

# Protecting PTA Tax Exemption

*This information is intended to provide a quick source of information and is not intended to be all-inclusive.*

New York State PTA and all units/councils in good standing are exempt from federal income tax as a charitable and educational organization under the provisions of section 501(c)(3) of the Internal Revenue Code.

**Strict compliance with all applicable federal, state, and local laws is extremely important to prevent even the most well-intentioned effort from becoming a serious problem for the association.**

Certain restrictions that apply to 501(c)(3) classification must not be violated:

- Each PTA must be organized and operated exclusively for charitable, educational, or scientific purposes.
- Its resources and funds cannot be used for private benefit of an officer or board member.
- Upon dissolution, its assets must be distributed for one or more of those defined exempt purposes.
- It cannot engage in a substantial amount of lobbying activity.
- It cannot engage in any political activity. Tax-exempt 501(c)(3) organizations are forbidden to support candidates for public office, including school board elections.

## ***IRS Rules and Regulations***

Effective January 1, 1994, donors must obtain a receipt from charitable organizations for contributions made in one day that exceed \$250. Canceled checks are no longer sufficient. This provision is now a mandated section of all unit/council bylaws.

PTAs must therefore be prepared to issue receipts. There is no required format for the receipt and Social Security numbers are not required. At a minimum, the receipt must have the PTA's name on it and reflect the donor's name, date, cash amount received, or a description of the property received (the charitable organization is not required to value property received). If a donor receives value for the donation, only the portion in excess of the value is deemed a donation and only that amount should be reflected on the receipt.

## ***Unrelated Business Income Tax***

As a tax-exempt organization, PTA revenues are not subject to federal income tax **if** the revenue is raised in a manner that is related to the PTA's tax-exempt purpose. However, it is possible for some revenue to be subject to income taxation. Even if an activity generates no profits, the amounts earned may be subject to taxation because they fall into the category of unrelated business income.

A transaction or activity generally will be classified as yielding unrelated business income if it has all of the following three properties:

1. The activity provides income (but does not necessarily produce a profit) and the PTA takes an active role in the generation of the income.
2. The activity is conducted on a regular and continuous basis.
3. The fund-raising activity is unrelated to the mission of the PTA. (Even if the proceeds are used to further PTA Purposes, it is deemed unrelated business income if the method of raising the funds is unrelated. Fund-raising, per se, is not a related activity even if all of the net revenue will be used to support PTA programs. Running a concession stand on a regular basis is one example of an activity the IRS can determine to be unrelated business income because the activity itself is not related to PTA's mission or Purposes.)

However, if the activity is conducted by the PTA and at least 85% of the labor is provided by PTA volunteers, the income generally will be excluded from taxation, even if the above three conditions exist.

If the PTA's unrelated business activity begins to rival its related exempt activity so that the unrelated activity is perceived to be dominant, the PTA may no longer be perceived as a charity supporting itself with some unrelated business income. It may, instead, be viewed by the IRS as a business with some charitable activities. At that point, the PTA could lose its tax-exempt status.

IRS regulations require non-profits to do the following:

- Report unrelated business activities when gross receipts are at least \$1,000.
- Report and pay taxes on such income by filing IRS Form 990-T and related New York State returns (usually Form CT-13).

**Disclosure Statements**

PTAs are required by IRS disclosure rules to inform prospective donors about the extent to which their contributions are legally tax deductible.

This disclosure must be prominent on any invitations or fund-raising material and should indicate:

- The fair market value of any tangible benefits received in exchange for a contribution
- The portion of the donation that is deductible as a charitable contribution.

If a PTA holds a fund-raising event that provides a meal or some tangible item in return for the purchase of a ticket, then the portion of the ticket that is tax deductible is the ticket price less the fair market value of the meal or item received.

For example, if a spaghetti supper ticket sells for \$20 and the value of the meal is determined to be \$5, the purchaser is entitled to a \$15 charitable contribution deduction. The \$5 is not the cost to the PTA but is the value of a prepared and served meal, which the donor is considered to be purchasing.

**U.S. Postal Regulations**

A PTA should exercise caution in using its not-for-profit bulk-mailing permit. If in doubt, it is best to show the bulk mail coordinator at the local post office a sample of what the PTA is intending to send with its permit to make certain the material meets applicable postal regulations.

The post office has the right to open any bulk mailing for examination and hold any mailing not in compliance.

Two areas of concern:

- Misleading direct mail pieces such as the distribution of flyers of other organizations submitted to PTA.
- Allowing the permit to be used in a cooperative mailing with for-profit businesses. Fines may be imposed if abuses are found.

## Records Retention

Certain PTA records should be stored in a safe place and kept:

- Permanently:**
- Annual audit reports
  - Bylaws and all amendments
  - Canceled checks paid to taxes, contracts, important items
  - Contracts and leases still in effect
  - Corporation reports filed with the secretary of state
  - Equipment owned by the PTA
  - Insurance records, accident reports, claims, policies, certificates
  - Legal correspondence
  - Journals
  - Minute books
  - PTA charter
  - Standing rules or Procedures that are current
  - Tax exempt status documents: letters of determination, EIN numbers, correspondence with IRS
  - Tax returns
- Seven Years:**
- Accounts payable records
  - Canceled checks for regular business
  - Cash receipt records
  - Contracts and leases that have expired
  - Inventories
  - Invoices, purchase orders and sales receipts
  - Sales records
  - Vouchers
- Three years:**
- All correspondence
  - Bank records