



Revised August 20, 2020

**Guidelines for Fundraising and Distribution of Funds
for Member Clubs of
The Federation of Texas A&M University
Mothers' Clubs**

Information provided is as current as it can be up to the date listed below. The Federation does not provide legal advice. Your club should check with an attorney and refer to the statute to be sure that your activity meets the regulations. Certain situations must be handled on a case by case basis.



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DESCRIPTION OF DOCUMENT

“All clubs that are members of the Federation of Texas A&M University Mothers’ Clubs are expected to comply with State and Federal laws concerning taxes; the Federation shall not be responsible for their failure to do so. The Federation of Texas A&M University Mothers’ Clubs shall not be responsible for the financial affairs of a member club.” (Source: Federation of Texas A&M University Mothers’ Clubs Bylaws Article X, Section 1 and 2; rev. August 27, 2016)

Federation Form Y (Tax Compliance Verifications) is due to the Federation Treasurer May 15 each year. Form Y was established to assist and to remind clubs of tax compliance responsibilities, but is not a professional advisory financial form.

The Federation of Texas A&M University Mother’s Clubs is providing the information below after reviewing statues, regulations, interpretation, and advice provided by the State of Texas, the Attorney General’s office, the IRS, the TAMU Scholarships and Financial Aid office, and attorneys and CPAs specializing in non-profit matters. This information is provided for the benefit of Federation-member clubs’ activities. The application and interpretation is often complicated and depends on individual circumstances. This information is provided to the best of the Federation’s ability; however, compliance and specific application are the responsibility of each club. This may be different and updated based on current regulations from procedures that your club has previously followed. The Federation does not provide legal advice.

Appropriate references are provided as much as possible. However, the language of the law is very technical. If your club is considering holding a raffle or other fundraiser or has any questions on the subjects below, your club should check with an attorney and refer to the statute to be sure that your activity meets the regulations. The Texas Attorney General’s office will not answer specific questions or give legal advice, nor will the Federation. Information provided is as current as possible up to the date listed below. Certain situations must be handled on a case by case basis.

OPERATING EXPENSES ARE TO BE COVERED BY DUES OR DONATIONS RESTRICTED FOR OPERATING EXPENSES. MONIES SECURED THROUGH FUNDRAISING ACTIVITIES MUST NOT BE USED FOR CLUB OPERATING EXPENSES. OPERATING FUNDS (DUES AND DONATIONS RESTRICTED FOR OPERATING EXPENSES) MAY NOT BE USED FOR FUNDING SCHOLARSHIPS OR OTHER FUNDRAISING ACTIVITIES.

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FUNDRAISING

Raffles

Texas law defines a raffle as “the award of one or more prizes by chance at a single occasion among a single pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize.”

These guidelines come from the Charitable Raffle Enabling Act (CREA), effective January 1, 1990 – link below.

By following these guidelines, your club will be compliant with current **Texas sales tax** and **IRS income tax** rules for 501(c)(3) non-profit organizations. **Please pay careful attention about Federal income tax implications for raffle winners outlined in this document.**

An unauthorized raffle is considered gambling under the Texas Penal Code. Conducting such a raffle is a Class A misdemeanor. Participating in an unauthorized raffle is a Class C misdemeanor.

1. **NEW Clubs may not hold a raffle for THREE years based of State of Texas law.** “A nonprofit organization that has existed for **at least three preceding years** and is exempt from federal income tax under Section 501(c), Internal Revenue Code; does not distribute any of its income to its members, officers or governing body; does not devote a substantial part of its activities to attempting to influence legislation; and does not participate in any political campaign may hold a charitable raffle.”
2. Your club is allowed up to two raffles during **each calendar year** (January 1-December 31 - not your club fiscal year), but you cannot run two separate raffles at the same time. Separate raffles mean **two totally separate sets of raffle tickets**. It does not refer to one raffle with several choices on what the winner can receive.
3. Your club cannot offer or sell tickets in the same calendar year if you have offered OR sold OR awarded prizes for **TWO** or more raffles in that **calendar year**. (*This language is vague and is from the statute*).
4. **Raffle tickets may not be sold or offered for sale statewide. Since a website is a finite place on the web, tickets could be sold from the club’s website.** (This is based on statements from the State of Texas Comptroller’s office, August 2016.)
5. **Raffle tickets may not be advertised statewide (offered for sale) or through paid advertisements (i.e. TV, radio, newspaper, etc.)** Paid advertising through a medium of mass communication is prohibited. Donated advertising is permissible. Your club cannot actively advertise state-wide (sending notices to clubs and organizations or paying for ads throughout the state). **Posting on your club’s closed Facebook page and websites are OK and are not considered state-wide advertising. It is acceptable to send notices of raffles to residents of the State of Texas that are listed in the database of a club. Clubs outside of the State of Texas must check with the guidelines for conducting a raffle within their individual states.**
6. No **Texas sales tax** is due whenever the raffle happens. Period. **The sale of raffle tickets representing the right to win an item is NOT taxable regardless of where, when, or by whom the sale is made. A club does not collect sales tax on the sale of raffle tickets. The income of that sale must be reported on Line 1 of your Texas Sales & Use Form (but it is nontaxable income) if your club is required to file the form.**

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7. Paypal prohibits the use of their services from conducting lotteries (which raffles are considered) whether legal or not.
8. **Each raffle ticket must state:**
 - a. **the name of the organization conducting the raffle;**
 - b. **the address of the organization or of a named officer of the organization (the address could be a webpage or e-mail address so that participants can find out who won);**
 - c. **the ticket price;**
 - d. **a general description of each prize having a value of more than \$10; and**
 - e. **the date on which the raffle prize(s) will be awarded and method to notify winners.**
9. **Bucket raffles:** While we could not get an interpretation of this from the State's Attorney General's office, the following guidelines are suggestions. This type of raffle is where you have, for example: 10 prizes of various values with a bucket/bowl/bag in front of each, tickets are sold off of a roll of tickets – not the properly printed raffle tickets with the five required pieces of info on them. The buyer drops them into the bucket of the prize they want a chance to win.
 - a. A sign must be posted in front of each offering clearly stating the five pieces of information above since it is not printed on the ticket.
 - b. This type of raffle counts as one of the two raffles an organization can conduct each calendar year.
10. **No cash prizes can be awarded.** A qualified organization may offer any prize **except money**. **“Money” is defined as coins, paper currency, or a negotiable instrument that represents and is readily convertible to coins or paper currency.** No certificates of deposits are allowed.
11. **A U.S. savings bond and a prepaid, or "stored-value," gift card are not prohibited.** See Texas Attorney Gen. Op. No. GA-0341 (2005). **The question of the prohibition of a gift certificate has not been addressed in an AG Opinion, but it has been suggested that as long as it is not readily convertible to cash, it would likely not be prohibited.** <https://www.texasattorneygeneral.gov/opinions/opinions/50abbott/op/2005/htm/ga0341.htm>
12. **Gift Cards are not convertible to cash (coins or paper currency), so could be used in a raffle.** <https://www.texasattorneygeneral.gov/opinions/opinions/50abbott/op/2005/htm/ga0341.htm>

“Applying section 2002.002(1-a) to the issue you present, we note first that neither savings bonds nor prepaid credit cards are coins or paper currency. Thus, if either is within the Act's new definition of "money," it is because they are negotiable instruments that represent and are readily convertible to cash.” (This is the statement that supports why gift cards would be not defined as "money" and be acceptable in raffles.)
13. No one may be compensated directly or indirectly for organizing or conducting a raffle or for selling raffle tickets.

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14. The raffle winner has potential income tax liability.
15. Certain raffles are not legal in Texas (except for certain nonprofit groups). If your club has questions about the legality of raffles, you can contact the Texas Attorney General's office or local District Attorney's office. The Attorney General's Internet address is <https://www.texasattorneygeneral.gov/>. Under the "Consumer Protection" tab, look for the "Charities and Nonprofits" link.
16. You must set a **fair market value** for your club's raffle prize. "Priceless" is not acceptable to the IRS. **The value of a purchased prize cannot exceed \$50,000 or \$250,000 if the purchased prize is a residential dwelling.** Your club must **publicize the value of the raffle prize. There is no value limit on prizes donated to the organization.**
17. **What can you do to protect your club?** If your club plans to conduct a raffle in your home area or at Family Weekend Boutique, please share these guidelines with your raffle chairs and confirm that the procedure is in compliance with IRS rules. If necessary, consult an attorney or non-profit CPA.
18. **When does your club have to file IRS paperwork on the winner of your raffle prize?** If the value of the raffle prize is \$600 or more **AND** 300 or more times the cost of the raffle ticket, there are forms that your club must fill out for the IRS. For example, the value of your raffle prize is \$1,000 and the raffle ticket price is \$1. Your club must report the winner to the IRS using forms W-2G since the raffle prize is more than \$600 and 1,000 times the cost of the ticket. If the winner refuses to supply a correct taxpayer identification number (usually a social security number), withholding is required. Refer to IRS Information Sheet 1340 from the IRS for more details.

50/50 Pots

"50/50" Pots are ILLEGAL no matter how you look at it, are considered gambling and are not allowed.

Out of State Clubs

1. **Any seller (i.e. Aggie Mom club) engaged in on-going business in Texas that sells tangible personal property or a taxable service must have a sales and use tax permit.**
2. **Out of state clubs must collect tax at Boutique (in Texas) unless the two days of Boutique are the club's two previously declared tax-free days.**

Bingo

Bingo in the state of Texas is considered wagering/gambling. As the parent organization, the Federation will not sign any supporting documentation that may be required to hold a Bingo game. **Bottom line – no Bingo for Aggie Moms clubs.**

<http://www.statutes.legis.state.tx.us/Docs/OC/htm/OC.2001.htm>

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Live or Silent Auctions

What is Taxable and Not Taxable?

For items sold at a silent or live auction, the club **MUST** collect tax on taxable items such as jewelry, books, clothing, flower arrangements and gift items. If there happens to be any non-taxable items, such as a box of fresh fruit or exempt bakery items; or intangibles, such as a gift card or gift certificate, the club would not have to collect sales tax on those nontaxable items.

If an auction item is a package that contains both taxable and non-taxable items, such as a gift basket with a non-taxable cheese ball or cheese assortment and a taxable cutting board and cheese knife, the application of the sales tax on the selling price of the package depends upon the essential character of the complete package. If the taxable items, cutting board and cheese knife, are the primary component of the package and a single charge is made for the package, the entire sales price of the package is taxable.

If the non-taxable food items, in this case the cheese ball and cheese assortment, are the primary component of the package, the entire sale is exempt unless a separate charge is made for the taxable items. If you make a separate charge for the taxable items, the separate charge is subject to tax.

However, if your auction is during one of your two tax-free days, there would be no tax collected.

Purchasers' Charitable Contributions

If you purchase an item at an auction at a price greater than the fair market value, you may claim from the IRS a charitable contribution deduction. The amount of the deduction should be calculated as the excess of the purchase price over its market value. The IRS will require a purchaser to show that he knew that he was paying more than the market value. In some cases, the organizers of an auction provide estimates of the value of items.

Donors

Anyone who donates goods for a nonprofit silent auction may claim a charitable tax deduction for making the donation. The amount that the donor can claim is not the market value of the item, but is usually the amount that he paid for the item, unless the fair market value is lower. The value of the donated item is assigned by the donor, not the nonprofit organization.

<http://info.legalzoom.com/laws-nonprofit-silent-auctions-21052.html>

If you have any questions or need additional information, feel free to submit them online at <https://comptroller.texas.gov/taxhelp/> or call Texas Taxpayer Services section at (800) 252-5555.

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IRS Income Tax Implications

Raffle prizes are considered lottery winnings and are subject to Federal income tax for the winner. See IRS Form 1340 for details. The language of the law is very technical. If your organization is considering holding a raffle you should check the statute to be sure it qualifies. Below is a summary:

1. Do we have to report the winner's prize to the IRS?

If the prize is more than \$600, and more than 300 times the ticket price, then, yes, the organization must report the winnings to the IRS using a W-2 G. For example, if raffle tickets are \$50 and the prize is a \$20,000 car, (greater than \$50 x 300) then the organization would have to report the winnings to the IRS on a W-2 G. It is not correct to give the prize winner a 1099.

- 2. If the value of the prize is less than \$600 OR less than 300 times the cost of the ticket, the winner self-reports the value of the winnings. For example: A person buys a raffle ticket for \$2 and wins a prize worth \$400. This is less than 300 times the cost of the ticket so the winner is responsible for reporting the \$400 winnings on her income tax form for tax year 2017. Your club has no further responsibility.**

Key question – was the prize more than 300 times the ticket price AND more than \$600? If yes to both, then a W-2G is required.

3. How about withholding?

If the value of the prize is more than \$5,000, your club must collect money for withholding and your club must send it to the IRS in addition to Forms W-2G and 1096. The organization must withhold and deposit federal income tax on the winnings. There are penalties for failure to withhold. Tax withholding is required when the prize is more than \$5,000 and more than 300 times the ticket price. The withholding rate is 28% of the prize (up from 25% in 2010). Please consult a professional under these circumstances.

Key question – was the prize more than \$5,000? If so, the organization must make a tax deposit.

- 4. When does your club pull the winning ticket and give out the prize without worrying about IRS paperwork? If the value of the raffle prize is less than \$600 AND less than 300 times the cost of the raffle ticket, your club has no further responsibility. If you have a special deal such as 4 tickets for \$5, the ticket price is**

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considered to be \$.80. When the winner comes to pick up the prize, you do not have to report anything to the IRS. The winner self-reports on his (her) income tax form. For example, the value of the raffle prize is \$500 and the price of the raffle ticket is \$2. The prize is 250 times the cost of the ticket so your club has no further responsibility. Another example is if the raffle prize value is \$800 and the raffle ticket is \$3. Even though the prize is more than \$600, the prize value is less than 300 times the cost of the ticket.

5. **If the value of the prize is \$600 OR the same as/greater than 300 times the cost of the raffle ticket**, your club must fill out paperwork for the IRS for the winner. Form W-2G and Form 1096 must be filed with the IRS so the IRS can keep track of the winnings. For example, a person buys a raffle ticket for \$5 and wins a prize with a value of \$2,000. Since \$2,000 is greater than 300 times the \$5 cost of the ticket, your club must collect information about the winner and send it to the IRS. Please look at these forms at any raffle you conduct so you are ready to fill them out. Both forms are also due annually to the IRS but since the winner might be from another part of the state, it is important to collect the information before the prize is given to the winner. Your club should inform raffle ticket buyers about possible income tax liability so that the winners are aware at the time of purchase.
6. **When does your club have to file IRS paperwork on the winner of your raffle prize?** If the value of the raffle prize is \$600 or more AND 300 or more times the cost of the raffle ticket, there are forms that your club must fill out for the IRS. For example, the value of your raffle prize is \$1,000 and the raffle ticket price is \$1. Your club must report the winner to the IRS using forms W-2G since the raffle prize is more than \$600 and 1,000 times the cost of the ticket. If the winner refuses to supply a correct taxpayer identification number (usually a social security number), withholding is required. Refer to IRS Information Sheet 1340 from the IRS for more details.
7. **How do you withhold tax on a \$20,000 car?**

The nicest raffles pay in the tax for the winner, making the prize even bigger. Others offer the winner the choice of taking the prize or a cash equivalent, allowing the winner to pay the tax and keep the rest of the cash. The organization must do one of two things. Either: 1) ask the winner to hand over \$5,600 before they get the car; or 2) gross up the prize to \$27,778 and pay in federal income tax of \$7,778. ($\$20,000 / (1 - .28) = \$27,778$.)

Opportunity Drawings - Door Prizes

1. Opportunity drawings (by chance) are not raffles - everyone gets a ticket and there is no money involved.
2. A "drawing" may not require an entry fee or contribution in order to participate, nor may it discriminate in any manner between entrants who gave contributions and those who did not.
3. **The Federation does not support and discourages any "in club" door prizes or raffles that result in cash as prizes – including attendance "pots", door prize money, Fun Money, etc.**
4. **Do not give cash OR gift cards as door prizes.**
5. ALL door prizes must be donated and not purchased out of club funds.

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6. This has to do with the IRS "inurement" clause - raising money to benefit the members – i.e. - buying door prizes given out at meetings to members.
7. An Attendance Gift Drawing is questionable for the same reason unless the “prize” is donated.

There is some protection if the club states publicly – on its website and open Facebook page, or any postings – “Door Prizes are available to any moms of XXXX County Aggies - contact XXXX to be entered.”

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DISTRIBUTION OF FUNDS

Student Speaker Gifts or Reimbursements

1. It is the recommendation of the Federation that an honorarium be offered to the individual(s) representing a TAMU sanctioned organization or department and that a check is written directly to that entity. No gift card or cash may be given directly to an individual. Please confer with the individual/organization as to what their guidelines permit.
2. Clubs may provide goody bags or other non-monetary gifts to these representatives.

Gifts to Students

1. **The Federation's position is - Do not give cash out of club funds to students for any reason – graduation gifts, birthday or holiday gifts, or loans.**
2. **The Federation does not recommend giving gift cards or cash to students as it becomes complicated with Financial Aid and IRS.**
3. **Modest non-monetary gifts (i.e. paperweight) for graduating students must be advertised to the entire area a club serves. Because students will no longer be enrolled as an undergraduate, it is not required to be reported to Financial Aid.**
4. **Contact Nora Cargo – TAMU Scholarships and Financial Aid, ncargo@tamu.edu , 979-458-5310 for specific clarification on any other items of concern.**

Goody Bags

1. Goody bags supplied out of Club funds must be publicly OFFERED to ALL students in the area that the club represents.
2. No club funds shall be used to purchase contents and containers for goody bags offered to specific students.
3. Gifts in goody bags from the club (and announced publicly as available to all students in the area) do not have to be reported to TAMU Scholarships and Financial Aid; cash and gift cards are not allowed.
4. Gift Cards in Goody Bags are acceptable IF the Goody Bag and the Gift Card are purchased by a club member for a student for an amount equal to or greater than the value of the contents. Two separate checks must be written for this kind of situation: check #1 for the Goody Bag is written to the club and runs through the club account and is considered taxable income and must be reported on the club's state sales tax form; check #2 for the Gift Card is written to the chair of the Goody Bags for the exact amount of the Gift Card and is not run through the club account – it is the mother purchasing and giving a gift card only to her own student(s).

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5. If all the items in the Goody Bag are purchased out of the club treasury, then the Goody Bags cannot be limited to only students of members. All students represented by the club must be eligible to receive one.
6. Goody Bags may be either purchased by a member for a student OR may be publicized and available to all students that the club area represents.
7. If the members pay an extra amount above their dues to the club specifically for Goody Bags, then the Goody Bags can only be given to said members' choice of students.
8. **Club funds cannot be used to purchase contents for specific students. The cost of the Goody Bags purchased by members for their students must be equal to or greater than the cost of the contents.**
9. A purchased Goody Bag is "given" BY the MEMBER to the student, NOT given by the CLUB.
10. Goody bags offered for sale by a club are taxable. Please remember when backing out sales tax you are reducing the dollar amount available for purchased fillers.
11. Goody bag purchases must go through the club and are taxable.

For example, the Goody Bag is \$20 and the club sells 400 bags, back out the tax
 $400 \times \$20 = \$8,000 \dots \$8000 / 1 + (\text{local tax rate}) = \$7390 \dots$ report on total sales and taxable sales \$7,390.
12. The club can still use the tax exempt form for the purchase of the items.
13. When clubs purchase Goody Bags for any students from their service area, the quantity available does not have to equal the number of students from the area. The club needs to publicly advertise when and where the bags will be distributed on a "first come, first served basis." No preference can be given to students of members.

Book Awards/Book Scholarships

UPON THE ADVICE OF THE OFFICE OF FINANCIAL AID, THE FEDERATION NO LONGER ENDORSES BOOK AWARDS OR BOOK SCHOLARSHIPS.

1. Any gift to a student (no matter the amount) should be considered a scholarship and be reported with the student's name and UIN to the Office of Financial Aid. Adjustments to a student's aid package may be necessary in order to maintain financial aid eligibility.
2. NO funds can be directly given to a student or parent. All checks must be forwarded to the Office of Financial Aid.
3. Your club can still offer scholarships in the form of a drawing provided your club appropriately advertises this opportunity.

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Reporting to Financial Aid

1. If a gift is educationally related (provided to a student because they are a student), the gift must to be accounted for in the student's financial aid package.
2. A list of students, their UIN, and the amount of the gift must be sent by July 1 to scholarships@tamu.edu. Awards provided after July 1 should be reported as soon as possible.
3. **Contact Nora Cargo – Financial Aid, ncargo@tamu.edu , 979-458-5310 for specific clarification on any items of concern.**

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RESOURCES

Raffles Regulation Links (click below)

Charitable Raffle Enabling Act <http://www.statutes.legis.state.tx.us/Docs/OC/htm/OC.2002.htm>

<http://www.statutes.legis.state.tx.us/SOTWDocs/OC/htm/OC.2002.htm>

Texas Attorney General website: Charities & Nonprofit: Charitable Raffles -
<https://www.texasattorneygeneral.gov/agency/site-index>

Texas Attorney General website: Raffles in Texas: Know the Law -
https://texasattorneygeneral.gov/alerts/alerts_view_alpha.php?id=58&type=1

Texas Attorney General website: Raffles & Casino Poker Nights – Frequently Asked Questions -
<https://www.texasattorneygeneral.gov/agency/site-index>

IRS Tax-Exempt Organizations and Raffle Prizes – Reporting Requirements and Federal Income Tax Withholding -
https://www.irs.gov/pub/irs-tege/notice_1340.pdf

<http://cullinanelaw.com/nonprofit-raffle-rules-how-does-a-nonprofit-hold-a-raffle/>

<https://www.irs.gov/instructions/iw2g/ar02.html>

https://www.irs.gov/pub/irs-tege/notice_1340.pdf

<http://www.yalelawfirm.com/pdf/Charitable%20Raffles%20Your%20Ticket%20To%20A%20Winner%202012.pdf>

Federal Income Tax on Winners of Raffle Prizes

<http://www.nonprofitaccountingbasics.org/special-events-fundraising/raffles-right-way>

https://www.irs.gov/pub/irs-tege/notice_1340.pdf

Created: Fran Marintsch; 9/1/2016

Revised: Troie Burch; 9/19/2016

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