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PAC Raffles, Sweepstakes, & Auctions

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Overview

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- Increasing PAC participation
- Communications Strategies
- Structuring Raffles, Sweepstakes, and Auctions
- State Gaming Rules
- Necessary Disclaimers
- Questions



- Raffles, sweepstakes, and auctions are methods to build excitement around participating in the PAC.
 - Definitions of each are important to understand how they're regulated.
- When held to support the PAC, the full price paid for every ticket or sale is a contribution to the PAC.
- Like any other contribution: only restricted class

- Major federal trade association's PAC violated one-third rule, restricted class limits through raffles; public FEC enforcement and penalties via conciliation agreement
- U.S. Senate candidate Dave Lindstrom's campaign committee allegedly violated state law by raffling a Kansas City Chiefs jersey signed by Patrick Mahomes.
 - *"A raffle conducted by an entity other than a qualifying nonprofit organization would be considered a lottery," . . . noting that lotteries are prohibited under Kansas law with an exception for the state-run lottery.*
 - *"The campaign still plans to give away the autographed Mahomes jersey, but it will no longer require a contribution— a change that will likely resolve the legal issues."*

Be Aware: PAC “Conscientious Objectors”



- Outreach to new potential donors may come with downsides.
- Your restricted class and executives may question the purpose and activities of your PAC.
- Always good to have a PAC FAQ messaging ready.
- PAC Board should consider “Guidelines” on contributions.

- Federal Election Campaign Act (for federal PACs)
- State campaign finance laws (for non-federal PACs)
- State gaming laws
- State sweepstakes laws
- State regulation of auctions (rare)
- Federal and state tax law

One-Third Rule

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- **Remember:** For federal, connected PACs, a connected corporation may provide gifts or prizes if it observes the one-third rule.
- **One-Third Rule:** The value of gifts or prizes can not exceed one-third the amount of the resulting PAC contribution(s).
 - PAC reimburses connected corporation for overage
 - *Food, drinks, and facilities are not subject to the one-third rule.*

- **Examples:**
 - A trade association spends \$300 in treasury funds to purchase a TV set as a raffle prize. Sales of raffle tickets raise \$600 in contributions to its connected PAC. Since one-third of the amount raised (\$200) is less than the cost of the prize (\$300), then the PAC should reimburse the association for the \$100 difference.
 - If the PAC raises \$900 in contributions, then one-third of that amount (\$300) is equal to what the association spent on the prize, so no reimbursement is necessary.
 - A corporation wants to hold a drawing for a grand prize valued at \$2,500 for any donor to its connected PAC over the previous 6 months who maintained a contribution by payroll deduction. So long as the PAC raised at least \$7,500 during the previous **12-month** period, then no reimbursement from the PAC to the corporation is required. *AO 1999-31.*

- Contest rules should be written and available to participants.
- A PAC may not accept prizes or entertainment donated by corporations *other than* the connected organization or its affiliates.
 - Exception for trade associations.
- Like any other contribution: only PAC-eligibles may enter a PAC raffle.

- Every ticket buyer or auction winner (ie, donor) should fill out a donor response form.
 - This also applies to online raffles conducted via password-protected PAC websites.
 - Cash <\$50?
- Special tax considerations: For a raffle, the PAC pays taxes on the proceeds unless the PAC makes it clear on the tickets and at the event that the money raised will support political goals.
 - Prize may be taxable to the winner
 - If \$600 or more, and at least 300x of the wager, PAC must complete a W-2G (Gambling Winnings)
 - Withholdings in some instances where prize is >\$5,000
- If the raffle underperforms – 1/3 rule may come into play.

- Any contest must comply with state gaming laws, particularly raffles.
 - For this reason, an online raffle spanning multiple states is effectively an impossibility
 - But *could* work at a single location where legal, for instance an off-site corporate retreat
 - Some have absolute prohibitions on a ticketed raffle by a political committee (e.g., California, Florida, Massachusetts, New York, Texas)
 - Can still hold a sweepstakes, auction
 - Option to hold a skill game, e.g., a reading comprehension quiz, for an entry.

State Gaming Rules – Prohibitions (cont).

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- Some states allow political committees to hold a raffle, but require an advance permit (e.g., Illinois)
 - Every new contest requires a new permit
 - File detailed information about the contest to apply for permit, like date, location, prizes, and responsible PAC officers
 - Sometimes, also file raffle report at the conclusion of the contest

State Gaming Rules – Prohibitions (cont).

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- Alaska – a class of its own. With an advance permit, your PAC can hold:
 - “Animal classic”: a game of chance in which prizes are awarded for the correct guess of which numbered or colored hole on a wheel a rat, hamster, gerbil, or other rodent enters as the wheel is slowly rotated.
 - “Dog mushers' contest”: a contest in which prizes are awarded for the correct guess of the racing time of a dog team or of team position in the race.



Sweepstakes

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- Legal in all 50 states.
- No purchase or entry fee required.
- Official rules required.
 - Rules clarify number of winners, value of prize.



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So just for you, Friend, I'm going to fly you out to make it happen.

Your meal is **FREE**.

Your airfare is **FREE**.

Your hotel stay is **FREE**.

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- Full value of purchase is a contribution
- Source of the auction prize?
- Like any other contribution: only restricted class
- One-Third Rule applies
- Rarely: some states restrict auctions to “sealed bids” or require hiring an auctioneer

- Solicitation disclaimers still applicable to this fundraising through a different form. For federal PACs, this means:
 - Paid for by statements
 - Contribution and source limitations
 - Best efforts statement
 - Statement of political purpose
 - Suggested amounts and non-coercion
 - Tax-deductibility statement

Questions?

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