

Comments on Giving Aid to Council Members:
Summary Feb 19, 2021

LARRY BELAIR (Feb 14, 2021)

Paul,

Attached are my comments on your draft. I think you covered everything and have expressed it as I would have. It's probably good to have this in the files but, in practice, it's not a great departure from how we have often done things.

I think that the two important things to keep in mind are:

The NH Charitable Gaming commission is primarily interested in seeing that the charities are getting their fair share as provided by law. Their "reach" extends down to making sure that the charitable monies are not siphoned off by the games' operators and managers. Hence the "smell test". They have no interest in pursuing what the benefitting charities do with their money unless there is an egregious offense. and complaint. They simply don't have the statutorial responsibility nor the manpower.

The I.R.S. allows us to deduct donations to qualified charities. I believe that other donations would be treated as expenses.

Thanks for your efforts on memorializing this matter.

Larry Belair (Feb 11, 2021)
Brothers,

It's been about 4 years since I chaired the Charitable Gaming Commission Policy Committee. Things may have changed somewhat since then but I doubt there's any change in the matter of where a charitable organization distributes it's money. I'll try to separate the facts as best I can recall them.

The State's position has always been that an organization must qualify under IRS guidelines as a non-profit organization (501c:3 or 501c:8). In part, to meet that standard, the organization must also meet the IRS limitations on what is a deductible as a charitable contribution when taking a deduction. Most non-profits have a combination of deductible and non-deductible expenses. The only time that the State expresses an opinion on legitimate expenses for a qualified charitable organization is in what it pays compensation to its members for the operation to conduct the charitable gaming operation. There is a statutorial limit of \$25 for the workers, It is not compensation but rather a reimbursement for alleged expenses. When I questioned the fact that most CG groups pay money for management and other workers, the State has consistently said that such compensation must meet the "smell" test. it can't be a disproportional "sharing of the proceeds. NHCG does not have the personnel, the time nor the inclination to "follow the money" once the proceeds are handed over to the pre-qualified non-profit, charitable beneficiary.

Every year, when filing for our poker license, I have to submit proof of our IRS status, the By-Laws from Supreme, a statement of our purpose and generally to whom we distribute funds for charitable reasons, our current registration with the NH Attorney General's Charitable Trust Division and our registration with the Secretary of State as a non-profit organization. As long as I can prove that those documents are still valid, the Charitable Gaming Division of the New Hampshire Lottery Commission accepts that we will follow the guidelines of being a non-profit, charitable organization and their interest in our distribution of proceeds is non-existent unless there is a complaint of grievous violation, such as happened in the Cocheco ruling where very large, disproportionate money was paid to the manager and workers. No smell test approval. The NHCG has no interest in auditing our Council books to qualify each expense. Their interest in "auditing" how much of the proceeds is turned over to the qualified charitable organization. My books have never been audited. I don't know about Bingo but they have to file reports that show their expenses, I haven't been subjected to that level of reporting in the 16 years of our poker operation.

In short, as long as we were qualified at some point and we continue to behave properly, we won't hear from NHCG. As long as we don't try to take credit for a charitable donation in violation of the IRS code, we won't be challenged by the IRS. That leaves us with distributing money that passes the smell test. I agree that we can (and have) paid out some funds obtained as a "charitable organization" but don't qualify as having been given to a legitimate charitable cause for IRS purposes, but don't violate any NH laws as long as our principal distribution of funds is for charitable purposes.

As for the Skip Troisi donation, we probably could have donated that money directly as long as we didn't take it as an IRS deductible contribution because he's not a qualified charity.

That's my take on the difference between NH and IRS qualified expenses.

Larry Belair, serving at your pleasure in a non-legal capacity

Bob Fournier (Feb 10, 2021)

Paul Let me try to clear up our status as a non profit. I was Deputy Director for Mass Save a non profit established by the 35 biggest utilities in Mass during my earlier life. As a non profit we generated a lot of revenue from \$4,000,000 to \$14,000,000 for the 4 plus years I was there. The employees got paid well, and we spent a lot of money conducting energy audits, and installing energy conservation measure. As a non profit we could not take the profit we made and distribute it back to the owners like a for-profit pays dividends to it's shareholders. We could not overpay employees by giving them profit based bonus.

All profits stayed in the business for non profit purposes.

When the bingo and poker organizations indicate that the money we receive from them can't be given to our members it means that we can't pay our officers excessive salaries, or distribute the profits to our members. If we were to shut down our council the money that we have saved and the property we own would have to be given to charitable causes. Our members would not be splitting up the money among themselves. We donate most of our money to other non profit organizations. We also donate money for charitable reasons to individuals in need. We give to our seminarians, we have given to members who have encountered hard times, we give scholarships to our members, etc. I think we could have written the checks for Skip's boiler replacement without going through the parish. We are not distributing revenue or profits to members.

That is my understanding of how nonprofits are suppose to operate. I hope that is helpful. That said I think line 7 in the Financial Aid Policy needs to be deleted or clarified. Bob

Paul St. Amand (January 17, 2021)

Brothers,

At last Friday's emergency finance meeting, we addressed the steps needed to help brother knight Skip Troisi. Those steps are underway. His situation is not the subject of this email to you.

This type of request for financial need has occurred in the past and will occur again. At the meeting, we danced around several issues, wondered about proper (legal) steps, and used time to get to an agreed solution. To save us all time in the future, see the attachment, a proposal for council policy on giving financial aid, considering "NH gaming" and non-NH gaming monies

The proposal was first sent to the members who attended the ZOOM meeting (8 people). The comments received from 3 people were positive. No negative comments were received.

Now I send the policy proposal to the entire Finance committee, plus Dan Norris, Don Simmons, and Dick Collopy for review.

The Goal would be to adopt a policy that we can use to guide how we give aid, and then make that policy known to the council at large, and also to post it on our web site in our by-laws area for future reference

REQUEST: please review the attachment. Is there something within that is "wrong" / "not legal" ? Are there policy items that need to be added or removed? Bottom line: do we want to adopt a policy, and is this the one to adopt for now?