

CHARITABLE GAMING AND AUCTIONS FOR GRANTMAKING FOUNDATIONS AND NONPROFIT ORGANIZATIONS

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INTRODUCTION

Charitable Gaming

Charitable gaming, such as raffles, bingo, charity game tickets and millionaire parties are fun ways that nonprofit organizations can actively engage their supporters while raising funds to further their missions. This guide provides an overview of the regulations and practical considerations of different types of charitable gaming available to nonprofit organizations. This guide also discusses auctions, which are often jointly conducted with other forms of charitable gaming.

The following definitions describe how these terms will be used throughout the publication:

- A. **Raffles:** Games of chance where raffle tickets are sold, winners are determined by randomly drawing a ticket from a container and prizes are awarded. Raffles, door prizes and 50-50 drawings fall under this category.

- B. **Bingo**: A game of chance in which prizes are awarded on the basis of bingo numbers being randomly drawn from a receptacle.
- C. **Charity Game**: The sale of charity game tickets commonly referred to as break-open tickets or pull-tabs, a portion of which is removed to discover whether the ticket is a winning ticket.
- D. **Millionaire Parties**: Charitable gaming events where wagers are placed on games of chance customarily associated with a gambling casino and participants use imitation money or chips. Organizations may also refer to these events as “casino nights.”

Regarding Online Gaming: As of the publication of this resource, regulations do not allow for online charitable gaming. Organizations may advertise the availability of their events and charitable gaming online, but all sales and gaming must be conducted in-person.

Governing Law and Regulatory Bodies

Any activity in Michigan that requires someone to pay money for a chance at winning a prize is regulated as “charitable gaming.” Charitable gaming in Michigan is governed by the Traxler-McCauley-Law-Bowman Bingo Act, or “Bingo Act” for short.¹

Raffles, bingo and charity games are regulated by the Charitable Gaming Division of the Michigan Lottery (the “Michigan Lottery”). However, millionaire parties are regulated by the Michigan Gaming Control Board (“MGCB”). Organizations must contact the proper authority to secure a license.

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Michigan Lottery

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CONSIDERATIONS BEFORE HOSTING A CHARITABLE GAMING EVENT

Charitable gaming can be a great option for nonprofit organizations. However, they can consume significant resources during their planning, execution and follow up, beyond other fundraising events. **Organizations should carefully consider the following before deciding to host a charitable gaming event:**

Event Goals

Any charitable gaming activity conducted by a nonprofit should be consistent with the mission and values of the organization. For example, an organization that works with individuals facing dependence may not want to host a casino night where gambling is a featured activity.

¹ https://www.michigan.gov/documents/BSL-CG-BingoAct_31723_7.PDF

Board and Leadership Buy-In

In most instances, the “principal officer” of the organization will be responsible for the management, accountability and execution of the charitable gaming event. Charitable gaming is a highly regulated space and, before deciding to move forward, the board and staff leadership should carefully consider the risks and responsibilities involved.

Timing

Charitable gaming fundraisers can take months to prepare, from receiving agency approval to securing vendors. Organizations can refer to the “Timelines” section at the end of this guide for an overview of turnaround times provided by each governing body.

Tax Implications

There are numerous federal tax withholding and reporting requirements that may come with hosting a charitable gaming event, depending on the types of games played and the size of the winnings. These considerations are highlighted in the “Tax Implications” section that follows. Additionally, IRS Publication 3079, Tax-Exempt Organization and Gaming, includes more explanations and examples on this topic.² It is important to note that purchases for a chance to win are ineligible for a charitable deduction; individuals will pay income tax on their winnings.

Insurance

Generally, special insurance riders will need to be secured to cover the charitable gaming event. If serving alcohol, there will be additional liability exposure that should be examined and covered by insurance, if possible.

Related Licensing Requirements

Liquor License: Fundraising events that elect to have alcohol or to include alcohol within raffle or auction gift packages may require further licensing by the Michigan Liquor Control Commission (“LCC”) of the Department of Licensing and Regulatory Affairs (“LARA”). In general, any organization that sells or serves alcohol must first obtain a Non-Profit Special License. These licenses have requirements that are distinct from those of charitable gaming licenses, such as local law enforcement approval, and must be submitted at least ten (10) days before the event.³ More information can be found on LARA’s website.⁴

The LCC allows nonprofit organizations to offer unopened alcohol as raffle prizes, provided that the value of all alcohol awarded remains under the statutory limit.⁵ Any alcohol awarded through a raffle cannot be consumed on site and must follow all LCC regulations.

The LCC offers a Wine Auction Special License that allows nonprofit organizations to auction off wine either donated from individuals or purchased by the organization. The nonprofit host may not receive donations from wine retailers or wholesalers. If an organization wishes to sell alcoholic beverages and operate a wine auction, the organization must obtain both a Non-Profit Special License and a Wine Auction Special License.

² <https://www.irs.gov/pub/irs-pdf/p3079.pdf>

³ https://www.michigan.gov/documents/lara/Special_License_Instructions_LCC-110a_533528_7.pdf

⁴ https://www.michigan.gov/lara/0,4601,7-154-89334_10570_16941-391552--,00.html

⁵ MCL 436.2015. As of the time of this writing, the statutory limit for all unopened alcohol is \$200.

Attorney General Charitable Trust Registration: Charitable gaming events may open charitable organizations that traditionally do not solicit from the public to oversight by the Attorney General’s Charitable Trust Section. Unless exempt from registration,⁶ organizations that solicit from the public are required to register with the Charitable Trust Section. Before hosting a charitable gaming event, check whether the organization is already registered or whether hosting the event will require the organization to register.

QUALIFICATIONS TO HOST AN EVENT

As the first order of business, nonprofit organizations must determine whether they qualify to host a charitable gaming event. The Michigan Lottery provides licenses to seven different types of organizations, as defined by the Bingo Act⁷:

1. Educational
2. Fraternal
3. Local Civic
4. Religious
5. Senior Citizens
6. Services
7. Veterans

The main readership of this guide will likely fall under the “Local Civic” designation. Applicants must supply the Michigan Lottery (raffles, bingo, charity game tickets) or the Michigan Gaming Control Board (millionaire parties) with accompanying documents depending on the designation under which they are applying.⁸

Please note that the Michigan Lottery and the MGCB have different documentation requirements. Organizations should examine the necessary qualification documents and prepare accordingly. Some requirements may take significant time and coordination, such as the requirement for an applicant under the “Local Civic” designation to obtain a resolution passed by the local body of government stating the organization is a recognized nonprofit organization in the community.

Key Tips

- All qualification forms require signed and dated bylaws as part of the submission.
- Check Articles of Incorporation and Bylaws to ensure that at least one of them include the dissolution provision required by the Michigan Lottery and the MGCB.
- Raffle, bingo and charity game qualification forms can be submitted concurrently with the accompanying license application. Millionaire party qualification forms, however, must be submitted *before* applying for a license.

⁶ For a list of exemptions, please visit:

[http://www.legislature.mi.gov/\(S\(qizu5ewkshrmuqighme2pbir\)\)/mileg.aspx?page=getObject&objectName=mcl-400-283](http://www.legislature.mi.gov/(S(qizu5ewkshrmuqighme2pbir))/mileg.aspx?page=getObject&objectName=mcl-400-283)

⁷ The Bingo Act includes full definitions of each category, available at: https://www.michigan.gov/documents/BSL-CG-BingoAct_31723_7.PDF

⁸ Qualifying Organization Forms from the Michigan Gaming Control Board: https://www.michigan.gov/mgcb/0,4620,7-351-79128_79365_84231_84235---,00.html Qualifying Organization Forms from the Michigan Lottery: <https://www.michigan.gov/cg/0,9673,7-403-96755---,00.html>

RAFFLES

Raffles are games of chance where raffle tickets are sold, winners are determined by randomly drawing a ticket from a container and prizes are awarded. Raffles, door prizes and 50-50 drawings all require a raffle license.

Raffle Type

In Michigan, organizations seeking to conduct a raffle must first identify what kind of raffle they will be hosting.⁹

Definitions:

1. Combination Raffle: A series of licensed raffle drawings (small or large), conducted over multiple dates at one location, using one or more raffle tickets.
2. In-house Raffle: A licensed raffle where the raffle tickets are only sold during the time of the licensed gaming event and sold only at the location listed on the license.

Small Raffle or Large Raffle:

1. Small Raffle License: An event during which the total value of all prizes awarded does not exceed \$500 during one occasion. Application cost: \$15 minimum and \$5 per drawing date.
2. Large Raffle License: An event during which the total value of all prizes awarded exceeds \$500 during one occasion. Application cost: \$50 per drawing date.

Each of the foregoing distinctions may affect one or more of the following: application cost, reporting requirements, ticketing requirements, sale restrictions and more.

Key Personnel

Raffle rules require the leaders of an approved organization to play an active role in the oversight of the charitable gaming. The two key raffle personnel are the Principal Officer and the Raffle Chairperson.

1. Principal Officer: Highest ranking officer of the organization. The Principal Officer's responsibilities include, but are not limited to:
 - a. Overseeing all gaming assets which include, but are not limited to, cash, prizes, raffle tickets and all funds derived from the licensed gaming event.
 - b. Ensuring that the event is conducted in compliance with all regulations.
 - c. Reviewing, verifying and signing all financial statements related to the raffle event.
2. Raffle Chairperson: Designated officer with at least a six-month tenure at the organization. The Raffle Chairperson's responsibilities include, but are not limited to:
 - a. Reading and understanding all raffle rules.
 - b. Training and overseeing all raffle volunteers and staff.
 - c. Managing all aspects of ticketing.
 - d. Being present at the event continuously during all hours listed on the license.

⁹ In rare instances, organizations may be exempt from submitting a raffle license application altogether. A qualified organization is exempt from licensing if all of the following conditions are met: (a) all raffle tickets are sold at the single gathering of the qualified organization; (b) the drawing is conducted at the same single gathering where the raffle tickets are sold and prizes awarded; and (c) the total retail value of all prizes does not exceed \$100.00 in a consecutive 24-hour period.

Raffle Procedures

Procedures for running the raffle are provided by the Michigan Lottery. Organizations are encouraged to review the Charitable Gaming Division's website, as well as their online Raffle Guide.¹⁰ The following are some of the main requirements:

Raffle Operations:

1. Raffle tickets shall only be sold to persons 18 years or older. Tickets may be gifted to persons under the age of 18, and they may also redeem prizes.
2. Raffle ticket sellers must be 18 years of age or older.
3. Raffle drawings shall only be conducted between 8 a.m. and 2 a.m.
4. The raffle license must be on site and posted in a conspicuous place.
5. Any and all forms of worker compensation shall only be paid from the proceeds of the licensed gaming event.
6. All compensation shall be reported on the financial statement for the raffle.

Post-Raffle Operations:

Game records (full list found in "A. Game Records" in the Raffle Guide) related to the raffle shall be available to the Bureau for review and shall be kept until the end of the current calendar year plus three years, or as directed by the Bureau. These include, but are not limited to:

1. Bank validated deposit slips for all proceeds from the event.
2. Names and addresses of each winner whose winnings from the raffle exceed \$100.
3. A copy of the house rules, such as a refund policy, method of determining winners, etc.
4. Bank statements from all financial accounts where proceeds were deposited or transferred.
5. Cancelled checks or copies of checks from all financial accounts where proceeds from the licensed gaming event were deposited or transferred.
6. Invoices or receipts with the date, vendor's name and a description of the item or service for all expenditures made from financial accounts where proceeds from the licensed gaming event were deposited or transferred.

Financial Statement Submission:

The Michigan Lottery requires all licensed large raffles or combination raffles to submit a copy of the financial statement (provided with an approved license) signed by the principal officer and submitted to the Bureau by the 10th of the month following the event. More instructions can be found in the Raffle Guide, under "2. Financial Reporting."

BINGO

Bingo refers to a game of chance in which prizes are awarded on the basis of bingo numbers being randomly drawn from a receptacle. Qualified nonprofit organizations can apply for three different types of bingo licenses¹¹:

¹⁰ https://www.michigan.gov/documents/cg/BSL-CG-1824_664391_7.pdf

¹¹ https://www.michigan.gov/documents/BSL-CG-720_110389_7.pdf. Bingo games that meet certain requirements, such as those conducted for amusement of the members and guests of senior citizens clubs, groups, or homes and not used for fundraising, among other requirements, may be exempt from licensing.

License Type	Frequency	Maximum Winnings Paid Out
Large Bingo License	Weekly	\$1,100 per game \$3,500 per occasion
Small Bingo License	Weekly	\$25 per game \$300 per occasion
Special Bingo License	One time up to 7 consecutive days. Up to 4 special bingo licenses in one year.	\$1,100 per game \$3,500 per occasion

Profitability

The Michigan Lottery provides a Bingo Profitability Tool to help organizations calculate the projected profit from hosting bingo.¹² As mentioned previously, understanding the projected financial return on an event can play an important role in determining how many resources to devote to the project, whether to host the event, and the milestones an organization must hit to reach profitability.

Key Personnel

Bingo rules require that the leaders of an approved organization play an active role in the oversight of the charitable gaming. The two key bingo personnel are the Principal Officer and the Chairperson, of which there can be more than one. Many of the roles and responsibilities for these key personnel are similar or the same as those for raffles found on page 5. For full details on the roles, responsibilities and requirements for key personnel, please review the administrative rules found on the Michigan Lottery’s website.¹³

Bingo Procedures

Procedures for running bingo events are provided by the Michigan Lottery; Bingo Guides are provided on their website.¹⁴ The following are some of the main requirements to keep in mind.

Bingo Operations

1. Bingo games may not begin before 8 a.m. or continue past 2 a.m.
2. The name of the game, type or color of bingo card, winning combinations and the amount of each prize shall be clearly announced to the players.
3. All bingo cards shall be purchased, all winners shall be determined and all prizes shall be awarded within the same day or as directed by the Michigan Lottery.
4. A qualified organization must establish and adhere to its game program. For an example of game program, please refer to the Michigan Lottery’s Bingo Guide.¹⁵

Post-Bingo Operations

1. Game records and all supporting entries made in the records shall be kept for at least the current calendar year plus three years or as directed in writing by the Michigan Lottery.

¹² <https://www.michigan.gov/cg/0,9673,7-403-95971---,00.html>

¹³ https://www.michigan.gov/documents/cg/BSL-CG-RulesPart03_189388_7.pdf

¹⁴ Michigan Lottery – Charitable Gaming Division, Bingo Guide, https://www.michigan.gov/documents/BSL-CG-720_110389_7.pdf and Special Bingo Guide, https://www.michigan.gov/documents/BSL-CG-1717_34796_7.pdf.

¹⁵ Id.

2. All of the financial records listed in the R. 432.21334 shall be kept for at least the current calendar year plus three years or as directed in writing by the Michigan Lottery.¹⁶ Examples of these records include bank validated deposit slips for all proceeds from the licensed gaming event, a copy of the financial statements from the event, and bank statements and financial accounts where proceeds from the event were deposited or transferred.

CHARITY GAME TICKETS

Charity game tickets are commonly referred to as break-open tickets or pull-tabs; a portion of the ticket is removed to discover whether it is a winning ticket.

Licensing

When charity game tickets are sold by a qualified organization in conjunction with another licensed gaming event, such as a raffle or a millionaire party, an additional license is not required. However, a qualified organization wishing to sell charity game tickets at an event that is not in conjunction with a licensed gaming event must submit either an annual charity game ticket license application or a special charity game ticket license application. Before submitting either application, an organization must become qualified under the qualification process outlined earlier in this document.

Definitions

Annual Charity Game License: Qualified organizations may obtain an Annual Charity Game Ticket License for a location owned and operated for the regular use of its members, or rented or leased on a continual basis for the regular use of its members. Licenses cost \$200 per year.

Special Charity Game License: A charity game license to sell tickets at a location other than the one listed on the Annual Charity Game Ticket License. A qualified organization may be issued up to eight special charity game licenses per calendar year and each license may be issued for up to four consecutive days. Licenses cost \$15 per day.

Suppliers

All charity game tickets must be purchased from either the Michigan Lottery or an authorized supplier. The Michigan Lottery maintains a list of authorized suppliers that sell charity game tickets to qualified organizations.

Charity Game Ticket Procedures

Procedures for running Charity Game Ticket events are provided by the Michigan Lottery. Organizations are encouraged to review the information provided on the Michigan Lottery's website.¹⁷ The rules that organizations must observe when hosting charity game ticket events include, but are not limited to, the following:

Charity Game Ticket Operations

1. Charity Game Ticket events may not begin before 8 a.m. or continue past 2 a.m.

¹⁶ https://www.michigan.gov/documents/cg/BSL-CG-RulesPart03_189388_7.pdf

¹⁷ <https://www.michigan.gov/cg/0,9673,7-403-95972---,00.html>

2. The annual charity game ticket or special charity game ticket license shall be on site and posted in a conspicuous place during the event.
3. Charity game tickets may only be offered for sale during the time and at the location on the license.
4. Persons under 18 years of age shall not be permitted to sell charity game tickets.
5. Charity game tickets shall only be sold to persons 18 years or older. Tickets may be gifted to persons under the age of 18, and they may also redeem prizes.

Post-Event Operations

1. If charity game tickets are sold in conjunction with another charitable gaming event, charity game ticket records and all supporting documents must be maintained with the game records for the licensed gaming event.
2. Game records shall be retained for the calendar year plus three years or as directed in writing by the Michigan Lottery.
3. Game records may be maintained electronically if they are maintained in accordance with Michigan Lottery rules.
4. Similar financial record retention policies for raffles and bingo apply to charity game tickets.

MILLIONAIRE PARTIES

Millionaire parties, also known as “casino nights,” are charitable gaming events where wagers are placed on games of chance customarily associated with a gambling casino and participants use imitation money or chips. Charities may receive up to four millionaire party licenses in one calendar year; the MGCB may authorize each license for up to four days.

Before planning for a millionaire party, organizations should make sure that they qualify by completing and submitting a Qualification Application to the MGCB.

Key Personnel

Millionaire party rules require that the leaders of an approved organization play an active role before, during and after the event. The two key personnel for a millionaire party are the Principal Officer and the Chairperson; however, the Vice President and another Officer of the organization must also provide their information on the license application. A qualified organization, the Principal Officer, and the Chairperson are jointly and severally liable for any penalties and fines levied under the Bingo Act.

The key personnel requirements are similar to the requirements for raffles, as noted above. The Bingo Act has the added requirement that two bona fide members of the host organization, including the Chairperson, must be present at all times during the event. A bona fide member of the organization acting as a dealer does not count toward the required number of persons staffing the event.

Dealers

Dealers may be staffed from within the organization or from licensed suppliers. Organizations choosing to staff dealers from within their ranks must submit a full list of dealers with its application for a license. If an organization is using a licensed millionaire party supplier, it does not have to submit dealer information on the

Event Application. A millionaire party licensee shall ensure that the dealers at an event conducted under the license comply with the Bingo Act and any other rules pertaining to millionaire parties.

Suppliers

Suppliers sell or rent authorized equipment to millionaire party licensees. They also often have agreements with locations that have been licensed to host millionaire parties, which may result in cost savings. The MGCB provides a list of licensed millionaire party suppliers in Michigan.¹⁸

Millionaire Party Procedures

Procedures for running millionaire parties are provided by the MGCB. A Millionaire Party Guide is provided on their website.¹⁹ The following are some of the requirements to keep in mind:

Party Operations

1. Millionaire parties may not begin before 8 a.m. or continue past 2 a.m.
2. Chip sales are limited to \$20,000 per day.
3. A charity may not rent equipment from the location's owner or lessor.
4. All equipment must be stored in an inoperable manner when not in use.
5. A qualified organization shall not pay a location owner or a lessor more than \$250.00 per day to rent a location for a millionaire party. A qualified organization shall not rent a location for a millionaire party unless all the terms and conditions of the rental are in a written agreement approved by the MGCB.
6. Charity expenses shall not exceed 45% of the gross profit (defined as total revenue less chip redemptions and prizes).

Post-Party Operations

1. All millionaire party proceeds must be deposited into the charity's checking account within two business days of the millionaire party.
2. The charity must submit the event financial statement and all game records to the MGCB by the 19th day of the month following the last day of the event.
3. Organizations will receive game records from the MGCB, which only the charity may access, enter, amend, store, and submit. These records must be maintained for the current calendar year plus three years or as directed in writing by the MGCB.

TAX IMPLICATIONS

Nonprofit organizations that host charitable gaming events should be aware of all applicable IRS regulations. This next section is not comprehensive regarding all tax issues that may arise with charitable gaming. Instead, it provides an overview of some of the key tax issues an organization should consider when organizing a charitable gaming event. Please refer to the IRS Publication 3079, Tax-Exempt Organizations and Gaming, for more information.²⁰

¹⁸ <https://mgcb.state.mi.us/mp-portal/suppliers/list>

¹⁹ Michigan Gaming Control Board – Millionaire Party Guide, https://www.michigan.gov/documents/mgcb/Millionaire_Party_Guide_for_Qualified_Organizations_FINAL_2016-2-3_512886_7.pdf

²⁰ <https://www.irs.gov/pub/irs-pdf/p3079.pdf>

Reporting Requirements

Depending on the games played and the size of the winnings, charitable gaming may trigger disclosure requirements for both the organization and the winner.

Summary of Reportable Winnings		
Type of Game	Winnings Amount at Least:	Reduced by Amount of Wager?
Bingo	\$1,200	No
Slot machines	\$1,200	No
Keno	\$1,500	Yes
Other wagering transactions (instant bingo, pull-tabs, raffles and more)	\$600 and at least 300 times the wager	An option of payer
Poker tournaments	\$5,000.01	Yes

Source: IRS, Publication 3079²¹

1. If an organization awards a single prize exceeding the thresholds above (cash or merchandise, as determined by FMV), then they must file a W-2G.
2. W-2G forms can be found via the IRS website.²²
3. Each time an organization has reportable winnings, it is the organization's responsibility to report the winnings to the IRS and to the person receiving the winnings. The winner must provide the organization with proper identification, as defined by two types of ID to verify name, address and SSN.

Federal Tax Withholding Requirements

If an individual raffle prize or a charity game ticket prize has the potential to be \$600 or greater, or \$1,200 for a bingo game, organizations may be required to withhold federal income tax. A summary of the withholding requirements for each game is provided below. Further explanations and examples are provided by the IRS in its Tax-Exempt Organizations and Gaming guide.²³

Summary of Withholding Requirements		
Type of Gaming	Regular Withholding at 24% if Winnings Are:	Backup Withholding at 24% if Winner Does Not Provide TIN and Winnings Are:
Bingo	N/A	≥ \$1,200
Slot machines	N/A	≥ \$1,200
Keno	N/A	≥ \$1,500
Sweepstakes, wagering pools, lotteries, and raffles	>\$5,000	\$600 to \$5,000
Wagering transactions when winnings are at least 300 times the amount wagered	>\$5,000	\$600 to \$5,000
Poker tournaments	N/A if winnings are reported on Form W-2G	>\$5,000

Source: IRS, Publication 3079²⁴

²¹ <https://www.irs.gov/pub/irs-pdf/p3079.pdf>

²² <https://www.irs.gov/pub/irs-pdf/fw2g.pdf>

²³ <https://www.irs.gov/pub/irs-pdf/p3079.pdf>

²⁴ <https://www.irs.gov/pub/irs-pdf/p3079.pdf>

Unrelated Business Income Tax

Organizations that host charitable gaming may be subject to unrelated business income tax (UBIT). The IRS states that an activity is an unrelated business if it: (a) is a trade or business, (b) that is regularly carried on, and (c) is not substantially related to furthering the exempt purpose of the organization. Gaming activities will not ordinarily be treated as meeting the “regularly carried on” requirement if they are conducted occasionally or sporadically. The federal tax code provides some exceptions for bingo.²⁵ As penalties and interest may apply, organizations should consult their tax or legal advisors regarding whether their gaming activities will generate UBIT.

TIMELINES

Qualification forms and license applications will need to be reviewed by each respective governing body before an organization is approved to conduct charitable gaming. The chart below was prepared from written and verbal guidance from the Michigan Gaming Control Board and the Charitable Gaming Division of the Michigan Lottery. All of the timelines below are estimates and organizations are encouraged to speak directly with the respective governing agency.

Raffles	
Qualification Form and License Application	Maximum 4 weeks ²⁶
Millionaire Parties²⁷	
Qualification Form	Minimum 8 weeks
Event Application	Minimum 6 weeks
Event Change Form	Minimum 20 days
Bingo	
Qualification Form and License Application	Approximately 6 weeks. ²⁸
Charity Game Tickets	
Qualification Form and License Application	Approximately 1 week upon receipt, although more time may be required if follow-up information is requested. Applications for charity game tickets are not required if in conjunction with another licensed activity. ²⁹
Special Liquor License	
Special License Application	At least 10 business days before the event. ³⁰

²⁵ See IRS Publication 598, <https://www.irs.gov/pub/irs-pdf/p598.pdf>

²⁶ Michigan Lottery – Raffle Guide, https://www.michigan.gov/documents/cg/BSL-CG-1824_664391_7.pdf

²⁷ Michigan Gaming Control Board – FAQ, https://www.michigan.gov/mgcb/0,4620,7-351-79128_80172-285975--,00.html; Michigan Gaming Control Board – Millionaire Party Guide, https://www.michigan.gov/documents/mgcb/Millionaire_Party_Guide_for_Qualified_Organizations_FINAL_2016-2-3_512886_7.pdf.

²⁸ Michigan Lottery – Bingo Guide, https://www.michigan.gov/documents/BSL-CG-720_110389_7.pdf

²⁹ Based on conversation with the Michigan Lottery – Charitable Gaming Division, Aug 16, 2021.

³⁰ Michigan Liquor Control Commission, https://www.michigan.gov/lara/0,4601,7-154-89334_10570_16941-391552--,00.html.

AUCTIONS

Auctions can be a great way for nonprofits to engage their supporters and raise significant funds for their organization. It also allows local businesses to both help a good cause and get exposure for their products and services. As mentioned earlier, auctions are not regulated as are games of chance, although there are a myriad of federal tax and other rules that apply.

Liquor and Wine

Whenever organizations want to sell or serve alcohol at their event, they must obtain a Non-Profit Special License from the Michigan Liquor Control Commission (“LCC”). More information about this license and how to obtain it is provided earlier in this guide on page 3.

The LCC permits nonprofit organizations to include wine as an auction item. However, the LCC does not extend this permission to any other type of alcoholic beverage. The LCC imposes restrictions on how wine may be sourced. Specifically, the wine used for auctions can only come from one of two sources:

1. Donated from someone’s personal inventory and recorded on the wine auction list.
2. Purchased by the organization and notification provided to the Liquor Control Commission.

Organizations can learn more about the Wine Auction Special License on the LCC’s website.³¹

Federal Tax Laws on Deductibility of Contributions and Purchases

Purchasers of items at a charity auction may claim a charitable contribution deduction for the excess of the purchase price paid for an item over its fair market value. However, they must be able to show that they knew the value of the item was less than the amount paid. In order to assist, organizations should make available to each person attending the auction a guide providing the charity’s good faith estimate of items that will be available for bidding. Purchasers may rely on the estimates unless they have a reason to doubt their accuracy.

Donors who contribute goods to sell at a charity auction will in most cases be limited to a charitable deduction equal to the donor’s tax basis (usually, the price paid for the item), as opposed to the item’s fair market value, because the goods are for sale and not for use by the charity directly in fulfilling its mission (despite the fact that the funds gained from the sale will be used to support the mission). Please note that vehicle donations are subject to different rules,³² as are contributions of certain inventory. For more information on charitable contribution deductions, see IRS Publication 526.³³ Organizations are cautioned to advise donors to seek their own tax advice.

Donors must file Form 8283 if the amount of their deduction for each noncash contribution (or a group of related contributions) is more than \$500. Contributions over \$5000 require an independent appraisal (if a fair market value deduction is permitted). Donee organizations sign this form as well. Donee organizations use Form 8282 to report information to the IRS and donors about dispositions of certain charitable deduction property made within three years after the donor contributed the property. Charitable contribution acknowledgements of in-kind property should describe the property but not assign a fair market value to it. See IRS Publication 1771.³⁴

³¹ https://www.michigan.gov/lara/0,4601,7-154-89334_10570_16941-391552--,00.html

³² <https://www.irs.gov/charities-non-profits/charitable-organizations/irs-guidance-explains-rules-for-vehicle-donations>

³³ <https://www.irs.gov/pub/irs-pdf/p526.pdf>

³⁴ <https://www.irs.gov/pub/irs-pdf/p1771.pdf>

Sales Tax

A nonprofit organization must register for sales tax with the Michigan Department of Treasury before selling tangible personal property, regardless of whether an exemption will apply. Once registered, a nonprofit organization is subject to the same filing requirements that a for-profit organization is, even if no sales tax is due. The sales of the first \$10,000 of tangible personal property in a calendar year for fundraising purposes are exempt from sales tax as long as the nonprofit has aggregate sales in the calendar year of less than \$25,000. Once sales reach that threshold the organization must collect and pay sales tax on all sales above \$10,000. However, if an organization collects sales tax (i.e., if it has an expectation sales will exceed the threshold), the organization would be required to either remit that tax or refund it to each customer, even if no sales tax is ultimately due.

Unrelated Business Income Tax

The same discussion as noted above applies to the case of UBIT for charity auctions and hinges mainly on whether the activity is deemed to be regularly carried on.

CONCLUSION

The Council of Michigan Foundations is pleased to make this guide available as a resource to its members and to the field. As is the case with all such guides, it is a summary of the requirements (as of the date noted above) and may not include all aspects that are of interest to a particular organization. It is intended for educational purposes only. Organizations should consult their legal and tax advisors before conducting any charitable gaming activity or auction.

ABOUT ASK CMF

This document was authored by Jennifer Oertel and Albert Pak of Bodman, PLC, outside legal counsel to the Council of Michigan Foundations (CMF), with assistance from Brittany Kienker, Ph.D., Knowledge Insights Expert in Residence for CMF. CMF members can find answers to their most pressing questions through CMF's Knowledge Insights division, including Ask CMF, the Knowledge Center and the Sample Documents Hub. Ask CMF is a free service to CMF members, available through the "Ask CMF" link on the CMF homepage or by visiting www.michiganfoundations.org/ask-cmf.

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