

RAFFLES AND REGULATIONS IN CALIFORNIA

(References at the end of the article)

1. May charities now hold raffles to raise funds?

The California state constitution and Penal Code provide a narrow exception to the prohibition against gambling in California. Certain tax-exempt organizations such as charities may hold fundraising raffles.

2. What is a raffle?

A raffle is a type of lottery in which prizes are awarded to people who pay for a chance to win. Each person enters the game of chance by submitting a detachable coupon or stub from the paper ticket purchased. A raffle must be conducted under the supervision of a natural person age 18 or older. At least 90 percent of the gross receipts from raffle ticket sales must be used by the eligible tax-exempt organization to benefit or support beneficial or charitable purposes in California.

Awarding raffle prizes by use of a gaming machine, apparatus, or device such as a slot machine is prohibited. Operating or conducting a raffle via the Internet is also prohibited. However, the organization conducting the raffle may advertise the raffle on the Internet. See Penal Code section 320.5 and [Laws and Regulations](#).

3. Do we need to register if we call our raffle an “opportunity drawing”? What sort of raffle can we have if we don’t want to register?

If participants are required to purchase a ticket in order to have a chance to win a prize, the drawing is subject to the provisions of Penal Code section 320.5 and related regulations.

Penal Code section 320.5, subdivision (m) states that a raffle is exempt from registration with the Attorney General’s Office if **all** of the following are true:

- a. It involves a general and indiscriminate distribution of the tickets;
- b. The tickets are offered on the same terms and conditions as the tickets for which a donation is given; and
- c. The scheme does not require any of the participants to pay for a chance to win.

4. Do we need to register before holding a silent auction? Is silent auction a raffle?

A silent auction is not considered a raffle so a charity is not required to register with the Registry of Charitable Trusts before conducting silent auction activities. A silent auction is not a game of chance. Unlike a raffle where multiple participants pay for a chance to win a prize based on a random draw, a silent auction is a sale of an item to the highest bidder. Although a silent auction need not be registered with the Attorney General’s Registry of

Charitable Trusts, to find out if your silent auction event is subject to any restrictions, licensing requirements, or taxes, please contact the State Board of Equalization and/or your local law enforcement agency.

5. **I want to verify that the type of raffle I want to hold is legal even if it doesn't meet all of the criteria in Penal Code section 320.5. Can you give me advice?**

The Office of the Attorney General does not provide legal advice to members of the public. If you are not sure that the raffle your organization is holding is in compliance with section 320.5, we suggest that you consult private legal counsel.

6. **Can an individual raffle off his house to pay off the mortgage if he gives any remaining funds to charity?**

No. Only eligible organizations as defined in Penal Code section 320.5, subdivision (c) may conduct raffles in California, provided they are registered with the Registry of Charitable Trusts before conducting any raffle activities. The purpose of the statute is to benefit eligible organizations. Individuals, corporations, partnerships, and other legal entities are prohibited from holding a financial interest in the conduct of a raffle. (Pen. Code, § 320.5, subd. (g).)

7. **Can individuals affiliated with the nonprofit organization conducting the raffle purchase raffle tickets?**

Penal Code section 320.5 does not prohibit individuals affiliated with an organization from participating in a raffle held by the organization.

8. **Who may hold raffles?**

Only eligible private, tax-exempt nonprofit organizations qualified to conduct business in California for at least one year prior to conducting the raffle may conduct raffles to raise funds for the organization and charitable or beneficial purposes in California.

Eligible organizations are charities and religious or other organizations that have been granted tax-exempt status by the Franchise Tax Board under the following Revenue and Taxation Code sections: 23701a (labor, agricultural, or horticultural organizations other than cooperative organizations); 23701b (fraternal orders); 23701d (corporations, community chests, or trusts operating exclusively for religious, charitable, or educational purposes); 23701e (business leagues, chambers of commerce); 23701f (civic leagues, social welfare organizations, or local employee organizations); 23701g (social organizations); 23701k (religious or apostolic corporations); 23701l (domestic fraternal societies); 23701t (homeowners' associations); and 23701w (veterans' organizations).

If an organization needs a copy of its exemption letter or entity status letter, one can be obtained by [contacting the Franchise Tax Board](#) or by using the ["Entity Status Letter" tool](#) on

the FTB website. In addition, a list of California tax-exempt organizations by category may be found on the [Exempt Organizations List page](#) on the FTB website.

9. I don't know if my organization qualifies as an "eligible" organization under Penal Code section 320.5. How do I find out?

An "eligible organization" is defined in section 320.5, subdivision (c) as a "private, nonprofit organization that has been qualified to conduct business in California for at least one year prior to conducting a raffle and is exempt from taxation pursuant to Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, 23701t, or 23701w of the Revenue and Taxation Code." This information can be found on the exemption letter or entity status letter received by an organization from the Franchise Tax Board. If an organization needs a copy of its exemption letter or entity status letter, one can be obtained by [contacting the Franchise Tax Board](#) or by using the "[Entity Status Letter](#)" tool on the FTB website. In addition, a list of California tax-exempt organizations by category may be found on the [Exempt Organizations List page](#) on the FTB website.

10. What is the 90/10 rule? Does it apply to 50/50 raffles?

Penal Code section 320.5, subdivision (b)(4)(A) states that 90 percent of the gross receipts generated by the sale of raffle tickets for any given draw are to be used by the eligible organization for charitable purposes. For example: An organization raised \$100 in ticket sales. It would be required to spend \$90 of that amount to further its charitable purposes, and only \$10 could be used to help pay for expenses or operating costs associated with conducting the raffle.

The organization is not precluded from using funds from sources **other than** the sale of raffle tickets to pay for the administration or other costs of conducting the raffle. However, the organization must exercise due care in using other funds. The misuse of restricted assets or the use of unrestricted assets which results in losses to the corporation may subject the board of directors to personal liability for breach of fiduciary duty.

The 90/10 rule applies to 50/50 raffles, in which 50 percent of ticket-sale revenue is awarded as the prize and 50 percent of the revenue is retained by the organization conducting the raffle. 50/50 raffles are illegal because 90 percent of the gross ticket-sale revenue is not used for charitable purposes.

11. What happens if we do not meet the 90/10 requirement?

Penal Code section 320.5 is a criminal statute. Violations may be forwarded to the local district attorney, city attorney, or county counsel for investigation and possible prosecution. In addition, the Attorney General may take legal action under the provisions of the Nonprofit Corporation Law for breach of fiduciary duty or waste of charitable assets. The raffle

registration may also be suspended or revoked. (See section 419.2(a)(2) of the raffle regulations, which can be found on our website: oag.ca.gov/charities/raffles.)

12. Does an organization already registered with the Registry of Charitable Trusts as a charity need to register separately to conduct a raffle? Are there separate reporting requirements?

Yes. Raffle registration is a separate requirement from charity registration. The reporting requirements are separate as well. A report for all raffles conducted during the reporting year (September 1 through August 31) must be filed by September 1. Annual reporting for charity registration is based on an organization's fiscal year and the timing of filing IRS Form 990 with IRS.

13. Must all eligible organizations register and report?

Nonprofit religious organizations, educational institutions, and hospitals are exempt from the registration and reporting requirements; however, even though these categories of organizations are not required to register and file annual raffle reports with the Registry of Charitable Trusts, they must still comply with all other provisions of Penal Code section 320.5.

14. May we sell raffle tickets prior to the raffle drawing if we are not currently registered?

No. You must obtain a confirmation letter from the Registry of Charitable Trusts prior to conducting any raffle activities. This includes selling tickets to an event that will be held in the future. If you wish to conduct the drawing after September 1 of any year, but you wish to sell tickets prior to September 1 of that year, you must register for both years.

15. If an organization gives away raffle tickets, does it have to register and report?

Registration is not required if all tickets for a drawing are free, solicitations of voluntary donations to the organization are in no way connected to distribution of tickets, and this is made clear to all participants. If a "donation" is required in return for a ticket, registration is required.

16. How do I register to conduct a raffle?

Complete the raffle annual registration form (CT-NRP-1) and mail it to the Registry of Charitable Trusts with the \$20 registration fee. Checks should be made payable to the Department of Justice.

Please note: You must receive written confirmation of registration before conducting any raffle activities, including the sale of tickets. Raffle registration forms are available on the Attorney General's Website at [Charities Forms](#), or may be requested by mail, fax, or

telephone.

17. What is the deadline for registration, and can I still submit an application if I miss the deadline?

The registration period for raffles runs from September 1 to August 31, and registration applications are due on or before September 1. If an eligible organization that has not registered by September 1 determines after that date that it will conduct a raffle during the reporting year (September 1 through August 31), the organization must submit its registration application at least 60 days before the scheduled date for the raffle. Applications are processed in the order received, and no expedited service is available. In order to receive confirmation of receipt of an application, the application must be mailed to the Registry of Charitable Trusts via certified mail.

18. How long is a raffle registration valid?

A raffle registration is valid from the date registration is issued through August 31. Registration must be renewed annually, on or before September 1 of each year in which the organization wishes to conduct raffles.

19. If my organization registers to conduct raffles but decides not to hold a raffle, is the fee refundable?

No.

20. What information must we provide for raffle registration?

An eligible nonprofit organization must provide the following information on the registration form:

- a. Name of organization;
- b. Address of organization;
- c. One or more of the following:
 - o Federal Tax/Employer Identification Number
(assigned by the Internal Revenue Service and usually found on the IRS letter granting tax-exempt status. Contact the Exempt Organization Division of the IRS at (877) 829-5500; or www.irs.gov/Charities-&-Non-Profits if you have questions)
 - o Corporate Number
(assigned by the Secretary of State at the time the articles of incorporation are endorsed and filed)
 - o Organization Number
(assigned by the Franchise Tax Board to associations, trusts, and organizations that are not incorporated in California but do business in California)

- o California State Charity Registration Number [CT number]
(assigned by the Registry of Charitable Trusts)
- d. Specify the organization's tax-exempt status pursuant to the California Revenue and Taxation Code section.
- e. Proposed date(s) of raffle(s) MM/DD/YY.
- f. Certification checkboxes 1, 2, and 3 must be completed along with a dated signature, printed name, and title of director or authorized officer of the organization.
- g. **IN ADDITION, the organization must attach to the registration application proof of California Franchise Tax Board exempt status.** To obtain a copy of an organization's exemption letter or entity status letter, [contact the Franchise Tax Board](#) at (916) 845-4171 or use the "[Entity Status Letter](#)" tool available at www.ftb.ca.gov under "Online Services". In addition, a list of California tax-exempt organizations by category may be found on the [Exempt Organizations List page](#) on the FTB website.

21. **Our organization is a chapter which operates under the tax-exempt status of a national organization. Can we conduct our own raffles?**

Only an "eligible organization" may conduct a raffle. An "eligible organization" is defined as one that has conducted business in California for at least one year and is exempt from taxation under one of the subsections of Revenue and Taxation Code section 23701 listed in Penal Code section 320.5, subdivision (c). If the organization has not, **independent of the national organization**, applied for and received tax-exempt status from the Franchise Tax Board, it is not, by definition, an "eligible organization."

Whether a "chapter" (sometimes referred to as a "subsidiary" or "child") of a national office or other organization ("parent") may conduct a raffle is determined on a case-by-case basis after a review of relevant facts:

- o Does the parent organization qualify as an "eligible organization" in California?
- o Is the subsidiary funded by the parent?
- o Do the parent and subsidiary file a group return with IRS?
- o How independent is the subsidiary from the parent, and to what degree does the parent control and manage the subsidiary?

If the parent is an "eligible organization" and there is a true parent-subsidiary relationship, only the parent is required to register for raffles conducted by both the parent and subsidiary. The parent is also responsible for filing all subsequent raffle reports. The parent is ultimately responsible for conducting the raffle, but may delegate responsibilities to the subsidiary.

22. Our organization is an auxiliary [or chapter, charter, lodge, etc.] with a group exemption and has its own Federal Employer Identification Number (FEIN). How do we register?

Only an “eligible organization” may conduct a raffle. To qualify as an “eligible organization” within the meaning of Penal Code section 320.5, the organization must have one of the requisite California Franchise Tax Board (FTB) exemptions set forth in the statute. (See Pen. Code § 320.5, subd. (c).) Please note that an Internal Revenue Service exemption does not qualify an organization to conduct raffles.

The organization must submit its FTB tax exemption letter or entity status letter with the raffle registration application. If you cannot find one of these letters, contact FTB to request a copy. If the organization has never been granted FTB tax exemption, you must file an application with FTB to obtain the requisite tax-exempt status. Please contact the California Franchise Tax Board at (916) 845-4171 for more information.

23. My organization has changed the raffle date noted on the registration form. Do we need to contact the Registry?

No. You can indicate the revised date on the Nonprofit Raffle Report (Form CT-NRP-2) when it is completed and filed.

24. When is the Nonprofit Raffle Report required to be filed?

An aggregate report is required for all raffles held by the organization during the reporting year. The report must be filed with the Registry of Charitable Trusts at any time after the conclusion of a raffle, but no later than October 1 of each year for activities in the current registration period.

25. What kind of record keeping is required?

Record-keeping must be sufficiently detailed in order to complete the Nonprofit Raffle Report form (CT-NRP-2). Organizations should review that form before conducting a raffle in order to assure all necessary categories of information are being maintained, including the date and location of each raffle held, total funds received from each raffle, total expenses for conducting each raffle, the charitable or beneficial purpose for which raffle proceeds were used or the amount and organization to which proceeds were directed. (See Nonprofit Raffle Report form at: oag.ca.gov/charities/forms.)

26. Are there limits on raffle prizes?

State law does not specify any limits on the value of raffle prizes.

27. Is disclosure of the identity of individual purchasers of raffle tickets required on annual raffle report?

No.

28. When can an organization expect to receive confirmation of registration?

Depending on volume of registration applications received, staff may not send confirmation of registration for up to 60 days after receipt of the registration application.

29. What are the consequences for an eligible organization that fails to register with the Attorney General's Registry of Charitable Trusts to conduct raffles in California?

Gambling is illegal in California unless it is permitted by statute. A raffle is defined as gambling unless it meets all of the criteria set forth in Penal Code section 320.5. One of the criteria is that an eligible organization must be registered with the Attorney General prior to conducting any activity associated with a raffle. Failure to comply with the provisions of section 320.5 is a misdemeanor. Violations of section 320.5 may be forwarded to the local district attorney, city attorney, or county counsel for enforcement. Section 320.5 and related regulations can be found on the Attorney General's website at oag.ca.gov/charities/raffles.

30. What is my recourse if a raffle was cancelled, the drawing was not held or was delayed, or a different prize was substituted for the prize that was advertised?

Contact local law enforcement (the police department or district attorney), the city attorney or county counsel in your county.

31. If an organization is interested in conducting a casino night, where do we go to get information on how to register and what are the requirements?

Rules and regulations regarding nonprofit casino nights can be found at oag.ca.gov/gambling/charitable.

32. Our organization has registered in previous years. Why am I now being asked to submit a Franchise Tax Board determination letter before the Registry will process my application? Isn't our IRS exemption letter sufficient?

An "eligible organization" is defined in section 320.5, subdivision (c) of the Penal Code as a "private, nonprofit organization that has been qualified to conduct business in California for at least one year prior to conducting a raffle and is exempt from taxation pursuant to Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, 23701t, or 23701w of the Revenue and Taxation Code." In the past, organizations self-certified that they were exempt under one of the above subsections of section 23701. Registry staff has determined that some organizations did not have state tax exemption under one of the subsections listed above. If an organization does not currently have exemption under one of the those subsections, it must first apply for, and receive, exemption from the California Franchise Tax Board (FTB). Information about obtaining tax-exempt status from FTB can be

found on the FTB website

at https://www.ftb.ca.gov/businesses/Exempt_organizations/index.shtml. IRS exemption does not qualify an organization to conduct raffles.

33. How many raffles may we conduct?

There is no limit to the number of raffles an organization may hold during any registration period for which it holds a valid registration certificate. A valid registration certificate allows an organization to conduct raffles from September 1 through August.

Though an organization may conduct numerous raffles during that time, the organization must keep records adequate to account for all revenue received from, and expenses incurred for **each** raffle held during the registration year in order to properly complete their year-end raffle report (CT-NRP-2). A report that reports only estimates of revenue and expenses will not be accepted for filing.

Organizations that host raffles as part of a larger fundraising event must maintain raffle proceeds and expenses **separate** from all other event monies and report **only** raffle proceeds and expenses on form CT-NRP-2.

34. The raffle report form asks what other eligible organizations received funds from our raffles. Our organization does not distribute funds until our fiscal year-end, which conflicts with the October 1st report deadline. What do we do?

Submit the report by October 1st with an attachment indicating that a revised report will be submitted listing the recipient organizations at the end of your organization's fiscal year.

When submitting the revised report, please type or print "Revised Report" next to the raffle year on Part B, Question 1.

REFERENCES

This article: <https://oag.ca.gov/charities/faq#s2>

ALSO SEE, from the Public Counsel Law Center alert on other fundraising activities: <http://www.publiccounsel.org/tools/publications/files/fundraising.pdf>