

## **CubCast – Dec. 2014 - Unit Fundraising and the IRS**

### **DECEMBER – HOW TO HANDLE FUNDRAISING DOLLARS**

#### **Music Full then under**

MARK: Welcome to our CubCast for December, 2014. We realize you're busy with the holidays and other year-end activities so we really appreciate that you're taking the time to join us.

JANET: We usually try to end the year on a lighter note, but we've got an important topic that we need to bring to your attention now.

MARK: That's right Janet. Many of our listeners probably don't know that there's a change to the IRS compliance environment regarding fundraising.

JANET: And it's going to directly affect your unit's fundraising efforts, but CubCast is here to help and hopefully we'll be able to address all your concerns and questions.

MARK: So, let's jump right in.

#### **Music Fades**

MARK: Joining us for this very special CubCast is Steve McGowan, General Counsel for the Boy Scouts of America, who'll help us make some sense out what's going on with fundraising rules and regulations. Welcome to CubCast, Steve.

STEVE: Thank you.

MARK: So, Steve, what are the BSA's rules concerning individual scout accounts?

STEVE: The BSA Rules allow for scout accounts, but they have to be operated within the parameters allowed by the Internal Revenue Service. Those rules include

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that you can't have a private benefit. Private benefit means that when you're raising money on behalf of a non-profit organization, individuals can't benefit from those funds that are being raised. BSA's policy is that we will conduct our fundraising in accordance with the Internal Revenue Services' Regulations. We're a 501C3, or a non-profit organization so we're bound to do that or we could put our non-profit status in jeopardy. The scout account issue comes up with how is it getting accounted for? Tracking dollar for dollar credit where scouts have fundraising or product sales and they get dollar for dollar credit for those sales is prohibited by the IRS, but what is dollar for dollar credit? For example, with our product sales, some of the profit goes to the unit, some to the council, some to the scout so that dollar for dollar credit may not necessarily mean that the scout is getting all the credit for those sales. So to the extent that the scout is getting some credit, the IRS may allow that and BSA would not prohibit that from being done. To the extent that the scout's getting all the credit; it is prohibited. We've never allowed individual scout accounts which provide for substantial benefit, which is the IRS term for what is prohibited, but we have allowed scouts to have accounts which would make them more thrifty, make them more understanding of what does it mean to set goals and achieve goals and to earn their way. That's been part of the scouting way for many years and to the extent that the scout is using fundraising as a means to accomplish scouting goals, then the IRS says that may be more allowable than when they're simply out raising money for their own benefit to the extent that scouts are using those funds or the unit is using the funds to offset the cost of scouting. That gets into the realm of being allowable as opposed to a private benefit. So the BSA's position is that as long as the scout accounts are operated within the parameters of the IRS regulations, then we allow them to the extent that they provide a substantial benefit based on the fundraising done by the non-profit organization; they're not a private benefit.

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- MARK: You said something about that it could affect the not-for-profit status of the Boy Scouts of America; it could also affect the not-for-profit status of the chartered organization.
- STEVE: That's right. Our units are owned by the chartered organization so that the status of the local unit is not determined by the Boy Scouts of America or its tax exemption. It's actually determined by that of the chartered organization, and the unit must operate within the parameters of what the chartered organization status is, not within the parameters of the Boy Scouts of America, but to the extent units are out fundraising on behalf of scouting and some of the monies going to the local council. Now we get back into having to follow the IRS regulations both for the chartered organization and for the Boy Scouts of America.
- JANET: What changes in the IRS position raise the BSA's awareness to how units conduct fundraising?
- STEVE: There's a number of factors. People expect the law is black and white and it's never black and white, and the IRS never tells you everything that you need to do, or can do, or can't do ahead of time. But what we have seen over the years when questions have been asked and other organizations have been asking the IRS questions or the IRS has taken action against non-profits, we can see a pattern developing. Last year there was a significant development. The IRS actually declared an organization to no longer be tax exempt. It was an organization that was a skating program for youth. The parents had organized this non-profit for the purposes of raising money so that it would offset the cost of what the youth were doing in their skating program. Unfortunately, that was the only reason the non-profit was set up was so that they could sell things or make money to then pay for what would otherwise have been the parents' obligation to support their kids in this activity. The activity was not the purpose of the organization that they set up. The organization was set up for the

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purposes of raising money so that they could support the skating. The IRS said that crossed the line and they removed the tax exempt status of that organization.

So that was the first time in a long time the IRS has actually gone after a non-profit organization and removed their tax exempt status. That caused us to take a fresh look at the history of the IRS' positions on non-profits and caused us to want to take a look at our current publications and make sure that they're accurate and make sure that we are giving guidance to our units and to our councils that is going to allow them to make good decisions in terms of how they conduct their fundraising.

MARK: So can you give some examples of how this might affect say popcorn sales or camp card sales?

STEVE: Sure. These are very important activities for our units and for our scouts. It not only teaches them to be thrifty, to manage money and gives them an opportunity to earn their way, but it also becomes an opportunity for scouting to be more affordable for those scouts that might not otherwise get to participate. An example would be if a scout is part of a unit and the unit raises money to offset the costs of scouting for the entire unit (there's) nothing wrong with that. If they use it as a means to pay down the cost for the unit and each member to go to summer camp, nothing wrong with that.

On the other hand, when you move over to the other side and a scout goes out and sells a lot of popcorn and the unit designates that money that he raises to be used only for that scout and only for activities that benefit that scout, we get into an issue of whether or not the IRS would consider that to be a substantial private benefit. The IRS isn't going to go after the typical young Cub Scout that's selling popcorn and it helps to pay for his uniforms or helps to pay for his summer camp, but to the extent we have people that are raising significant funds and those funds are being used for costs that would normally be parental

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obligations in connection with scouting, we're getting into an area where the IRS has been and is paying more attention.

MARK: Is there an issue with money transferring from unit to unit, say if, a Cub Scout becomes a Boy Scout, money that they raise in popcorn, can it go to the next unit?

STEVE: If the unit is part of the same chartered organization, I certainly see no problem with that. The chartered organization owning both units, no problem. If we now talk about changing chartered partners, the IRS has not issued any guidance. If it goes to a class of scouts who raised money that move over to a new unit and it's going to defer the costs of those people, not on a basis of how much they raise, but rather on a group that's going to be less susceptible to attack.

MARK: Maybe a Webelos den that moves up to a Boy Scout troop and they raise money in the fall popcorn sale to go to summer camp.

STEVE: You're right! That would be a perfect example of when it clearly is a means for a scout to earn his own way because the scout wouldn't otherwise, before they cross over, have the opportunity to do that. But if it's just one scout going to one unit and you take the amount that that scout raised and it follows him to a different unit, now we're getting into a private benefit issue.

MARK: He's going to sell popcorn so that they can go to Disneyland. It's nothing to do with scouting and it's just so he can go without the unit.

STEVE: That's absolutely prohibited. Any use of the funds would have to be scouting related. It's not to take your family to Disney World. In fact, you can get into problems if you start taking designated funds to a lot of personal equipment that might not otherwise be unit equipment. These are gray areas and common

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sense has to prevail. There's a lot of pressure on the IRS and on government agencies to look carefully at non-profit fundraising. One, because the IRS wants the money, it's income, but also because these organizations are saying you ought to be paying sales tax or you ought to be paying some other kind of tax on these things that you're doing. So, it comes under scrutiny depending on the number of dollars involved and the purpose involved. Again, Johnny, who goes out and sells a couple of hundred dollars' worth of popcorn and he gets some credit towards a summer camp, I don't think anybody's ever going to complain about that young boy being able to do that or say that that's not a legitimate purpose related to scouting.

MARK: Good news.

JANET: Does the BSA have any written guidance available to help units with fundraising issues?

STEVE: You'll find that there's guidance in a number of the BSA publications - Unit Guidelines and things like that. We do have a particular Product Sales Guide that's being revised and should be available to local units if not right away, in the very near future.

MARK: Steve, is there any other useful or relevant information about fundraising dollars that you think should be shared with our listeners?

STEVE: Mark, fundraising is an important aspect of how scouts and families can afford scouting and there is a conflict between folks wanting to be able to keep what they earn versus the whole unit benefiting and that's understandable. As long as units use good sense and good judgment and things aren't taken to the extreme, then whatever they do to raise funds in the name of scouting is going to be accepted and approved by anyone who looks at it. On the other hand, it's

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like anything else. If you take it to an extreme and it gets abused or we see that the dollars involved are significant and substantial, now you're getting into an area where it could well draw attention and I think if folks just use their common sense, they'll find that scouts can participate in fundraising and enjoy scouting without any problem with Uncle Sam coming to visit them.

MARK: Steve, that's great advice and it makes me feel a lot better about this whole IRS thing. These changes are definitely going to affect each and every unit of the Boy Scouts of America so we really appreciate you taking the time to explain so clearly and thoroughly for our listeners. Thanks for coming on the show.

STEVE: Thank you for inviting me.

JANET: We'll be right back with Reminders and Tips right after this.

## **SCOUTCAST – Life Saving Awards**

JANET: And now it's Reminder and Tip time. Take it away, Mark.

MARK: Okay, everybody, time for a pop quiz. Do you know who your local scouting professional is? This person may be known as your district executive. If you don't know who that is, call your council to find out.

JANET: If you don't know your council name, go to [scouting.org](http://scouting.org) and type local council locator in the search field. Your local scouting professional is a great resource in helping deliver a quality program. It might also help to download the October, 2013 ScoutCast entitled *Who's Who in the Zoo?*

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MARK: Even though you're probably thinking more about the holidays and next summer, now's the time to start planning for summer outdoor fun. We should include Cub Scout Day Camp, Resident Camp, and Family Camp.

JANET: Since hopefully you already planned for camp and put it in your budget at the end of this past summer, it's now time for signups. The April 2013 CubCast on the *Cub Scout Outdoor Program* will help you with planning and promotion.

### **BEGIN MUSIC UNDER**

MARK: Thanks for listening everybody. And thanks to our guest Steve McGowan. If there's anything else you'd like to hear about, just drop us a line to [Cubcast@scouting.org](mailto:Cubcast@scouting.org) or a tweet to @Cubcast. Until then, I'm Mark Griffin...

JANET: And I'm Janet Griffin. Happy holidays everyone!