



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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Issued
March 1, 2000

Many religious, charitable, and other organizations that qualify for tax deductible contributions use a practice known as "deputized fundraising" to support their activities. Deputized fundraising consists of paid staff, and/or volunteers conducting grass roots fundraising to support the organization. This practice has occasionally been controversial because of the tendency on the part of some fundraisers to represent that contributions will only be used to support the work of the individual doing the fundraising. In such cases, the nature of the transaction may become blurred and donors may be led to believe that the organization is a mere conduit and that contributions will automatically be allocated to the fundraiser. Although private giving through an organization to earmarked individual recipients is not deductible, and conduit organizations operated to facilitate such private giving are not tax-exempt, unearmarked contributions to a religious, charitable or other qualified organization for use in its charitable program are deductible.

Rev. Rul. 62-113, 1962-2 C.B. 10, provides guidance regarding potential conduit giving, stating that the test of whether a gift is intended by a donor for the use of the organization and not as a gift to an individual is whether "the organization has full control of the donated funds, and discretion as to their use, so as to insure that they will be used to carry out its functions and purposes." The purpose of the following questions and answers is to clarify the application of the control test in the context of organizations that utilize deputized fundraising...

1. Question: If an organization otherwise described in IRC 501(c)(3) and IRC 170(c)(2) receives substantially all of its revenues through deputized fundraising, i.e., through individual missionaries, staff members, or volunteers conducting grass-roots fundraising to support the organization, can the organization be described in IRC 501(c)(3) and IRC 170(c)(2)?

1. Answer: Yes, the organization can be an organization described in IRC 501(c)(3) and 170(c)(2) if it has full control of the donated funds and has

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discretion as to use of the funds. Control and discretion can be shown by the following factors:

- Control by the governing body of donated funds through a budgetary process;
- Consistent exercise by the organization's governing body of responsibility for establishing, reviewing, and monitoring the programs and policies of the organization;
- Staff salaries set by the organization according to a salary schedule approved by the governing body. Salaries must be set by reference to considerations other than an amount of money a deputized fundraiser collects. There can be no commitments that contributions will be paid as salary or expenses to a particular person;
- Amounts paid as salary, to the extent required by the Internal Revenue Code, reported as compensation on Form W-2 or Form 1099-MISC;
- Reimbursements of legitimate ministry expenses approved by the organization pursuant to guidelines approved by the governing body. Reimbursement must be set by considerations other than the amount of money a deputized fundraiser collects;
- Thorough screening, of potential staff members pursuant to qualifications established by the organization, and that are related to its exempt purposes and not principally related to the amount of funds that may be raised by the staff members;
- Meaningful training, development, and supervision of staff members;
- Staff members assigned to programs and project locations by the organization based upon its assessment of each staff member's skills and training, and the specific needs of the organization;
- Regular communication to donors of the organization's full control and discretion over all its programs and funds through such means as newsletters, solicitation literature, and donor receipts; and
- The financial policies and practices of the organization annually reviewed by an audit committee, a majority of whose members are not employees of the organization.

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2. Question: If the facts are the same as in question 1, except that, in the organization's discretion, substantially all the contributions received by the organization are tracked for internal accounting purposes as having been raised through the efforts of a missionary, staff member, or volunteer and are generally used to pay for the reasonable salary or other reasonable and necessary organization-related expenses of the designated individual, can the organization be described in IRC 501(c)(3) and IRC 170(c)(2)?

2. Answer: Although such tracking by an organization may show that contributions are earmarked for a particular individual and that the organization is not retaining discretion as to the use of funds, the organization may by the totality of the facts and circumstances demonstrate that it has full control of, and discretion over the use of, the donated funds so as to ensure that they will be used to carry out the organization's functions and purposes, and thus be an organization described in IRC 501(c)(3) and IRC 170(c)(2).

3. Question: What language would the Internal Revenue Service suggest should be included in a solicitation by an organization described in IRC 501(c)(3) and IRC 170(c)(2) for a contribution raised through deputized fundraising in order to make it clear to the donor that all contributions are under the complete control of the recipient organization and are subject to the organization's discretion for use consistent with its exempt purpose?

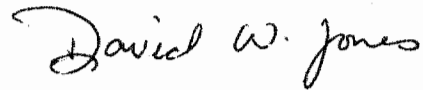
3. Answer: For a contribution to be deductible under IRC 170, the donor must intend that the contribution be to or for the use of a qualified donee organization, such as one described in 170(c)(2). The following language in solicitations for contributions, with no conflicting language in the solicitations and no conflicting understandings between the parties, would help show that the qualified donee has the necessary control over contributions, that the donor has reason to know that the qualified donee has the necessary control

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and discretion over contributions. and that the donor intends that the qualified donee is the actual recipient of the contributions:

Contributions are solicited with the understanding that the donee organization has complete discretion and control over the use of all donated funds.

Sincerely,

A handwritten signature in cursive script that reads "David W. Jones".

David W. Jones
Chief, Review Branch
Exempt Organizations