

PBPA Podcast Transcript
Fundraising Compliance- Raffles, Door Prizes and BINGO
(31:15 minutes)



Sireesha ([00:03](#)):

Many nonprofits that host fundraising events or galas run a raffle or door prize. It's fun, can create buzz, and it's another way to raise funds for your organization. In Georgia, we have some very clear laws that govern fundraising activities such as raffles, door prizes, and bingo. In this episode of the PBPA Podcast, Thomas Federico will chat with us about what these rules are, why do they exist, and some very important considerations to help your nonprofit determine how to navigate raffle regulations.

Sireesha ([00:49](#)):

Hello and welcome to the PBPA Podcast. In each episode of the PBPA Podcast, we explore legal questions relevant to Georgia nonprofits. I'm your host Sireesha Ghanta, Counsel and Education Director at the Pro Bono Partnership of Atlanta. PBPA strengthens our community by engaging volunteer attorneys to provide nonprofits with free business legal services. We provide numerous free resources via our website, including articles and webcasts specific to Georgia nonprofits and their business legal concerns. We also provide direct legal services to our clients. For more information on client eligibility requirements, to apply to be a client or to access our vast learning center, visit our website at pbpatl.org. Before we jump into this episode's topic, keep in mind that this podcast is general information, not legal counsel, contact your attorney for guidance on your nonprofits' specific situation.

Sireesha ([01:58](#)):

Thomas Federico joined PPPA as a staff attorney this summer. He joined us with a fantastic and diverse background of both in-house and law firm experience covering such areas of law as technology, privacy, intellectual property and tax, all through his in-house and law firm career. Thomas was also a dedicated volunteer at PBPA. We are so excited to have him now as a staff attorney at PBPA, and I'm looking forward to our conversation today. Thanks for being here, Thomas.

Thomas ([02:35](#)):

Thanks Sireesha, that was a wonderful introduction. I'm happy to be here and talk to you about Raffles and other fundraising activities.

Sireesha ([02:43](#)):

So, Thomas, this is a question that we get very often from nonprofits because just about every nonprofit fundraising event that I go to or that our clients and other nonprofits have, they tend to offer door prizes or have raffles. And as some nonprofits may know, gambling is illegal in Georgia. However, many individuals don't realize that raffles and door prizes could be considered gambling. There are some other popular activity that could also be considered illegal gambling, like BINGO. So, Thomas, why are we talking about illegal gambling when we're talking about some pretty standard nonprofit activities, like a raffle.

Thomas ([03:34](#)):

That's right. That's a good question. And it is an area where a lot of organizations get confused. The United States has a really long and fascinating history when it comes to things like games of chance that raise money for organizations or even projects. Lotteries and raffles were used to raise money for public and private projects in the United States since the colonial days, and they just ebbed and flowed as societal values changed, and as government sought to protect citizens from bad actors and scam artists. But right now, historically, as that context evolved, every state in the United States has regulated any activity that I like to reduce to three common elements. It's almost a mathematical formula, and no matter what activity or the fund, the not-for-profit wants to engage in for fundraising, it's simplest. I think if they just think in these, in terms of this mathematical equation, if these three elements exist, it's basically an illegal lottery or gambling.

Thomas ([04:31](#)):

So first there has to be an element of chance. There has to be consideration, which is basically cash or non-cash that someone pays to enter for that chance to win. The third element, which is a prize. So at the highest level, any activity, like I said, that has three, three elements. And if it's not a state authorized lottery like the Georgia Lottery, then it's an illegal lottery, and it doesn't matter whether the organization calls it the lottery, a raffle, a door prize, a pool, a gift, or any other name. And it's really important because if an organization engages in an activity like a raffle that has those three elements, and if they're subject to licensing requirements, for example, or any other requirements that they don't do that, then they can face serious penalties.

Sireesha ([05:21](#)):

Wow. So what should a nonprofit do? Do they have options? How do they go about conducting a raffle in a way that is legal?

Thomas ([05:31](#)):

Yeah, so what the organization needs to do is to realize that they have to obtain a license from their local sheriff's office if they want to legally conduct a raffle, and that comes with a host of requirements. There's a fee that would have to be paid. The fee is usually a hundred dollars. The law says it can't exceed a hundred dollars, but most counties sheriffs assess the \$100. And then there's an application that the organization will have to fill out. The application requests a bunch of information. It has information such as names and addresses of the applicant, the officers and directors. The person who's filing has to provide a copy of their driver's license. They have to provide the address of the location of the raffle. Um, it can only occur at a place that is owned by the organization, leased by the organization, or another not-for-profit is making available for that raffle. If it's leased, they have to provide a copy of the lease. They have to have a list of the persons or the organizations that are providing the prizes, a copy of their IRS determination letter.

Thomas ([06:41](#)):

And the law says that the sheriff can propo, have regulations and, you know, request other information. So that's not all the information. That's sort of the, the high level is you can see there's a, you know, it's a lengthy application and a lot of information that goes into it. So some organizations may not realize that, you know, that level of detail is required just to apply. The other thing to note is that in the application, if anyone, the applicant, the officers or directors, if any of them had any convictions other than minor traffic offenses, all that has to be disclosed. Uh, the sheriff's office can run a background check on the applicant.

Thomas ([07:17](#)):

And while, for example, in Fulton County the published turnaround rate is they say 30 business days, it can actually take longer. So I always recommend that organizations really think carefully about making sure they have enough runway, so to speak, to file as early as possible and follow up. I think it's also a good idea when they determine where they're gonna file, which, you know, sheriff's office that they might wanna consider sending it by an expedited mail with return receipt requested. So there's evidence that they actually submitted it.

Thomas ([07:51](#)):

One question that often comes up is, which sheriff's office are they supposed to file in? And it's the, the office where the organization is located, if the organization might be rare, but if the organization wanted to have a raffle and couple of different counties outside of where they were based. So let's say for example, they were headquartered in Fulton County, but they were also gonna do a raffle in Dawson County, they only have to file in the in the office where their headquarters is located.

Sireesha ([08:20](#)):

That is a surprising amount of information that needs to be included in a license for the raffle. What if a nonprofit decides we're, we don't want to apply for the raffle license, but we wanna have something, so let's do a door prize instead. Is there a difference between a door prize and a raffle?

Thomas ([08:41](#)):

Uh, not really. At least in terms of like the illegal lottery or the gambling analysis that I alluded to at the top of the podcast, for those folks who maybe don't know what a door prize is, generally it's considered, you know, a prize that's awarded to event attendees. They pay a small amount of money to attend, and then those attendees get, you know, a ticket with a number, and then they do some sort of a random selection and person gets the prize. And the law on raffle in Georgia specifically calls out door prizes. And so a, a door prize that meets a certain definition is included in the definition of raffle. So you would have to get a license. What the law says is that the Georgia law says that the door prizes is if they're awarded at an event, and the cost of admission to that event is not exceed the quote u you know, usual cost of similar activities, then it's included under that raffle definition. So you can call it a door prize and think that maybe you're gonna, you know, not have to get the license, but almost all door prizes will have to be, a part of a license that the organization will apply for.

Thomas ([09:57](#)):

I didn't go into the specifics of non-compliance, but it's a criminal offense. Individuals and the organization itself can face very serious criminal charges if they fail to get the license. So it's really important to make sure every organization's buttoned up and does apply for that license.

Sireesha ([10:15](#)):

So once a nonprofit gets their license for, whether it be the raffle or almost all door prizes, is there anything else that they're required to do? Are there special steps or records that the nonprofit has to keep in mind or during or after the raffle?

Thomas ([10:34](#)):

Yes. Um, and that's another area where I think a lot of organizations don't realize there's some additional record keeping and filing obligations that they would have under state law. And then there's also some federal tax reporting and withholding obligations that might apply. But for the state, under the raffle law what they, let's just say the organization gets their license, they can't run the raffle until they get the license. I just wanna make sure that's clear too. Like, technically you have to get that license first before you can conduct any activity for the raffle.

Thomas ([11:09](#)):

But there's ongoing record keeping and filing for the record keeping. Um, it's pretty extensive for three years after the raffle, they have to basically maintain records for a laundry list of things. The gross receipts for each raffle, all the expenses other than the prizes the name of each person to whom expenses are paid. They have to have receipts for all of their expenses. They need to keep a list of all the prizes that were awarded. If they exceed \$50 or more value. They have to have a list of the recipients, other than the organization itself of where the proceeds might go. So if their proceeds are going outside of the organization, they need, need to have the name and address of each recipient. Um, and then they need to keep a record of the number of persons who participated in the raffle. So that's, you know, all that information they do for the raffle, and they have to keep that for three years. Um, so that's, you know, some intense record keeping that they do.

Thomas ([12:08](#)):

And then each year, after they've run a raffle, on or before April 15th, they have to file with the sheriff, the sheriff's office that where they got the license, a report that discloses all the receipts and expenditures relating to the operation of that raffle from the prior year. Um, and that is subject to public inspection. Um, and it has to be prepared by A CPA. So that's another obligation that some organizations might not be aware of.

Sireesha ([12:38](#)):

We've talked about the licensing, the record keeping, the filings for the state. Um, what about once a winner of the raffle has been drawn and the winner has been selected, is there anything else the nonprofit needs to consider at this point?

Thomas ([12:56](#)):

The other considerations to think through would be primarily the income tax, federal report tax reporting and withholding. Um, the IRS has ruled that raffle tickets themselves are not deductible, so individuals can't deduct, you know, the cost of the raffle ticket on their side of the income tax equation. But that also means the organization doesn't send any acknowledgement or tax receipts to raffle participants. So from that perspective, there's nothing to do there. But since the raffle winnings are taxable income to the winners, organizations might have certain reporting and withholding obligations determine based on whether certain thresholds are reached. So I was just gonna talk a little bit about some of the, those reporting and withholding obligations, and maybe just give a few examples. It's really more of an accounting area. It's something that the organizations and their accountants or auditors should review to make sure that they're, you know, actually accounting for everything correctly for the IRS.

Thomas ([14:03](#)):

But I can give you like one example for the reporting, which is: if the organization conducts a raffle and it has a prize and if the amount paid of the winner, and by the wager, that is the amount that was paid for the chance to win the prize is \$600 or more. Um, and the payout is at least 300 times the amount of the wager, then the organization would have to report that on, an IRS form. It's formed W-2G. So I'll just, I'll give an example to make that crystal clear for everybody. So Sireesha, imagine that you purchased a \$1 ticket for a raffle. It was conducted by one of our listeners, and which is an exempt organization. Um, on October 31st of this month, there was a drawing and congratulations, you won \$900. Well, because that \$900, based on the formula that I went through was netted out as \$600 or more, then our listener organization would have to file that form W-2G with the IRS, and then they would give a copy of that form to you, Sireesha, as the winner.

Sireesha ([15:10](#)):

Yeah, let's speak about the big ticket item, like, like a car or boat. What other special considerations are there for such big ticket items?

Thomas ([15:18](#)):

There's also some withholding that occurs or potentially could occur again, if a certain threshold is met. And this is another area where I think organizations might not realize particularly if they're doing a big-ticket item. So the, general rule in the tax world, at the federal level is that raffle prizes or any gambling winnings are subject to a 25% withholding. Uh, that obligation is on the organization. So if the gambling withholding, winnings are more than \$5,000, it's this obligation's triggered and the organization would have to retain 25%. So a lot of times it's a big ticket item, like a car or a boat, for example. So I'll give another, use another real world example, and we'll kind of talk through this because I know that if you just look at what the IRS language says, it can be potentially confusing, but we'll just try to make this simple again.

Thomas ([16:18](#)):

So we'll use an example of a big ticket non-cash item. There's a special tax rule that applies. The winner would pay the organization 25% of the fair market value of that prize minus what they paid to enter for the chance to win. And this is how it works. So again, we'll use you Sireesha as the winner, the participant. You purchased another \$1 ticket at a raffle conducted by our tax exempt organization, that's listening on October 31st later this month, there was a drawing and you win a car. Congratulations for winning the car. The car's worth \$10,000. That's the fair market value. Um, it exceeds \$5,000. So, the threshold is met and we take the fair market value of that big ticket item, car \$10,000. And the tax just kind of using simple math would be approximately, you know, 25%, \$2,500. You would pay the 20, the \$2,500 to the organization, or the organization would withhold that amount. That, and then remit that to the IRS on your behalf, because you owe that tax. Okay. and then on that form that I was talking about, there would be a notation about the amount of the tax that was withheld.

Thomas ([17:48](#)):

This all raises some sort of practical, you know, consequences in terms of how is this actually going to work in, in real life when you have this sort of non-cash item and when there is tax that's owed on it. And, and that's just the withholding obligation there is for you, the winner. Like you, you still have to pay income tax on the winnings. And you might not want to actually, you know, sort of accept that particular prize because of that.

Thomas ([18:20](#)):

But, for the organization itself, it does really need to think through its potential tax reporting and withholding obligations. Again, this is an area where if an organization is doing a raffle and they're gonna be raffling off some prizes of significant value, you really all should consult with your accountant to make sure that you are all buttoned up on your obligations from the federal tax perspective.

Thomas ([18:46](#)):

So apart from the reporting and the withholding obligations that I mentioned, there's really a lot of other issues that can come up that the organization should think through. I mentioned one of them, which is a lot of times even, you know, in the for-profit world, when there is a big ticket item like a car or a boat, there are some individuals who when they realize that they're gonna owe, you know, tax on that high ticket item, they, they just might not want to participate or they might decline the prize. And then you'd have to figure out, are you gonna have to then select an alternate winner and will that person sort of, you know, have the same sort of misgivings. You can try to gross up the prize and offer some other, you know, cash, for example, to offset. But then that raises other issues too, because again, ultimately the individual is still gonna have to pay those, those taxes.

Thomas ([19:37](#)):

But getting back to the, to focusing on the raffle, there are other issues like where did you get, where did you get the car? Where did you get the boat? Was it a, was it a dealership for example, that maybe donated that item? Uh, is there an agreement in place that covers the vehicle or the boat in terms of like a, a warranty that might get passed on to the winner so that there's not some issue that arises so that, Sireesha, when you are happy that you got that vehicle that was worth \$10,000 'cause you really could use the vehicle. But if, you know, if there are issues with that vehicle, does the organization have any recourse against the person that provided the vehicle? Or, what sort of reputational harm might come to the organization because they hadn't thought through, some of these issues in terms of protections.

Thomas ([20:33](#)):

And then also what can sometimes happen is in between the time that the vehicle or the, the boat is in possession of the organization for the prize. Like what if something happens to that, that car? So the car is out in a parking lot someplace and there's a hailstorm and then there's hail damage, but nobody had thought through which entity, the organization or the price provider was gonna be responsible for maintaining the car insurance. Um, what if there, you know, there's a flat tire or some other minor repair that needs to be made.

Thomas ([21:08](#)):

Um, I have seen, you know, in practice where there's, you know, sort of finger pointing because, you know, there's some documentation that says one thing, which is usually like an invoice maybe that the entity that was providing the vehicle sent over to the organization and they hadn't, they hadn't thought through it. And so those are some of the issues that can occur. And then also there's some other ancillary issues like with big ticket items, because there's potential liability there. You really would probably wanna think and make sure that the winners were signing on some sort of, liability release and then also maybe like a publicity release so you could take, you know, pictures and post them on social media, what have you. So those are some of the outer boundary related issues that organizations should, should think through for these bigger ticket items for prizes.

Sireesha ([21:57](#)):

Those are some great factors that you brought up there, Thomas. Are there other activities that are conducted by nonprofits aside from raffles or door prizes, that might also be considered illegal gambling? ,

Thomas ([22:11](#)):

Yes, there's, there's really many other types of fundraising activities that could run afoul of the, the gambling laws that we've been talking about. A good example would be something like poker and casino nights. If they're structured in a way that they return, retain the three elements I talked about, chance, consideration, and prize, then they're not legal because they have to fall into an exception and there's no exception for those activities.

Thomas ([22:37](#)):

Even things that are relatively mundane in terms of organization's risk profile like a sweepstakes or a contest, they have to be structured correctly, otherwise they also can be illegal lotteries. To give you a quick example, like what the sweepstakes, usually what organizations do is they'll remove, you have to remove one of the three elements, and usually what they do is remove consideration. That's why a lot of times when people as a participant will see a sweepstakes, it'll have some free alternate method of entry. So like, you don't have to purchase a product, for example. So if you, but the issue with that is, of course, it's not really gonna raise any funds for the organization. Its value is really only relegated to promotional purposes. And a contest, you can charge a fee for a contest, but it actually has to have skill because what a contest does is it gets around the illegal lottery problem by removing, the element of chance and substituting it with skill. But it has to be objective skill. It can't be something where one argues that it's skill, but it's not really recognized by courts or by attorney generals as rising to the level of skill.

Thomas ([23:57](#)):

But the good news, I guess for organizations that do want to raise money is that there are some other specific exceptions. And in Georgia there is a, a bingo exception. Um, we have two kinds of bingo that are sanctioned recreational bingo and non recreational bingo. I won't go into a lot about the first one, recreational bingo, because it's really not going to be of any benefit to an organization that because you can't charge to play it, so there's not gonna be any fundraising.

Thomas ([24:28](#)):

But for our nonprofit tax exempt organizations, they can have a, an activity that's structured as non recreational bingo. And the requirements there are that they can have, you know, cash prizes that they can be greater than \$15 in value. The \$15 in value is relevant because the recreational bingo that I refer to uses \$15 or less as its threshold. But again, for our listeners, I think you can ignore that because again, it's not gonna be a fundraising activity. So you can have a cash prize, it can exceed \$15 in value. They can be charged play, like I said, but it requires a license just like raffling. So if you are thinking that you want to, you know, have a non-recreational bingo game, that's fine. Um, but there's a separate license, it's not through the sheriff's office. In the state of Georgia, bingo games are regulated by the Secretary of State's office. Um, and so there's a whole separate application that is required there. It's also pretty complicated. There are a bunch of requirements similar to raffle. It's a little bit more, I think, than we have time to discuss, but I think we have some resources on our website that will help our listeners walk them through. I will just call out that the secretary of State's office does have a really good pre-

licensed bingo checklist. Um, so if our listeners wanted to get more information, they could go there, or like I said, I think Isha, we have some resources on our website about bingo specifically.

Sireesha ([26:04](#)):

Yeah, thanks for mentioning those resources, Thomas. I'll include a link to that bingo information on this episode's page. Um, and as my final question, Thomas, you've outlined here in terms of raffles, door prizes, some considerable steps that nonprofits have to take starting with the license application, the record keeping, the filing, the federal tax withholding and reporting, and that's all for smaller prizes. And then there's an additional level of requirements if they're giving away bigger prizes. So I'm just wondering for nonprofits who might be, you know, interested in having a raffle or have historically done a raffle, and if they might be reevaluating that after listening to this episode, do you have any suggestions for just practical considerations? But, do you have any other thoughts in terms of kind how nonprofits might approach this if they're trying to determine whether or not to consider having raffles and door prizes?

Thomas ([27:08](#)):

Yes, I think that my recommendations would be first to maybe just formally think through this. I know a lot of times, maybe there is an annual fundraising event that occurs, and, you know, historically raffles have been sort of the bread and butter of a lot of not-for-profits in terms of fundraising. And I'm not, and I think that organizations should continue to do that. I think they should leverage, the exceptions to the illegal lottery and gambling laws that exist specifically for not-for-profits in Georgia, but I would just say organizations should think through in terms of what's required, just so they have one enough time advanced time to do the license applications that they need to have in place before they go forward with either the raffle or the bingo.

Thomas ([27:58](#)):

Think through sort of like, strategically, what are they trying to accomplish with the event, how much money do they think they can raise? Maybe they have done it in the past and it is a significant income generator for them in terms of fundraising. So continue to do it, but maybe be a little bit more aware of what the requirements are, not only in terms of the, the more forward facing things like the license, but on the backend, like, do they have somebody that's dedicated that can help with the administrative aspect of things? Do they have an accountant that can help them work through some of the issues on the reporting and the withholding aspects of, conducting a raffle or bingo, you know, there's a great deal of administrative effort that is required to lawfully conduct a raffle. So raffles are great ways for organizations to raise funds. Something that every organization might want to do in light of what I've talked about so far is just kind of consider what has to go into the raffle in terms of the license and the state record keeping and filing requirements and, you know, determine whether all those administrative burdens so to speak, are still gonna be worth, you know, the going forward with the raffle.

Thomas ([29:15](#)):

In most cases, that's probably the case, but again, you really wanna seriously consider all the things that the organization has to do to make sure they're buttoned up. And I think if there are just a little bit more rigor around that, they can certainly do it and, and comply with the law. I mean, organizations do it all the time. Um, there are some additional things to consider, but they're not complete barriers to doing it. I think with a little bit of foresight and a little bit of runway to make sure there's enough time to do everything they can accomplish what they want to do and structure it in a way that makes sense for

them. So I guess my parting thoughts would be try to have, you know, smart raffles, smart bingos. By that I mean things that you've thought through and tailored specifically to your organization. One size does not fit all and you might see a large organization that's able to do something. You can avail yourselves of something. Uh, also if you're a smaller organization, if it's just crafted and tailored to your specific needs and maybe your specific donors and, and clients.

Sireesha ([30:18](#)):

Those are great tips there. Thomas, thank you so much for sharing all your valuable insight with us. We get so many questions from nonprofits about raffle licenses, and I hope this episode has provided some clarification for our listeners.

Sireesha ([30:32](#)):

We hope that you found this episode of the PBPA Podcast to be informative and helpful. We add new episodes every month with short conversations about general, yet important legal information for Georgia nonprofits. Remember that this is not legal counsel. Talk to your attorney about your organization's specific concerns. Thanks for tuning into the PBPA Podcast. And to all nonprofits listening out there, thank you for all the good work you continue to do in our community.