

Tax Deductions and Rotary

One District 5010 Club has asked:

“Our club is starting a Rotary Foundation fund raiser where members give items, use of facilities, services etc. for a fund-raiser for the Foundation. The question is if they give items, is it tax deductible under these new tax regulations? Is the Foundation a 501 c 3? I know our club is a 501c4 but then they are changing the tax rules. Thanks”

General Tax Considerations from a tax CPA’s perspective:

The Rotary Foundation is a 501(c)(3) (public charity)

Most likely, your Foundation is also a 501(c)(3) (public charity)

Your Club is most likely a 501(c)(4) as are all the others (nonprofit but a social welfare/ civic organization, not a charity)

In general, In-Kind donations are deductible if they have a tax basis, e.g.

1. An office supply company pays \$100 for their inventory of paper pads which they then donate to your fund-raiser – They may deduct only the \$100 even though the selling price might be \$125. The \$100 is their tax basis
2. Someone such as an attorney or CPA who donates services MAY NOT deduct their value because they do not have a tax basis. Nothing has been paid for the services nor have they paid tax on the income (which would be a wash in any event, picking up the Fair Market Value (FMV) income and deducting the donation). The same is true for an artist donating their own work for a fund-raiser.
3. As always, consulting your own tax person is best because there are special rules regarding food etc. As an example, if a grocery store donates \$100 worth of food to needy folks/charities with a FMV of \$150 – there **may** be special rules that **may** allow them to deduct an addition 50% of the difference between the \$100 basis and the \$150 FMV, but this is uncertain.

If companies or individuals donate to a 501 (c)(3) they receive a charitable deduction with certain limitations

If companies donate to a 501 (c)(4), then it is not a charitable deduction, but if “ordinary and necessary” for that business, then there may be a business deduction under something like advertising, marketing or public relations if they receive acknowledgment of their company or service.

From a legal perspective, setting up a companion 501 c 3 non-profit charitable corporation may be a feasible solution for individual clubs:

Setting up a 501 c 3 non-profit charitable corporation may be a sensible and tax-deductible way to do local non-profit projects. Clubs should consider setting up a long-term companion 501 c 3 corporation for their Rotary Club to use implement projects where tax issues and tax

deductibility may be important to securing donations of cash and in-kind. The officers and directors of the companion 501 c 3 charitable corporations could be the same as the club's as appropriate.

Both the club and the 501 c 3 would have to make appropriate state corporation and federal taxation reports, but for non-profit corporations under \$25,000 in annual income and expenditures, the process is streamlined and not a hassle. State of Alaska reports are biennial for non-profit corporations and are done online.

A clearly charitable 501 c 3 corporation for a local Rotary-affiliated community action group can be very easy and quick to set up, if nothing complicated is proposed. If annual revenues are under \$25,000, then only a short "postcard" 990 tax return needs to be filed. We have a local CPA who does this for us at a cost of \$50 per year.

From the time that I filed non-profit incorporation documents online with the State of Alaska and then filed with IRS for 501 c 3 status took only six days until the physical letter from the IRS granting 501 c 3 status was in-hand.

One possible concern is that if a Rotary Club sets up its own 501 c 3 as an endowment sort of foundation, then it could siphon away donations that might otherwise go to The Rotary Foundation. That concern might be resolved by writing the 501 c 3 bylaws to hold monies earmarked solely for current and imminent projects and excluding acting as a long-term endowment accumulating cash and investments.

Both the Alaska business license and non-profit incorporation can be done online, with the initial fees paid by credit card. Petitioning the IRS for 501 c 3 status can also be done on-line after the corporation has been established. Total startup fees to the State of Alaska and to the IRS for all necessary 501 c 3 incorporation and filings will be approximately \$700 but only about \$50 to \$100 per year thereafter.

To avoid difficulty and delay, we recommend that you work with an attorney familiar with incorporation.

Do not attempt to set up as a "LLC" or "Limited Liability Corporation". You must incorporate as a "Non-profit Corporation". It will also be helpful to specify a broad non-profit purpose under Section 2 of the online incorporation form, such as "Any lawful purpose for a non-profit corporation as allowed by Section 501 of the Internal Revenue Code, particularly Section 501 (c) (3), and more specifically promotion of (insert an appropriate charitable purpose here) within Alaska.

You will need to both incorporate and obtain a business license online to complete the process. Once incorporated in Alaska, you would then petition the IRS, again online.

It is critical to file your state and IRS reports on time. Otherwise, the corporation can be dissolved for non-compliance.