# PAC Raffles, Sweepstakes & Auctions

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## Public Affairs Council

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# Fundraising at the Office

- Corporate PAC may solicit company's "restricted class" (shareholders and executive and administrative personnel)
  - As a guideline, this generally includes employees who are exempt under FLSA. *See* FEC Advisory Opinions 2010-04 and 2012-02 (Wawa).
  - Includes spouses
  - FLSA exempt employees are still not solicitable if they are:
    - hourly paid,
    - unionized,
    - first-line supervisors of hourly-paid employees (unless they have some other exempt function), or
    - outside salespersons

# Fundraising at the Office

- Such employees of affiliates, including parent, sister and subsidiaries more than 50% owned or controlled, are also included
- Generally, raffles, sweepstakes and auctions are not as effective for non-connected PACs because the expense of the prize must come from PAC funds rather than a connected corporation or organization

# PAC Incentives

- Raffles, sweepstakes and auctions are often combined with other incentives to raise PAC money and interest potential donors
- Most PACs use incentives such as gifts, live events with politicians and special events with the CEO
- 2025 Public Affairs Council PAC Benchmarking Report
  - What one benefit was most effective in your fundraising efforts?
    - ➢ Incentive club-only events (%25)
    - ➢ PAC Match (20%)
    - ➢ Virtual events with politician, celebrity or other guest speaker (15%)
    - ➢ Annual gift (9%)
    - ➢ Special communications, such as newsletters (13%)
    - ➢ Raffles, auctions or sweepstakes (1%)

# Increasing PAC Participation

- Incentives for contributing
  - One-third rule: applicable to PACs that are connected to a corporation or organization
    - Applies only to fundraising with promotional items, prizes and entertainment that have been paid for by the connected organization, its affiliates and, in the case of trade associations, its members
    - Food, drinks and facilities expenses are not subject to the one-third rule. *See* FEC AO 1995-17 (Nat’l Ass’n of Realtors)

# Increasing PAC Participation

- Charity PAC match
  - Ensure recipient is a 501(c)(3)
  - May not use corporate foundation or other charity to match
  - Non-deductible
  - Be mindful of state law
  - Consider combining a gift to contributor with PAC match for those giving a certain amount
- Online contributions: credit cards, PayPal, Venmo, Square

# Fundraising at the Office

- External communications and fundraising—persons outside solicitable class
  - Advance payment
  - In-person event costs to be calculated
    - Food
    - Room value
    - Use of any corporate facilities (*e.g.*, for printing invitations)
    - Use of corporate personnel in handling RSVPs or organizing the event, including any directed time

# PAC Incentives: Raffles

- Fair market value of raffle prizes may not exceed one-third of the total amount raised from the raffle from time raffle announced, otherwise PAC must reimburse the corporation for excessive amount
  - For PAC fundraisers where all contributors are eligible to win a limited number of door prizes, the FEC looks to the aggregate cost of all door prizes compared to the aggregate amount of all contributions received as a result of the fundraiser to determine whether one-third rule is met
  - Numerator: fair market value of prize; Denominator: total take on fundraiser, including payroll deduction authorizations for the year
    - FEC AO 1999-31 (Oshkosh): Oshkosh PAC should aggregate costs of all door prizes to be awarded at PAC event and compare with aggregate of all contributions received by the PAC over 12 months

# PAC Incentives: Raffles

- A trade association may accept donated prizes and entertainment from its members for PAC fundraising events
- This also works for a corporation—it may receive gifts from restricted class employees. For example, an employee may donate a set of golf clubs.
- Only PAC-eligibles may enter a PAC raffle
- Prize is taxable income
- How does the one-third rule discussed above interact with a raffle prize awarded to the winner? If the fair market value of the raffled prize is $6,000, but only $15,000 is raised, the PAC must reimburse the corporation $3,000. If $18,000 is raised, no reimbursement is required.

# PAC Incentives: Raffles

- 1998 IRS technical advice memorandum stated that a PAC must pay income taxes on proceeds from a raffle used in connection with its fundraising efforts
- 1999 field memorandum changed this position, clarifying that a PAC need not pay taxes on raffle proceeds if the PAC makes clear on the tickets and at the event that the money raised will support political goals
- **Practical tip**: Big print/little print guideline
  - The raffle prize should not be presented in bigger font than the words of the solicitation. This is to avoid the inference that the incentive to win the prize was greater than the intent to donate.

# PAC Incentives: Raffles vs. Sweepstakes

- Must comply with state gaming laws
  - Some do not permit raffles or other games of chance
  - Possible solutions:
    - Provide an opportunity to win even if one does not participate—generally referred to as a “sweepstakes”
    - Convert to a game of skill (for example, you enter if you pass a trivia quiz)
    - Either way, do not treat PAC contributors differently from non-contributors (for example, automatically entering only contributors in the raffle)
    - **Possible disclaimer**: participants may be eligible for a prize without contributing

# California

- State law generally prohibits raffles or lotteries where entry requires payment
- There is an exemption for fundraising raffles, but it applies only to nonprofits and not to political organizations
- **Possible solution**: allow any person in attendance to enter the raffle and not restrict entrance to persons who contribute to the PAC (as a sweepstakes)

# Florida

- State law permits certain non-profit organizations to conduct raffles; however, the provision permitting raffles does not apply to PACs
- A 2004 AG opinion concluded that a 501(c)(6) could not host a raffle because it was excluded from the list of non-profits exempt from the ban
- At least one county has taken the view that raffles are permissible so long as there is no requirement to pay to enter
- **Possible solution**: the statute applies to drawings by chance and raffles; structuring the contest as a game of skill may be sufficient

# Illinois

- State law permits PACs to conduct raffles to raise funds
- Must obtain a license from the State Board of Elections
  - No charge
    - ➢ One-page applications
      - ✓ When and where chances will be sold
      - ✓ When and where winning chances determined
      - ✓ Prizes involved
      - ✓ PAC officials responsible for raffle conduct
      - ✓ Raffle may not be conducted if a PAC officer is a professional gambler or gambling promoter
- Application cannot be approved retroactively
- Separate license required for each raffle, unless regularly scheduled raffles are specified in application
- Disclosable on campaign finance reports, and a separate Raffle Report is required for each raffle; 3-year record retention requirement
- Localities may have additional requirements

# Massachusetts

- State gaming law prohibits raffles by PACs
- A “raffle” means an arrangement for raising money by the sale of tickets, certain among which, as determined by chance after the sale, entitle the holders to prizes
- Enforcement action against a Facebook group, Guns of Mass, which held raffles to benefit a PAC
- **Possible solution**: organize the raffle so that it is not a game of chance (*e.g.*, a game of skill) or eliminate the requirement that an employee pay consideration to enter

# New York

- PACs are specifically not authorized organization to engage in "Games of Chance"
- Raffles, "50-50s," or any other games of chance are illegal and not allowed for campaign finance purposes
- **Possible solution**: organize the raffle so that it is not a game of chance (*e.g.*, a game of skill) or eliminate the requirement that an employee pay consideration to enter

# Pennsylvania

- State law permits certain organizations to conduct "small games of chance," including drawings and raffles, in localities where voters have approved licenses for such contests—note that licenses are required
- "Raffles" are defined as games of chance in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing of corresponding ticket stubs
- The statute explicitly allows a 527 organization to obtain a license as a "club" but only if it holds a liquor license; thus, PACs are very unlikely to qualify in practice
- **Possible solution**: organize the raffle so that it is not a game of chance (*e.g.*, a game of skill) or eliminate the requirement that an employee pay consideration to enter

# Texas

- Only certain charitable and nonprofit organizations may hold raffles for charitable purposes
- Any other organization, such as a PAC, is prohibited from holding a raffle for political purposes
- But a raffle is defined as the awarding of a prize by chance at a single occasion among a group of persons who have paid a thing of value for a ticket that represents a chance to win a prize
- **Possible solution**: offer a chance to win to any employee in the restricted class without a requirement to contribute to the PAC

# Questions?