

February 7, 2013

Dear fellow CGCI members:

CGCI has been asked to comment on the appropriateness of alcoholic beverages as prizes in raffles, auctions, etc. for fundraisers. With the caveat that CGCI is neither a law firm (and thus is not giving legal advice) nor a tax advisory firm, the following conclusions can be deduced from publicly available Board of Equalization (BOE) and Alcoholic Beverage Commission (ABC) documents:

- 1) ABC regulations state that any time money is being paid for an alcoholic beverage, it constitutes a sale of alcohol and requires the seller to hold a liquor license. Nonprofits often conduct a variety of activities which directly or indirectly are still considered sales, such as:
  - a) Sales of food, meals, beverages, and similar items under a number of different circumstances;
  - b) Sales of tickets that buyers will exchange for food, beverages, or physical products;
  - c) Sales of tickets for fundraising events when the ticket price includes amounts for food or beverages;
  - d) Sales of items at rummage sales, bazaars, carnival booths, community events, and other fundraisers;
  - e) Sales of merchandise in Internet, live, or silent auctions.
- 2) For nonprofits which conduct such sales irregularly, ABC regulations would require the nonprofit to obtain a temporary permit to conduct the sale.
- 3) The CGCI Liability Insurance policy has a clause regarding coverage for liquor liability. Insurance coverage is EXCLUDED if the nonprofit is in the business of manufacturing, distributing, SELLING, SERVING or FURNISHING alcoholic beverages.
- 4) Conclusion from the above regulations: if a nonprofit obtains a permit to sell alcohol either directly or indirectly via raffle baskets, auctions, etc., then the activity will be excluded from coverage under the CGCI liability insurance policy.
- 5) **Simplest solution to the above situation: Select garden-related items for all gift baskets/prizes used in raffles, auctions, etc.**

Additional comment: CGCI does not have to search for or report de minimis infractions that other nonprofits may commit.

Please consult your local legal or tax adviser for further information.