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Traps for the Unwary in the Non-Profit Sector – Fundraising

With increased scrutiny and regulation by Congress and the Internal Revenue Service, it is becoming more important for non-profits to focus on compliance with both federal and state rules, including those regulating fundraising and solicitation. Whether conducting a raffle, holding galas or other events, or soliciting corporate sponsorships, seemingly ordinary fundraising activities can raise a number of tax and legal issues.

Although a comprehensive discussion is beyond the scope of this Alert, following is a list of some fundraising activities that can raise compliance issues at a local, state, and federal level.

- Providing goods or services in exchange for donations or sponsorships
- Corporate sponsorships, exclusive provider agreements, and sponsor advertisements, including Internet banner ads, endorsements, and exclusive deals for donors or members
- Fundraising and solicitation registration inside and outside of Texas
- Internet sales and fundraising
- Hiring persons outside the organization to raise funds (professional fundraisers)
- Gambling (including bingo, casino nights, duck races, and Texas Hold 'Em), raffles, and auctions
- Vehicle and art donations
- Selling items and services that might require collection of sales tax, such as food, sodas, alcohol, t-shirts, etc., or providing these items to event attendees who purchase tickets
- Engaging in activities that might require state or local permits, such as selling food, alcohol, and/or other items, providing child care, or holding large events (over 5,000 people)
- Engaging employees and independent contractors
- Copyrights and other intellectual property rights (for example, permitting the use of the organization's name, logo, or designs, or using another individual's or organization's name, logo, designs, or pictures on invitations, brochures, or web site material)
- Solicitation by certain state/government employees or officers, or by pedestrians near roadways and sidewalks
- Liability issues for all events, including those off the organization's premises
- Substantiation requirements necessary for donors to take charitable deductions

If you have questions regarding any of these activities, please feel free to contact one of the attorneys listed below.

[Rice M. Tilley, Jr.*](mailto:rice.tilley@haynesboone.com)
817.347.6611
rice.tilley@haynesboone.com

[John M. Collins](mailto:john.collins@haynesboone.com)
214.651.5564
713.547.2002
john.collins@haynesboone.com

[William D. Ratliff*](mailto:william.ratliff@haynesboone.com)
817.347.6608
william.ratliff@haynesboone.com

[J. Mitchell Miller](mailto:mitch.miller@haynesboone.com)
214.651.5363
mitch.miller@haynesboone.com

[James O. Wyss*](mailto:james.wyss@haynesboone.com)
817.347.6629
james.wyss@haynesboone.com

[Danika H. Mendrygal](mailto:danika.mendrygal@haynesboone.com)
214.651.5757
danika.mendrygal@haynesboone.com

[Jeffrey S. Dinerstein](mailto:jeff.dinerstein@haynesboone.com)
713.547.2065
jeff.dinerstein@haynesboone.com

[Jamie L. Harris](mailto:jamie.harris@haynesboone.com)
214.651.5301
jamie.harris@haynesboone.com

[Rebecca E. Whitacre](mailto:rebecca.whitacre@haynesboone.com)
214.651.5112
rebecca.whitacre@haynesboone.com

*Board Certified – Estate Planning and Probate Law and Tax Law by the Texas Board of Legal Specialization

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