUNDING: <https://pbpatl.org/risks-and-rewards-of-crowdfunding-for-nonprofits-3/>
- COMMERCIAL ACTIVITIES: <https://pbpatl.org/when-are-commercial-type-activities-a-substantial-nonexempt-purpose-for-an-irc-501c3-organization/>
- SERVICES FOR PAY: <https://pbpatl.org/providing-services-for-pay-what-charitable-501c3s-can-and-cant-do/>
- SOCIAL ENTERPRISE: <https://pbpatl.org/social-enterprise-part-1-forming-appropriate-entities/> and <https://pbpatl.org/social-enterprise-part-2-what-can-nonprofit-%c2%a7501c3s-do/>

RECAP:
Key
Strategies
for High
Quality
Fundraising

Key Take Aways: Fundraising Strategies

- Have a realistic plan - evaluate and plan for what sources of income are best for your organization
- Adopt a gift acceptance policy **AND** data entry procedures
- Train board, staff and volunteers
- Use technology to assist (donor database, credit card processing)
- Calendar important deadlines (grants reports, government filings, etc.)
- Know the requirements for what you are doing (consult your attorney and/or PBPA's website)
- Adopt accounting policies and procedures (i.e. restricted gifts)
- Have written agreements when needed (fundraisers, donors, service providers)
- Always consider the **real return on investment** factoring in staff/volunteer time, compliance issues, etc.

Questions?

Pro Bono Partnership of Atlanta

www.pbpatl.org

Upcoming Webcasts &
Workshops Calendar

[Event Listings](#)

Nonprofit Notes Monthly
Newsletter & Legal Alerts

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