



LIONS DISTRICT 13-C
DISTRICT GOVERNOR DONA KLAGES
District Governor
2008/2009
www.lionsdistrict13c.org

CLUB LEGAL AND FINANCIAL AFFAIRS

Opening Remarks

1. Will be covering Incorporation, New IRS rules, Ohio annual registration, Ohio sales tax liability, liability insurance, and gambling.
2. Will talk about both 501(c)(3) and (c)(4) s, since several District 13-C clubs are (c)(3) s or have established (c)(3) foundations.

Incorporation

1. Provides level of legal protection between club and officers of the club and litigants.
2. Every club should incorporate.
3. Does not require an attorney. Anyone can go online with the Ohio Secretary of State and file form 532 and pay a \$125 filing fee.
4. Nonprofits must file a Continued Existence form every five years at cost of \$25.

New IRS Ruling

1. Effective for tax year 2007, all tax-exempt organizations must file annually with IRS.
2. Must file by 15th of 5th month after the entity's tax year-end.
3. \$25,000 or less in **gross** receipts – must file online – Epostcard.
(www.irs.gov)
4. Over \$25,000 **gross** receipts must file 990 or 990EZ.
5. Starting with 2010-tax year, threshold changes to \$50,000, which means that most Lions clubs will only have to file the online epostcard.
6. Those tax exempts not in compliance with filing requirement after 2010 will no longer be tax exempt.
7. Noncompliance with IRS could result in loss of LCI charter.
8. Epostcard requires the club to state name, tax year, federal identification number, name of principal officer, and certification that gross proceeds are less than \$25,000.



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Ohio Registration

1. Any tax exempt, which solicits financial support from the public, engages in games of chance, or uses third part fund raisers must file annually with Ohio Attorney General's office, Charitable Law Section.
2. 501(c)(3) s are governed under the Ohio Charitable Trust Act and file under that act.
3. 501(c)(4) s are governed under the Ohio Solicitations Act and file under that act.
4. Fee based upon gross contributions received which includes gross proceeds from fundraisers but not receipts from membership dues, or income from investments.
5. No fee if gross receipts less than \$5,000.
6. Report due 15th day of 5th month after the tax year end. (December 31 year end – due May 15th following year).

Ohio Sales Tax

1. 501(c)(4) s have no exemption from collection of Ohio sales tax either for sales of personal property or purchase of personal property, regardless of the use of the property.
2. 501(c)(3) s have six sales tax free days per year on sales of personal property used to raise funds for the organization.
3. 501(c)(3) s are exempt from Ohio sales tax on purchases of personal property used for the tax-exempt purposes of the organization.
4. Exemption Certificates – all vendors should require 501(c)(3) purchasers to submit an exemption certificate, which certifies that the organization is exempt from Ohio sales tax. This is to protect the seller who is responsible for assuring that the purchaser is legally exempt from Ohio sales tax.
5. Unfortunately, many vendors are not fully aware of the Ohio sales tax rules concerning exemption from sales tax and grant tax exemption to 501(c)(4) s. This places a burden upon those vendors who will be required to remit the sales tax to the state of Ohio if ever audited and the vendor has no exemption certificate on file.
6. If a 501(c)(4) has given the vendor a signed exemption certificate, the 501(c)(4) purchaser may be assessed for unpaid sales taxes.



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Gambling

1. 501(c)(4) s may conduct raffle, traditional bingo, and pools for the purpose of raising funds. All net proceeds must be used for the tax-exempt purposes of the organization.
2. When conducting traditional bingo, the organization must obtain a license from the Ohio Attorney General's office; pay a fee based upon the gross proceeds of the event.
3. 501(c)(3) s may conduct games of chance, such a pull-tab bingo, casino nights, etc., within a "festival" setting and must obtain a permit from the Ohio Attorney General's office and pay a fee to both the state and county based upon gross proceeds.

Liability Insurance

1. LCI has a \$2Million dollars liability insurance policy for parties injured or suffer property damage by **negligence** of Lions members.
2. Policy will cover personal injury only if it is determined that the Lions club is **liable** for such injury.
3. LCI will pay up to \$1,000 for medical payments without regard to fault.
4. Policy does not cover aircraft, watercraft, or automobile claims.
5. LCI policy is always secondary coverage to the Lions own insurance coverage.
6. Injury to persons where alcohol is served is not covered.
7. Injuries during athletic activities not covered.
8. LCI policy is a **fault-based** policy, which means that legal liability must be established before the policy will cover any personal injury or property damage.

Neil Sheeley
District 13-C Cabinet Treasurer
Lions Club of North Royalton, Ohio



LIONS DISTRICT 13-C

Legal and Finance
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INCORPORATION

Incorporation provides limited liability protection for the officers of a business, civic, or charitable entity. If not incorporated, any lawsuits are filed directly against the officers of the unincorporated entity, exposing the personal assets of those officers to potential loss, seizure, or liens.

It is highly recommended that all Lions clubs incorporate in order to protect the officers of the club. Incorporation may be done by filing a Form 532 with the Ohio Secretary of State, along with a copy of the club charter, and a onetime \$125.00 payment. Every five years the incorporated entity must file a Form 522, Certificate of Continued Existence with the Ohio Secretary of State along with a payment of \$25.00

The filing for incorporation and continued existence may be done by a non attorney and are simple documents to complete.

Forms 532 and 522 are easily downloaded from the Ohio Secretary of State's website, <http://www.sos.state.oh.us>.

Along with incorporating, every Lions club should have a federal tax identification number which is easily obtained online by going to <http://www.irs.gov> and following the instructions for obtaining a tax identification number.

Obtaining the federal tax identification number may be completed by any non attorney or accountant and the tax identification number is necessary when filing annually with the Internal Revenue Service as is now **required of all tax exempt organizations.**

Neil Sheeley
Lions District 13-C
Financial Advisor



LIONS DISTRICT 13-C
Legal and Finance
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NEW IRS RULINGS FOR TAX EXEMPT ORGANIZATIONS

Filing Requirement

All tax exempts, regardless of amount of gross receipts are **NOW** required to file an annual report with the Internal Revenue Service by the 15th day of the fifth month after the fiscal year end of the organization.

e.g.: If you have a 12/31 accounting year end then you must file by 5/15 of the following calendar year.

This new filing requirement took effect for tax years ending December 31, 2007 and tax years thereafter.

This means that although your club did not have in excess of \$25,000 in gross receipts, you must file the E-Postcard which is found at "<http://www.irs.gov>".

Those clubs with gross receipts in excess of \$25,000 must file a Form 990EZ,

Those tax exempts not complying with this new reporting rule by 2011 will lose their tax exempt status and will be subject to income tax on all net earnings.

The group tax exemption granted as part of the chartering of the club will no longer apply.

Change in Gross Receipts Rule for Filing Form 990-EZ and 990

Beginning with the tax year ending December 31, 2010 and thereafter the Gross Receipts rule changes from \$25,000 to \$50,000. This means that for most Lions clubs, they will only have to file the 990-N Epostcard on the 15th day of the fifth month after their tax year end.

EPOSTCARD

The 990-N or Epostcard **MUST** filed online. There will be no paper filing of this form.

The filing is available at no charge at www.epostcard.form990.org and provides the following information to the IRS:

- Employer identification number
- Tax year
- Legal name and mailing address
- Any other names the organization uses.
- Name and address of the principal officer
- Web site address of a principal officer
- Web site address if the organization has one
- Confirmation the organization's gross receipts are *normally* \$25,000 or less
- A statement if the organization is terminating or out of business

Neil Sheeley
District 13-C Cabinet Treasurer
nscpa@lycos.com



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OHIO REGISTRATION FOR TAX EXEMPT ORGANIZATIONS

Any tax exempt organization soliciting monies from the public, or engaged in bingo in order to raise funds must file with the Attorney General of the State of Ohio on the 15th day of the 5th month following their tax year end.

The rules for this annual; registration depend upon whether the tax exempt is a 501(c)(3) Charitable Organization or a 501(c)(4) Civic and Social Organization.

What makes the rules concerning this annual filing requirement confusing is that the Ohio Revised Code refers to all tax exempt organizations as Charitable Organizations, but in reading the code, it clearly states that the term "charitable" is not limited to the Internal Revenue Code definition of "charitable" which refers strictly to 501(c)(3) entities.

Charitable Organizations 501(c)(3)

Any 501(c)(3) with gross receipts in excess of **\$5,000** or gross assets of more than **\$15,000** must file an annual financial report or a complete copy of their federal 990 with the Ohio Attorney General.

Civic and Social Welfare Organizations 501(c)(4)

Any 501(c)(4) with gross receipts in excess of \$25,000 and that intends to solicit contributions in the state of Ohio must file an annual report with the Ohio Attorney General. The Organization may file a complete copy of its federal 990 in lieu of the Solicitation financial statement.

Due Date

Annual filing with Attorney General of Ohio is the 15th day of the 5th Month following the tax exempts fiscal year end or the due date of the federal 990 if return is extended 3 months.

Fees

The annual fee is based upon the Gross Contributions received by the Organization. Contributions include gross proceeds from fund raising events, proceeds from donors, but does not include membership dues or income from investments.

<u>Gross Contribution</u>		<u>Fee</u>
Less than \$5,000	\$	0.00
\$5,000 to \$24,999	\$	50.00
\$25,00 to \$49,999	\$	100.00
\$50,000 or more	\$	200.00

Address: Ohio Attorney General
Charitable Law Section
150 East Gay Street
Columbus, Ohio 43215-3130
(614) 466-3180

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OHIO SALES TAX AND YOUR LIONS CLUB:

Sales of Tangible Personal Property

All sales of tangible personal property except those specifically exempted under the Ohio Revised Code are subject to Ohio sales tax.

Exempted Sales

Organizations exempt under Internal Revenue Code Section (501)(c) (3) are permitted six sales tax free days annually on items sold for benefit of the organization. Lions clubs are 501(c)(4) tax exempts and are not exempted from the Ohio sales tax.

Casual Sale

Sale of personal property acquired for personal use and then sold at a location which can not be defined as a permanent trade location and which can not be defined as the "carrying on of a trade or business". Best example is a garage sale held once or twice per year. Sales of registered motor vehicles are never considered casual sales.

Purchases of Tangible Personal Property

501(c) (3) tax exempt organizations are exempt from Ohio sales tax on purchases of tangible personal property made in the name of the tax exempt entity and to be used for the charitable purposes of the tax exempt entity. Lions clubs are 501(c) (4) entities and are not granted this exemption.

Blanket Exemption Certificate

The vendor or seller of tangible personal property is required to collect Ohio sales tax under Ohio Revised Code Section 5739 and remit the collected taxes on a regular prescribed basis, unless the seller has obtained a Blanket Exemption Certificate from the purchaser of the property. The Blanket Exemption Certificate protects the seller of taxable goods and services and places the burden upon the purchaser who by signing the certificate states they are not subject to Ohio sales tax under a specific section of Ohio Revised Code Section 5739.

Any purchaser who falsely initiates a Blanket Exemption Certificate may be subject to the full remittance of any sales taxes due without the certificate as well as penalties, interest and possibly other actions by the Ohio Attorney General's office.

Summary

Lions clubs which sell property as a fund raiser should obtain a transient vendors permit, costing \$25.00 and remit sales taxes collected to the Treasurer of the state of Ohio.

Lions clubs which purchase tangible personal property for use by the club or for use as part of a raffle prize are required to pay Ohio sales tax on such purchases. Signing an exemption certificate stating that the club is not subject to the sales tax under the exemption granted to 501(c) (3) organizations may well be exposing the club or the individual purchaser to problems with the Ohio Treasurer of State's office and the Ohio Attorney General's office.

The Treasurer of State normally is not aggressive in enforcing sales of charity related personal property by civic groups such as the Lions because they serve a civic purpose and/or are of such minimal amounts as to not be worth the state's time and effort. It is good, however, to be aware of the regulations and the potential problems associated with noncompliance with the actual laws and regulations. The use of the blanket exemption certificate is one area which must be of concern to those Lions who are giving these to vendors. These are very similar to an affidavit signed by the purchaser and in effect the signer is making a false statement to the vendor which could create problems should the vendor ever be audited by the Treasurer of State.

Neil Sheeley
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LIONS CLUBS – FUND RAISING - GAMBLING

Certain forms of gambling are permitted in the state of Ohio for the purpose of raising funds for charitable and civic purposes by qualified tax-exempt organizations.

Gambling is regulated by the Ohio Attorney General's office and the regulations are covered under Section 2915 of the Ohio Revised Code.

Qualified Charitable and Civic Organizations

An organization which has received tax-exempt status under Internal Revenue Code Section 501(a) and is described under Sections 501(c)(3)(charitable organizations) or Section 501(c)(4)(civic organizations).

Schemes of Chance

Include slot machines, lotteries and numbers games, but NOT BINGO. Schemes of chance are illegal in the state of Ohio.

Games of Chance

Includes poker, craps, roulette or any other game engaged in by persons giving something of value in hopes of gain and the outcome of which is largely dependent upon chance. Bingo is NOT considered a game of chance.

Games of chance may be conducted by permit or license and must comply with the following:

- Organization must be a 501(c)(3) charitable organization
- May not include craps or roulette for money
- Must be held at "festivals" which include 2 or more non-gaming activities
- Include card games such as "Texas Hold 'Em" tournaments
- May be conducted by the charitable organization twice a year if the event is of 4 days or once a year if the event is 5 days
- Must be conducted by volunteers who may not receive any form of compensation
- All persons playing or working must be 18 years of age or older

Instant Bingo

Instant bingo may be conducted by license obtained from the Attorney General of Ohio. The fees for the license run between \$500 to \$5,000 and a percentage of the gross profit. The charitable organization must comply with following:

- Organization must be a 501(c)(3) charitable organization



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LIONS CLUBS – FUND RAISING – GAMBLING (CONT'D.)

Instant Bingo (Cont'd.)

License must be obtained from the Attorney General of Ohio
Must be run by volunteers and no person may receive any form of compensation
Very strict record keeping and reporting requirements at both the state and federal levels

Traditional Bingo

Traditional bingo may be conducted by license obtained from the Ohio Attorney General.
The license fee ranges from \$250 to \$5,000 plus a percentage of the gross profit.
The charitable or civic organization must comply with the following:
Organization must be a qualified 501(c)(3) or 501(c)(4) organization
Must obtain bingo license from Attorney General
If a civic 501(c)(4) organization, 100% of the net profits of the fundraiser must be donated to a charitable 501(c)(3) organization
All persons playing or working must be 18 years of age or older
Very strict record keeping and reporting requirements at both the state and federal levels

Raffles

Raffles are a form of bingo where prizes are won by purchasing a ticket.
No license or fees are required to conduct a raffle for a charitable or civic fundraising purpose.
May be conducted by a charitable 501(c)(3) organization or a civic 501(c)(4) organization
If conducted by other than a charitable 501(c)(3) organization, at least 50% of the NET profits must be distributed to a charitable 501(c)(3) organization.
Local law enforcement personnel are responsible for enforcing the laws regarding raffles, as opposed to state and federal personnel who enforce other forms of gambling.
All persons working or playing must be 18 years of age or older

Pools

A scheme in which the participants give money for a chance to win a prize and the TOTAL proceeds of amount wagered is distributed to a participant or participants.
No license or fees are required
Must not be conducted for profit



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LIONS CLUBS – FUND RAISING – GAMBLING (CONT'D.)

Summary

As a result of real and perceived abuses in charitable gambling in the state of Ohio, in 2004 the Ohio legislature enacted much more stringent gambling regulations, especially with respect to Instant Bingo. The unintended consequences of this legislation were to place severe restrictions on those groups and organizations that utilize gambling to raise funds to provide assistance to those in need as well as provide for civic projects.

As a result of the revised gambling regulations, it is important that each club review its existing fundraising programs and decide at the club level whether continuing the program is a serious problem with respect to the revised regulations. In most cases, the amounts of funds raised are small, and generally the net profits are utilized for charitable purposes. The most that may occur, if in violation of the revised gambling rules, is a warning to discontinue the fundraising activity.

It is very important to maintain complete and accurate records should a problem arise.

OHIO LIONS DISTRICT 13-C

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LIONS CLUBS INTERNATIONAL INSURANCE POLICY

**Lion Nicholas E Phillips
Phillips, Mille & Costabile Co., L.P.A.**

A review of the LCI insurance manual appears to provide adequate insurance coverage of up to \$2Million dollars for third parties who are injured or suffer property damage by the negligence of Lions Members. Below are some areas of particular interest:

Named Insured

Lions Clubs International (LCI), all Multiple Districts and Districts, all Chartered Lions, Leos, Lioness clubs, and any other Lions organization owned, controlled, or operated by the above.

Personal Injury

Policy will cover personal injury if it is determined that the named insured is liable for such injury. Injuries while taking part in athletic events are not covered.

Premises Medical Coverage

LCI policy will pay up to \$1,000 for medical payments without regard to fault. Any third parties claiming medical payments about \$1,000 would have to show liability on the part of the named insured. No liability, no claim.

Legal Liability

The LCI policy is a liability policy, which means that the Lions entity must be determined to be liable for the personal injury or property damage before a claim will be paid.

Aircraft and Watercraft

Activities involving aircraft and watercraft are not covered under the policy.

Automobiles

Generally there is no coverage for the operation of vehicles. If a Lions member, on Lions business gets in to an accident and hurts somebody, the LCI insurance would be secondary to the third party injured by the Lion. The Lion may not be covered and will need to apply to their own insurance if he is injured. He may be eligible for LCI medical payments coverage for up to \$1,000.

Liquor

Injury to third parties caused by Lions serving alcohol is not covered. Other injuries to 3rd parties are still covered by the policy.

Safety Officer

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LCI wants each club to have a "Safety Officer" who will evaluate the risks and safety issues for any Lions project.

Certificate of Insurance

If the club is hiring a vendor to do something for the club that will be affecting third parties, they need to get a certificate of insurance naming the club as an additional insured.

Claims Settlement

If any Lions member caused injury or property damage to another person while engaged in Lions activities, a claim should be reported by telephone (1-888-217-8074). Do not make any admissions to responsibility or admit liability. The insurance company will handle the claim.

Trailer

Although operation of motor vehicles is not covered, injury or damages caused in association with operation of a trailer is covered.

Directors and Officers

LCI suggests that the club purchase an additional policy to cover the liability of the club's directors and officers.

Summary

The LCI insurance policy is a legal liability policy in which the Lions entity must be shown to be legally liable for any personal injury or property damage incurred by a third party.

The policy does not cover damages or injuries incurred with respect to automobiles, watercraft, or aircraft.

The policy does not cover personal injuries incurred during athletic activities.

Lion Nicholas E. Phillips

Attorney at Law

Phillips, Mille & Costabile Co., L.P.A.

Lions Club of North Royalton Ohio