

**THE MOST WORSHIPFUL GRAND LODGE
OF ANCIENT FREE AND ACCEPTED MASONS**

OF THE STATE OF CONNECTICUT

POLICY AND PROCEDURES MANUAL

LODGE FUNDRAISING AND DONATION GUIDELINES

**Prepared by the
Grand Lodge of Connecticut Legal Matters Committee**

The following is information for our Lodges and the Brethren is provided by the Grand Lodge Committee on Legal Matters. The Committee recognizes the contributions to this article by Worshipful Brothers Justin Duffy, Martin Ede and Chuck Landau of the Grand Lodge Archive Committee and Jennifer King, Executive Director of the Masonic Charity Foundation.

INDEX

General discussion	Page 3
Gift eligibility	Page 4
Common methods of funding donations	Page 5
Common Fundraising Activities	
Raffles and games of chance	Page 6
Dinners	Page 7
Documentation and compliance matters	Page 8
Connecticut oversight of solicitation and fundraising	Page 9

GENERAL DISCUSSION

At various times, lodges receive inquiries from a brother interested in making a tax deductible donation to a lodge or Grand Lodge. Our Grand Secretary or the Committee on Legal Matters are resources available to contact for advice to determine if the proposed donation is permissible and if so, what needs to be done.

Grand Lodge is tax-exempt by virtue of Internal Revenue Code (aka "IRC") Section 501(c)(10). Subordinate lodges within this Grand Jurisdiction are generally tax-exempt by virtue of the group tax-exemption IRS granted to Grand Lodge and its subordinate lodges pursuant this section of the Internal Revenue Code. The Internal Revenue Code, along with the tax-exemption letter issued by the IRS and other guidance published by the IRS and courts confirm a donor, making a donation to Grand Lodge or to a subordinate Masonic lodge, covered by the group exemption, may claim a deduction for the donation provided both the donor and lodge agree to specifically restrict the use of the donation as required by IRC Section 170(c).

IRC Section 170(c) describes deductible charitable contributions to include a gift to a "domestic fraternal society, order or association, operating under a lodge system, but only if such contribution or gift is to be **used exclusively** for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals." Thus, brothers who would like to give to Grand Lodge or their local lodge, in excess of their dues, can claim a charitable deduction on their income tax returns if they itemize; the brother indicates that the donation is to be used exclusively for the purposes described above; and, the lodge restricts the use of the funds to the purposes described above. Please note that the income tax deduction limit for donations to lodges is governed by IRC§170(b)(1)(B) (an overall limit of 30 percent of donor's AGI).

The donation to the lodge must be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. Thus the donor must tell the lodge the donation can only be used for those purposes; the donor must have a legally enforceable right to ensure the lodge complies with the restriction, and the lodge must agree to that restriction. ***It cannot be emphasized enough failure to comply with these requirements means there is no income or estate tax deduction for the donor.***

The ability to claim a charitable deduction also applies to estates if the requirements of IRC§ 2055(a)(3) are carefully followed. Thus, if a brother intends to leave a bequest to his lodge, he must provide in his will that the bequest be used exclusively for charitable, literary and educational programs of the lodge. Further, the will should require the lodge to document their intention to use the bequest specifically for those purposes.

An example of an unfortunate result was the Estate of Lloyd P. Cavett v. Commissioner, 79 TCM 1662, dated March 15, 2000. Upon his death, Brother Cavett, made bequests to various Masonic and fraternal organizations in the amount of \$22,000. The will placed no restrictions on how these organizations may use the funds. The executor deducted the \$22,000 payments as bequests to charities pursuant to IRC §2055(a)(3). That particular statute allows a charitable deduction for bequests to " ... a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such ... fraternal society, order, or association, exclusively for religious, charitable, scientific,

literary, or educational purposes, or for the prevention of cruelty to children or animals, ... ". The US Tax Court held that the estate failed to provide evidence that the lodges intended to use the bequests for charitable purposes. See also, First National Bank of Omaha, v U.S. in the Estate of Glenn W. McIninch involving a bequest to the Order of the Eastern Star. Again, the decedent failed to specifically require within the will that the bequest to the Eastern Star be used exclusively for charitable purposes. The court reaffirmed the requirement that the decedent must provide in the charitable bequest that it is exclusively for charitable purposes and must be legally enforceable by the estate.

IMPORTANT: First, if your lodge was notified by the IRS of a loss of tax-exempt status, the lodge must disclose to the donor a donation is not deductible. This holds true until the tax-exempt status is reinstated. Second, it is the responsibility of the donor to consult with their personal tax advisor regarding the tax deductibility of donations to a lodge and the IRS compliance/reporting requirements. The lodge should not be providing tax advice.

One final reminder, the receipt of a donation to the Lodge, whether cash or property, may impact which Form 990 the lodge must file and whether additional disclosures are required with the filing because the donation is a "receipt" for purposes of computing the lodge average annual receipts.

Lodges receiving an inquiry are encouraged to contact our Grand Secretary for information. Depending on the amount of the donation, the donor may request a copy of the IRS exemption letter that covers Grand Lodge and the individual lodges. A copy is attached to this article which can be duplicated for this use.

UNDER NO CIRCUMSTANCES SHOULD LODGE OFFICERS, TRUSTEES OR BROTHERS PROVIDE TAX AND LEGAL ADVICE TO A PROSPECTIVE DONOR. IT IS THE RESPONSIBILITY OF THE DONOR TO RETAIN QUALIFIED ADVISORS TO ENSURE COMPLIANCE WITH FEDERAL AND STATE LAWS. THE RESPONSIBILITY OF THE LODGE IS TO TAKE POSSESSION OF THE DONATION, COMPLY WITH GRAND LODGE RULES AND REGULATIONS, COMPLY WITH THE CONDITIONS ATTACHED TO THE DONATION AND COMPLY WITH FEDERAL AND STATE LAWS CONCERNING RECORDKEEPING AND REPORTING.

GIFT ELIGIBILITY

All gifts may be accepted except those that:

- violate a federal, provincial or municipal law, by-law or regulation;
- would cause the Lodge or Grand Lodge to lose its tax-exempt status or incur federal and Connecticut Unrelated Business Income Tax;
- violate the rule and regulations of the Grand Lodge of Ancient Free and Accepted Masons of the State of Connecticut;
- are donated on a condition that would compromise, in the opinion of the Chair of the Board, a fundamental principle of the Grand Lodge of Ancient Free and Accepted Masons of the State of Connecticut; or
- The Grand Master of the Grand Lodge of Ancient Free and Accepted Masons of the State of Connecticut's, in his absolute discretion, declines.

COMMON METHODS OF FUNDING A DONATION

Direct payment by Cash:

Payments by check, wire transfer or money orders are the most common approaches donors use. Payment by credit card is a permissible method but as a practical matter, lodges are unlikely to have the ability to process credit card payments.

Transfer of Publicly Traded Securities:

Donors may inquire if it is possible to fund a donation with securities that are publicly traded stocks and bonds. These requests are often done because the donor can deduct the fair market value of the securities without paying income tax on the appreciation in value since acquiring the security. As a practical matter, a lodge receiving such a request must have brokerage account in the name of the lodge in order to receive the securities, hold and ultimately sell the securities. The value and amount of official receipt of such a donation are determined by the value of the security on the date of receipt of the donation.

A donation of securities not publicly traded should not be accepted because of the difficulties to determine fair market value, a lack of marketability and often restrictions on transfers.

Named beneficiary of a Life Insurance Policy:

The owner of a life insurance policy may name the lodge as a beneficiary of a life insurance policy. On death of the insured, the insurance company will process the death claim and make payment according to the terms of the policy.

A donor may offer to transfer ownership of an existing life insurance policy. This is a more complex donation and the lodge must determine whether such a donation is appropriate for the lodge. The lodge needs confirmation on whether the insurance is a term or whole-life policy, whether a transfer can occur under the terms of the policy, who is the insured, current value of the policy, required continuing payments, an in-force report, existence of a policy loan, etc. Before accepting donation of an existing insurance policy, the lodge should consult with a broker or insurance agent with knowledge of life insurance products.

Named beneficiary of an Estate

As described within the introductory section of this guidance, lodges may be named in a Will as a beneficiary of an estate. The type of bequest can be a specific amount of money or property. Alternatively, the bequest can be some portion of the residuary estate. The residuary of an estate represents the net assets remaining after payment of all debts and taxes, costs of administration and payment of specific bequests. Bequests often require the beneficiary to agree to restrictions on the use of the property or funds received. Lodges receiving notice of a bequest should promptly respond to any communications with the executor.

Named beneficiary of a Trust:

Donors may name a lodge a beneficiary of a trust created by the donor. A trust is a legal entity governed by a trust document which describes the property to be held in trust, the trust term (how long it exists), who are the beneficiaries of the trust, the economic interests each beneficiary will have and when and who will manage the trust. Although unusual, the Committee is aware of one lodge named as an income beneficiary provided the lodge complies with the terms of the trust. Trusts are often incorporated into an individual's estate and financial planning and become effective upon the death of the person creating the trust.

Named beneficiary of a Retirement Fund:

Donors may name a lodge as beneficiary of their retirement account, most commonly an Individual

Retirement Account (IRA). Payment from a retirement account occurs upon the death of the owner. Donation of all or part of an IRA upon death is an estate planning technique with owners of IRA's because the recipient charity does not pay income tax on the receipt of the IRA funds as occurs with individual beneficiaries. It is less common with other types of retirement accounts.

Gifts of other property:

Donors may desire to donate such assets as real estate, equipment, or items of historical importance.

These types of donations are unusual and often require consulting with outside advisors. The lodge needs to determine whether the gift is subject to restrictions concerning use and transfer; the challenge and cost of valuing the proposed donation; the continuing costs to maintain and insure; and whether it is compatible with the current and future needs of the lodge.

Gifts of partial interests:

These are advanced estate and financial planning transactions whereby a donor agrees to transfer property in trust and continues to retain an economic interest in the property. These are commonly referred to as a Charitable Remainder Trust or a Charitable Lead Trust. Charitable Remainder Trusts provide an income stream to non-charitable beneficiaries for a stated period of time, and at the end of the term the assets are distributed to named qualifying charities. Charitable Lead Trusts provide an income stream to a qualified charity for a stated period of time, and at the end of the term the assets are distributed to non-charitable beneficiaries. These types of gifts require execution of complex legal documents and financial calculations to determine the income stream and value of the charitable and retained interests, continuing administrative support and compliance with Federal and state law. The Committee recommends the lodge refer the donor to the Masonic Charity Foundation whose staff can assist with this type of gift planning.

COMMON FUNDRAISING ACTIVITIES

Raffles and games of chance:

These are commonly used by non-profit organizations to raise funds and include raffles and games of chance, such as a bingo, cow chip, duck race, cage or blower ball, fifty-fifty coupon game, etc. From a donor perspective, these activities offer a chance to win a prize exceeding the cost of the payment and because of that, the donor is not allowed to deduct the payment for income tax purposes. Prizes with a value of \$600 or more must be reported to the IRS on Form 1099MISC.

Lodges and masons are governed by GLR&R Section 8002 – Lotteries, Raffling or Games of Chance as amended in March 2009. This regulation provides the following:

The utilization of lotteries, raffles or games of chance as fund raising vehicles by Masonic Lodges and associated organizations, such as building associations or fellowcraft clubs, is permitted only for support of Lodge charitable functions or for support of the building association or other associated organization. Such activities shall not be permitted in the Lodge Room at any time, or any place in the building during a Lodge meeting. Such fund raising activities shall at all times comply with all applicable statutes of the State of Connecticut. The sponsoring organization, or the Lodge, must obtain appropriate liability insurance coverage for the activity. This rule is not intended to restrict fellowship activities such as card games following Lodge meetings, provided any prizes are of nominal value. Failure to comply with these provisions may result in charges of Un-Masonic conduct being preferred against the Lodge and/or the brethren involved.

These activities are also regulated by the Connecticut Department of Consumer Protection and a permit must be obtained prior to the event. Additional information regarding the permit and operating requirements can be obtained at the Connecticut Department of Consumer Protection website, www.ct.gov/dcp/ under the section “Divisions” and the tab “[Charitable Games.](#)”

Dinners, food concessions:

A common fundraising activity is a dinner or food concession hosted by the lodge and open to the public.

If the event is a dinner, those attending pay for the meal and a portion of the ticket price is allocable to the fundraising. If the lodge intends to offer alcohol the lodge officers must refer to GLR&R Section 8001 – Liquor Forbidden on Lodge Premises (With Exceptions). This regulation provides the following:

The sale or distribution of spirituous and/or malt liquors upon the premises at any Lodge, or the introduction of spirituous and/or malt liquors into any Lodge room within this Grand jurisdiction is hereby strictly prohibited unless required as an integral part of a Masonic degree, ritual, order or ceremony, except as follows:

The use or distribution, but not the sale, of spirituous and/or malt liquors shall be permissible in the banquet hall or dining rooms of any Lodge, Masonic Temple Association or Corporation;

1. During rentals to responsible persons for non-Masonic purposes;
2. During exclusively social functions held under the auspices or sponsorship of any Lodge or Masonically related body, such as Square Clubs, Fellowcraft Associations, or any other organization whose qualification for membership is based upon membership in a symbolic Lodge provided that such social functions shall not be held concurrently with any meeting of such symbolic Lodge or any such Masonically related body whose qualification for membership is based upon membership in such symbolic Lodge.

Any use under the foregoing exceptions shall be under the jurisdiction and control of the Lodge or Masonic Temple Association or Corporation which owns the premises, and such owner shall be responsible for the proper use of liquor during any such rental or social function.

In view of the potential public liability, use under exceptions 1 and 2 above shall not be permitted unless necessary insurance is obtained by this Grand Lodge protecting it, the Masonic owner of the premise where such use takes place, and any sponsor and any person connected with such use, from public liability; and unless the insurance assessment levied by this Grand Lodge upon its taxable membership be increased to pay the cost of necessary coverage.

Lodges who use dinners for fundraising need to address whether the meal is exempt from Connecticut sales tax. The responsibility to collect Connecticut sales tax is predicated on a person or business engaged in the “business of selling goods and services at retail” in sufficient number, scope and character to constitute an activity requiring a “seller’s permit.” For further guidance please refer to DRS Special Notice SN 98(11) *Exemption from Sales and Use Tax of Sales by Nonprofit Organizations at Fundraising or Social Events* and DRS Policy Statement PS 2002(2) *Sales and Use Tax on Meals*.

The lodge must determine if a Temporary Food Services Permit issued by the local Health District is required for the event. For further information, please contact your local Health District.

DOCUMENTATION AND COMPLIANCE MATTERS

The lodge, as the recipient, must follow the IRS compliance rules which include issuing to the donor an appropriate charitable receipt. IRS Publication 1771 describes these requirements and can be downloaded from the website: <http://www.irs.gov>

First, if a donor gives \$250 or more to lodge, the Lodge must issue a written acknowledgement to the donor containing the following language if the lodge does not provide any goods or services in exchange for the donation:

Thank you for your check in the amount of \$ XXXX to our charitable fund. This donation will be used exclusively to fund charitable, literary and educational programs of the lodge. *We acknowledge that the Lodge did not provide goods or services in return for the contribution.*

The donor has the responsibility to have in their possession the written acknowledgement prior to the filing of their income tax return. Failure to obtain written acknowledgement will result in the deduction being disallowed by the IRS. We recommend organizations issue the acknowledgement contemporaneously upon receipt of the donation to avoid this problem.

Second, if a donor gives \$75 or more to a lodge and the donor receives property or services from the lodge having a value in excess of the "token exception" described in the enclosed document, the lodge must issue a written acknowledgement to the donor containing the following language:

Thank you for your check in the amount of \$ XXX to our charitable fund. This donation will be used exclusively to fund charitable, literary and educational programs of the lodge. In exchange for the contribution received, the Lodge provided you with the following goods or services:

Description of goods or services _____ . We estimate the fair market value of the goods or services to be \$ XXXX.

Of importance to note, in addition to the deduction disallowance rules described above, is the impact on the lodge for failure to provide this required acknowledgement. The IRS may impose a penalty of \$10 for each failure, not to exceed a total of \$5,000 per fundraising event or mailing. A Lodge receiving charitable contributions may also refer to IRS Publication 1771. This publication may be obtained by visiting the following website: www.irs.ustreas.gov/charities

If the lodge receives donation of property, other than marketable securities, and the aggregate value of the property is more than \$5,000, the donor must complete IRS Form 8283, Section B (page 2 of the form). In addition, the property must be independently valued by a qualified appraiser as described in the IRS regulations no earlier than 60 days prior to the donation. It is the responsibility of the donor to ensure proper completion of the Form 8283 and to obtain the appraisal. The lodge would complete Part IV, Donee Acknowledgement and signed by a responsible officer, most likely the Worshipful Master or Treasurer. If the lodge disposes of the donated property within 3-years of receipt, the lodge must complete and file Form 8282, Donee Information Return and send a copy to the donor and IRS.

Lodges required to File Form 990-EZ or Form 990 must complete Schedule B if the lodge received any contribution or bequest of \$5,000 or more.

CONNECTICUT OVERSIGHT OF SOLICITATION AND FUNDRAISING

The Connecticut Solicitation of Charitable Funds Act requires most organizations to register with the Department of Consumer Protection if the organization engages in any activity that involves the solicitation of contributions. The Department of Consumer Protection is responsible for administering the compliance provisions of the Act. The Attorney General has responsibility for initiating civil and criminal proceedings against individuals and organizations violating provisions of the act. Both agencies work jointly through the Public Charities Unit of the Attorney General's office.

Fundraising activity includes telephone, mail and in-person solicitation of donations, raffles, or the sale of goods or services.

If your lodge engages in fundraising activities you need to take action:

- If your lodge normally receives less than \$50,000 in contributions/donations annually the lodge is exempt from annual reporting requirements provided the lodge does not compensate any person primarily to conduct solicitations.

The lodge should complete Form CPC-54 – Claim of Exemption from Registration. This form can be obtained from the [Department of Consumer Protection](#). There is no filing fee and the Form CPC-54 needs to be filed only once.

Please note - The \$50,000 threshold is determined on a “gross receipts” basis. Thus if your lodge holds fundraising event for a scholarship program, raffling an auto, and collects \$83,000 in raffle proceeds and awards an auto costing \$40,000, the lodge has exceeded the \$50,000 threshold and would not be exempt from the registration and reporting requirements of the Connecticut Solicitation of Charitable Funds Act.

- If your lodge does not qualify for exemption you must register annually by completing Form PCUREG-01 – Charitable Organization Registration Application.

The lodge will be required to annually register with the Department of Consumer Protection; pay a filing fee and provide a copy of their Form 990 or 990-EZ and in certain situations, undergo a financial audit.

For information call 860-808-5030 or go to the Attorney General's Office website <http://www.ct.gov/ag/> and go to the Charities page.

This article is intended to provide the Grand Lodge of Connecticut, A.F. & A.M., all subordinate lodges and other fraternal organizations bearing allegiance to the Grand Lodge of Connecticut, A.F. & A.M. with general guidance and information. Specific questions should be referred to the IRS, Connecticut DRS or a professional tax advisor. Donors must consult with their tax and financial advisors before funding a donation to Grand Lodge or its subordinate lodges.