More Than Money

Be wary of excess benefits **for leaders of nonprofits**

If it sounds too good to be true – be careful. It might be considered "excess benefits."

When persons in leadership positions in 501(c)3 and 501(c)4 nonprofits receive compensation or benefits that exceed fair market value for the services they rendered to the organization – in other words, are paid more than they are worth – the IRS can rule it excess benefits.

In the case of excess benefits received by a "disqualified person," the IRS can impose a penalty on the recipients as well as on any managers or board members who knowingly approved the excess.

Excess benefits include receiving a high salary, a low-interest loan, high severance pay, property and expensive perks; paying the organization below market rent; and selling or renting property to the organization at above market value.

The nonprofit organization can also be harmed if donors learn of the penalties, which they usually do because they are public information.

Excess benefits include receiving a high salary, a low-interest loan, high severance pay, property and expensive perks; paying the organization below market rent; and selling or renting property to the organization at above market value. The law also covers receiving the economic benefit indirectly, such as through another person or an entity controlled by the disqualified person.

Federal law defines a disqualified person as anyone who is or was "in a position to exercise substantial influence over the affairs of the organization" during the past five years.

Besides senior managers, this can include their family members, any businesses in which they own more than a 35 percent interest, major contributors to the organization and voting members of the governing body.

Intermediate Sanctions

Under Internal Revenue Code 4958, which was added to federal tax law in 1996, the IRS can impose a federal excise tax known as "intermediate sanctions" for receiving or approving excess benefits. The term "intermediate" signifies that the sanctions fall somewhere between doing nothing about the transaction and revoking the organization's nonprofit status. (In extreme cases, the IRS can revoke nonprofit status, but that is rarely done.)

The disqualified person is taxed at 25 percent of the excess benefit and must also repay the excess to the organization. Failure to make these payments by the end of the year in which they were imposed can result in a second-tier tax equal to 200 percent of the excess benefit.

"Organization managers" who knowingly and willingly approved the excess benefit can be taxed 10 percent of the excess. These individuals could potentially be subject to both taxes if they approved *and* received excess benefits.

However, the regulations exempt organization managers from a penalty for approving excess benefits if they acted on the reasoned, written opinion

See ***Excess benefits*** *on back*

Inside

Fall 2011

Inside

Financial news & notes for nonprofit organizations from:

Gregory, Sharer & Stuart

Certified Public Accountants and Business Consultants

100 Second Avenue South, Suite 600, St. Petersburg, Florida 33701 | (727) 821-6161 | www.gsscpa.com

Are you doing everything you can to keep donors?

It's a lot easier to keep a current donor than it is to get a new one.

Is your nonprofit doing everything it can to keep its donors? Are you wasting time on donor retention efforts that don't work?

A study by the Center on Philanthropy at Indiana University looked at the reasons donors end their support of nonprofits. Following are the five most common reasons:

1. No longer felt personally connected (57.7 percent)
2. Decided to support other causes (51.3 percent)
3. Too frequent solicitation (42.3 percent)
4. Mission no longer relevant (19.7 percent)
5. Organization not fulfilling its mission (18.7 percent)

What retention activities are likely to be most successful?

Keep donors informed. Tell them about all the good things you are doing with their money. Do this when you are *not* asking for donations.

Keep the focus on the worthiness of your mission, not the neediness of your organization. Send photos, news clippings, awards, etc.

Consider using Facebook and other social media to stay connected with donors. If a donor's contribution is targeted toward a specific project, keep the donor updated on the progress of the project with a note, email or phone call.

Recognize donors and acknowledge your appreciation of their gifts. Everyone knows to be sure to send donors thank-you cards for their gifts. But also look for authentic, high-quality ways to let your donors know you appreciate them, not the same old canned approaches.

Face-to-face events are best, if feasible. Phone calls or handwritten notes are good. Have a brainstorming session with your staff, and ask them to come up with new and creative ideas for recognizing donors.

Ask donors for their opinions and suggestions. Ask your donors why they give and what they would like to see you doing that you are not. Also ask them what they think you are doing well, and what you could be doing better.

You could send mail or email surveys, but why not be more creative? How about accomplishing this objective *plus* the preceding two at a nice luncheon or dinner? Have the CEO and other important persons give presentations about your work. Recognize and acknowledge your donors' role in those accomplishments. Then take time to ask them what *they* think.

Give donors a chance to get involved if they want to. Ask them whether and how they might like to do this. Some will not be interested, but for those who are, it can be a win-win. They feel more connected, and you get another motivated volunteer.

Stay laser-focused on your mission. Don't commit "mission creep" by going off in directions that don't relate to your central purpose. Avoid taking stances on political or other controversial issues. Unless you have a very homogeneous group of donors, this is a sure way to alienate those with contrary views.

Be sensitive about how often you run campaigns so that you don't fatigue donors.

Naturally, you will want to continue recruiting new donors, but it would be a mistake to neglect current ones in the process. If you accomplish most of the above suggestions, it should go a long way toward keeping the donors you've got.

Donors expect to give same or more this year

Donors to charitable groups expect to give the same or more this year as last, with only 7 percent planning to donate less, according to 22,000 respondents to the 2011 Cygnus Donor Survey.

And in a surprise result, nearly half – 49 percent – of respondents said they could have given more to charitable organizations during the past year.

The survey also found that young donors, under 35 years old, are most likely to say they'll give more. They may have fewer resources than older more established donors, but the survey result is a signal to nonprofit groups to be sure to include a younger audience in their promotional efforts.

Younger donors plan to give primarily online (86 percent), and online giving is the preferred method of donation by 65 percent of people, with many respondents who contributed by mail last year planning to donate online in the future.

Direct mail campaigns have declined but are still an efficient means of promotion, the survey found. Nearly half of respondents (48 percent) made donations after receiving a direct mail piece.

Cost-effective ways
to recognize employees and volunteers

During tough budgetary times, you may have to cut expenses across the board, including costly perks, bonuses and rewards.

But one thing you should not stop doing is recognizing employees and volunteers for exemplary performance.

One of the primary causes of job stress and burnout is feeling that no one notices or appreciates the hard work you do.

Fortunately, there are many low-cost and no-cost ways to recognize and reward employees and volunteers. Here are a few.

Give high-quality praise

Giving effective positive feedback or praise is a bit of an art.

Simply saying "Nice job" is fine for the little things. But when an employee has exerted extra effort for an extended period of time, it warrants a little more than that. Following are the main components of high-quality praise:

- **Be specific.** Tell them exactly what they did that you value and how it helps the organization.
- **Be timely.** Don't wait until you are scheduled to meet with the person. Give praise during or right after the performance.
- **Give praise privately first.** Then look for an opportunity to reinforce the message in front of others. This has the added benefit of showing others what kind of behavior is valued by the organization.
- **Don't make praise "back-handed."** Don't add a qualifier, such as "You could have done a little more of X" or "I wish you would do that more often."

Find out what motivates people

The same type of reward or recognition does not fit everyone. During new-hire and volunteer orientation, have your HR manager find out what motivates each person so that you can customize the way you recognize them.

This is more complicated than simply asking "What motivates you?" It requires time, good interviewing skills and active listening. The results should be kept in each person's personnel file.

Harness the power of peer-to-peer recognition

Managers are not the only ones whose recognition is valued. We all like working with people who notice our good deeds and bring them to the attention of our boss.

There are many ways to implement a peer-to-peer recognition program. One is to create a simple application on your intranet whereby a person fills out a short form describing their co-worker's actions that they want to recognize. The program then generates an electronic or print version of a certificate that goes to the employee or volunteer, and a copy goes to their manager.

Another variation is to get a trophy, statue or other suitable object that travels around the office. The rules are that you give it to someone who has helped you with a task or whom you have observed doing an outstanding job. The recipient gets to keep the object for a week and then has to pass it on to some other deserving person.

Leverage your own skills or assets

If money to buy rewards is tight, look around at what you have at hand. Start with yourself. Are you a gourmet cook? How about cooking up a delectable meal for your star team?

One of the primary causes of job stress and burnout is feeling that no one notices or appreciates the hard work you do.

Do you own a boat? How about taking deserving folks out fishing or sailing? Do you own a beach cottage or mountain cabin? You get the idea.

Give the gift of time

Surveys consistently reveal that employees value flexible scheduling so they can balance their work and personal lives as much as they value higher pay or more benefits. Some examples of how to do this include:

- Extra time off as a reward for hard work
- Ability to adjust their schedule to attend children's events, medical appointments, etc.
- Telecommuting from home a day or so a week

Allow employees and volunteers opportunities

Most employees and volunteers are interested in new challenges and opportunities to learn new skills. Try to match people with special projects in a way that is best for the organization *and* is seen as rewarding by the individual.

Give them a great time to remember

Finally, plan a fun event that will be remembered for a long time. Laughing, playing, having a bang-up good time can be low-cost and is likely to have greater impact than a monetary bonus that goes into the checking account to pay bills. Ask a few of your more creative staff for ideas about specifics.

These are a few of the many low-cost and no-cost ways to recognize employees and volunteers during tight budgetary times. There is no reason they should be left to feel unappreciated. ▮

We wish to thank Jeff Van Pelt, Ed.D., SPHR, for his editorial contribution to this publication.

of an appropriate professional. The latter could be an attorney, CPA or accounting firm.

Steps to protect your organization

The IRS tends to be more forgiving of organizations that discover and report excess benefits before the IRS learns of them. Therefore, if you find that your organization has provided someone with excess benefits, your best course of action is to report them to the IRS using Form 4720 and take corrective actions. This may avert imposition of intermediate sanctions.

Following are some steps to take to prevent excess benefits problems in the first place:

- Make sure the governing body or committee that approves managers' compensation is made up of individuals who have no conflict of interest in those decisions or recuse themselves from the decisions where they have a conflict.
- Base total compensation on comparability data – that is, on average compensation paid to managers by organizations similar to yours in size and other relevant factors. This data should be compiled by an independent firm that specializes in executive compensation. Noncustomized national surveys are not sufficient.
- Make sure all property sales or rentals involving managers and the organization are at fair-market value according to a professional appraisal.
- Each year, document compensation decisions, including the specifics of what was approved, the names of voting individuals, the comparability data that was used and how it was obtained, the input of any other experts, performance evaluations of the managers involved, and any other factors that were considered instrumental to the decision.

If your nonprofit organization follows these procedures, the regulations give you the benefit of the doubt and consider your compensation practices to be reasonable unless someone proves otherwise. You will have taken significant steps toward protecting your organization from excess-benefits problems.

More Than Money

Gregory, Sharer & Stuart

Certified Public Accountants and Business Consultants

100 Second Avenue South, Suite 600, St. Petersburg, Florida 33701
www.gsscpa.com | gss@gsscpa.com

(727) 821-6161

If we may answer any of your questions on the information contained in this publication, please contact us.