



Office for Civil Affairs

MEMORANDUM

TO: Pastors, Principals and Business Managers
FROM: William M. Nolan, Office for Civil Affairs *W.M. Nolan*
DATE: October 12, 2020
RE: **Lotteries / Raffles**

This memo will clarify the legal requirements for parishes and schools operating a raffle (a type of lottery) in accordance with A) Penal Code Section 320.5, B) United States Postal Service regulations, and C) IRS reporting and withholding requirements.

A. Penal Code section 320.5

A legal raffle is a scheme for distribution of prizes by chance among persons who have paid money for paper tickets that provide the opportunity to win the prizes, where: (1) each ticket is numbered and sold with a detachable coupon or stub bearing the same number; and (2) the winners are determined by drawing from among the ticket stubs.

The law authorizes certain charities such as the parishes and schools of the Diocese of San Diego to conduct charitable raffles under the following conditions:

1. The draw must be conducted in California under the supervision of an adult. (Thus, although a student may pull the winning number from a drum, the process must be supervised by an adult.)
2. The funds must be used to benefit a charity in California.
3. A raffle may not be conducted by means of any electronic device, gaming machine or device including slot machines.
4. The raffle may not be conducted over the Internet, nor may raffle tickets be sold over the Internet. However, your parish website may have informative announcements about the raffle, including lists, pictures, and descriptions of prizes, list of winners, raffle rules, raffle entry forms (which can be downloaded and printed from the website, but cannot be submitted electronically), raffle contact information, and frequently asked questions.
5. No other organization may have an interest in the raffle or its proceeds. (Even the Knights of Columbus are subject to a different set of requirements.)
6. In no event shall more than 10% of the proceeds of the raffle be used to pay for the expenses of the raffle (including prizes). *However, prizes in the form of goods or money may be purchased or subsidized from other funds available to the parish or school, or may be donated (i.e. the PTG Board may donate a prize, a local company may donate a prize). If the prizes are donated or funded from sources other than the ticket revenue, make sure these sources of funds or prizes are well-documented.*

7. 50-50 type raffles may not be held. Because of the rule above, it would have to be a 90-10 raffle, or as previously stated, set prizes, including set cash prizes, donated or funded from sources other than ticket sales would have to be raffled off instead.
8. The raffle is not required to be registered with the Attorney General, if it is for the benefit of a corporation organized for religious purposes, i.e. a parish or its school. Pen. C. § 320.5(h)(8)
9. NOTE: A raffle which follows certain rules is exempt from all other penal code restrictions pertaining to raffles. Subsection (m) of Penal Code section 320.5 provides: “(m) A raffle shall be exempt from this section if it satisfies all of the following requirements: (1) It involves a general and indiscriminate distribution of the tickets. (2) The tickets are offered on the same terms and conditions as the tickets for which a donation is given. (3) The scheme does not require any of the participants to pay for a chance to win.” IRS reporting and withholding requirements still apply to the winner of this type of raffle. See IRS requirements below.
10. These rules are similar to the USPS regulations concerning mailing of raffle tickets. See USPS regulations below. In both cases, so long as the opportunity to participate in the raffle is not conditioned upon purchase of a ticket or a donation, the raffle can be conducted on-line or via US Mail.

B. USPS regulations

Under USPS regulations, raffles that incorporate “prize,” “chance,” and “consideration” are considered lotteries under postal standards. “Tickets” for such raffles are considered unlawful mail matter and may not be mailed. However, when one or more of the three elements, i.e. prize, chance, or consideration, are omitted from a raffle, the offer does not constitute a lottery for postal purposes. Therefore, if the parish creates a raffle that makes clear that a donation or purchase is not required to participate in the raffle, e.g. via a check box such as “/ / Please enter my name in the drawing. I do not wish to make a donation at this time,” the US Mail may be used to distribute the tickets for the raffle.

C. IRS requirements

1. **Parish: Avoiding UBIT liability.** A raffle is a form of business activity. As such, proceeds from sale of raffle tickets could trigger Unrelated Business Income Tax liability. In order to avoid UBIT liability, the raffle must be conducted substantially by volunteers. The tax law does not define “substantial” in percentage terms. A commonly observed rule of thumb is that 85% of the raffle work hours should be performed by volunteers.
2. **Raffle winner: Tax Reporting and Withholding.** Gambling winnings, such as raffle prizes, are subject to two related, but distinct IRS requirements: a) reporting requirements; and b) withholding requirements. Different criteria apply to each. What follows are criteria applicable to lotteries and raffles. Bingo, slots, keno, and poker winnings are subject to different requirements.
3. **IRS reporting** of the raffle or lottery prize on Form W-2g is required if either of the following are true: a) the fair market value of the prize is greater than \$5,000.00; or b) the fair market value of the prize is between \$600 and 5,000 AND the fmv of the prize is equal to or greater than 300 times the wager. The cost of the wager, i.e. all tickets purchased by the winner, can be subtracted from the prize value in determining whether the \$600 threshold is met. Example 1: Winner buys a single \$2 ticket and wins \$605. The value of the prize, reduced by the wager (\$605 less \$2, or \$603) is over \$600, and is at least 300 times the value of the wager, so reporting is required. Example 2: The winner buys one \$2 each and wins \$600. The value of the prize less the wager (\$600 less

\$2, or \$598) is now less than 300 times the value of the wager, so no reporting is required.

4. For reporting purposes, have the winner fill out IRS Form W-9, which states the winner's name, address, and tax ID number. Use this information to fill out Form W-2g, which is given to the winner and filed with the IRS. For updated information, see: www.irs.gov/w2g.
5. **IRS withholding** is required where the value of the prize, less the amount of the wager, is more than \$5,000. Withholding is paid using IRS Form 945 if the total tax withheld on gambling winnings is less than \$2,500 for the taxable year. If the total tax withheld is \$2,500 or more for a given tax year, the withheld tax must be deposited on a monthly or semi-weekly basis using the Electronic Federal Tax Payment System (EFTPS). For more information or to enroll in EFTPS, see: www.eftps.gov
6. As of January 1, 2020, the withholding rate is 24% of the gross fair market value of the winnings, if the Parish/School withholds this sum from a cash prize, or makes the winner pay the withholding to the Parish/School for a non-cash prize. If the Parish/School pays the tax on behalf of the winner, the withholding rate is 33.33% (the IRS considers the Parish's payment of the winner's tax as another form of income to the winner, on which additional tax is owed).
7. The diocesan Office for Finance can provide further assistance with IRS reporting and withholding requirements.

In order to ensure that we are able to demonstrate compliance with the Penal Code, any parish or school conducting a raffle should complete the form on the following page for each raffle and keep this record in its files for two years. Questions? Call the Office for Civil Affairs at (858) 490-8277.

RAFFLE/LOTTERY RECORD

[Name of event] _____ [Date] _____

Number of tickets sold: _____ x Price of tickets: \$ _____ = \$ _____
Gross Receipts

Cost of ticket printing: \$ _____

Cost of prize(s): \$ _____

Other costs: \$ _____

Total costs: \$ _____

Costs subsidized/provided by the following resources: _____

Proceeds of Raffle: \$ _____

The proceeds of this raffle were used to fund the following project:

_____, or
the funds were donated to the church school of _____
_____ parish.

Keep a copy of an original raffle ticket, including both the stub and the ticket.

Please keep on file for two years