California Sales Tax on Auction Items, Special Event Tickets and Raffles

Advancement Services Training
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Overview of Training

• Introduction
• California Sales Tax:
  o CA Department of Tax and Fee Administration (CDTFA) Publication 18
  o Current CA sales tax & exemptions
• Auctions & forms required to book proceeds from auctions in AWA (Advance)
• Online Auctions & the CA Nonprofit Integrity Act of 2004
• Fair Market Value (FMV) & Quid Pro Quo Contributions
• Special Events
  o Tickets & Sales Tax
  o Insurance
• Sponsorships
• Raffles
  o Rules & Regulations
Introduction

Why this training?

• To be prepared for planned events for Colleges and Departments.

• To highlight the importance of documenting event receipts and expenses.

• To provide a useful, informative guide to different event procedures, policies, & regulations.

• Offer insights into online auctions due to COVID-19
Publication 18 from the CA Department of Tax and Administration states:

- In general, the amount you receive in exchange for merchandise is taxable.
- This is true whether a person pays you by cash or another method, or offers you something in barter or trade.
- In general, the taxable amount is the price you set and receive for the item.
- In the case of auctions and silent auctions, the full amount you receive is taxable, regardless of the item’s value.
California Sales Tax (continued)

• Sales tax generally applies regardless of whether the items you sell or purchase are new, used, donated or homemade.

• Sales tax is required to be added to the final auction bid price paid. Signage or other indication should disclose that sales tax will be added.

• Current SF district sales tax rate is **8.5%** (e.g. $100 bid would pay $108.50).
Activities That Do Not Require Sales Tax

• Sales of tickets for concerts, movies, plays, shows and similar events when food and meals are not included in the ticket prices.

• Sales of travel, home rentals, guide services, tutoring and other things of value that are not physical products.

• Sales of gift cards, gift certificates and coupon books.

• Sales of advertising that does not involve exchanges of merchandise or goods.
Auctions

An auction is a sale in which goods or property are sold to the highest bidder.

Per IRS regulations, for processing and acknowledgement purposes the following documentation needs to be provided to the Gift Processing Team in ADM 154C:

For each item donated to the auction (for sale),

a) Gift-in-Kind Acceptance Form – to be completed by individual receiving item on behalf of the University.

b) Donor Intent Form – to be completed by donor and indicates charitable intent and purpose.

For each item sold at the auction,

a) Auction Sales Form – to record fair market value, winning bid, and buyer information
Advancement Services Forms Page

Forms

Many functions performed by Advancement Services and Operations require specific sets of Information; the forms below were developed to streamline processes and reduce the need for repeated communication, so please complete them in full before submitting them.

For accessibility assistance with these documents, please email develop@sfu.edu or call (415) 405-3820. Download Adobe Acrobat Reader. Download Microsoft Word viewer.

Advancement Services forms

- Gift Acceptance Form
- Gift in Kind Donation forms:
  - Gift in Kind Acceptance Form
  - Donor Intent Form
- Auction Sales Form
- Wire Transfer Forms:
  - Gifts to San Francisco State University may be made by wire transfer. To make a gift via wire transfer and obtain the appropriate forms with ABA routing numbers and account information, please contact the Office of University Development at (415) 338-1042 or email develop@sfu.edu.
  - For a list of Development staff for additional information, please visit the University Development Staff Directory.
- Stock/Securities Transfer Forms:
  - For stock and securities transfer forms, please contact the Office of University Development at (415) 338-1042 or email develop@sfu.edu.
  - For a list of Development staff, visit the University Development Staff Directory.
- Report Label Count Request Form
- Online Change of Address (University Development)
- Payroll Deduction (SF State employee)
Fair Market Value

The IRS defines FMV as the price that property would sell for on the open market. This is the price that would be agreed upon between a willing buyer and a willing seller. FMV should consider the cost of the item, comparable sales, replacement cost and/or expert opinion.

1. The fair market value of each item must be publicly disclosed to all attending or bidding.

2. If an item is listed as “priceless” then the winning bid establishes the fair market value of the item.
Fair Market Value (continued)

3. If the winning bid is more than the fair market value, the winner may claim a deduction (and SF State may count as a gift) for any amount paid in excess of the fair market value.

Example: The FMV value of bottle of wine is $40 and the winning bid is $100. $60 would be booked as a donation and $40 would be considered fundraising revenue.

 This is what the IRS calls a quid pro quo contribution: a payment a donor makes to a charity partly as a contribution and partly for goods or services.
Online Auctions

A *commercial fundraiser* is defined as a person or corporation who is paid by the university or its auxiliary organizations to raise money on its behalf. The for-profit business usually arranges a flat fee or charges a percentage of the donations collected.

*Per CSU policy:*

- The use of a commercial fundraiser or fundraising counsel must comply with CA law and reporting requirements of the California Attorney General.

State regulations are outlined in the [Nonprofit Integrity Act of 2004](https://www.ca.gov/) (NIA)
Online Auctions (continued)

Key provisions of the NIA:

1. A commercial fundraiser must be registered with the CA Attorney General’s Office.

2. For every solicitation campaign or event there must be a written contract between the fundraiser and the charitable organization.

3. The written contract must contain mandatory provisions such as:
   - Charitable purpose
   - Respective obligations of the commercial fundraiser and charitable organization
   - Charitable organization’s right to terminate contract under certain conditions & the right to control fundraising activity
Special Events

Sales Tax on Special Event Tickets

If you charge a single payment for a fundraising event involving taxable sales, *the entire ticket charge will be taxable* unless you do both of the following:

1. List the taxable charges separately on the event tickets
2. Keep separate records of taxable and nontaxable charges
Sales Tax on Special Event Tickets (continued)

- **Example**: You hold a fundraising dinner where the $75 ticket price includes dinner and drinks (which are taxable) and entertainment (which is not taxable).
  
  - If your tickets list a single price, that full amount is taxable.
  
  - However, if the tickets state “Ticket price includes $35 for dinner and drinks” and your event income records reflect this break-down, tax would apply only to the $35 charge for dinner and drinks.
Meal Services

• **If your organization contracts with a vendor to serve the meals at your event, you are not responsible for paying tax on your ticket sales.**
  - The business that serves the meals must report the sale of the meals and pay the tax due, based on the amount they charge you.

• **If your organization serves the meals at your event, you are liable for the tax.**
  - This is true whether the meals are furnished by members of your organization, purchased or donated to you.
  - Tax is due based on the ticket price for the meal.
Refreshments

If your tickets do not mention refreshments and you serve only an insignificant amount of food or drink at your event, your ticket sales are not taxable.
Fundraising Revenue

A College/Department that conducts a fundraising event should determine the cost of food and beverages and notify their Director of Development of the amount as well as the account number the ticket proceeds should be deposited to.

• The cost of the meal will be deposited as *Fundraising Revenue*.

• Any amount that exceeds the cost of the meal will be deposited as a *Donation* to the account number provided.
Special Event Insurance

For all on-campus and off-campus events, the College/Department must acquire Special Event Insurance from The University Corporation who will work with Enterprise Risk Management to ensure proper coverage is in place.

• There is a Special Event Insurance Questionnaire on the Risk Management website that needs to be completed at least 14 business days before the event.

For questions regarding Special Event Insurance, please contact Anthony Victoria at avictori@sfsu.edu or 415-338-2238.
A College/Department that hosts a fundraising event should contact Nicole Lange, Associate Vice President, University Events & Protocol, to set up a special ticket payment page so invitees/attendees can make their payments for the event online.

- Nicole Lange, Associate Vice President, University Events & Protocol, can be contacted by email at nlange@sfsu.edu or by phone at 415-405-4078.
Sponsorships

• Not all sponsorships are considered donations. If a corporation or another organization receives recognition that constitutes advertising then their contribution will not count as a donation. They will still receive an acknowledgement letter thanking them for their sponsorship but all tax information will be omitted from the letter.

Recognition cannot include:

1. Qualitative or comparative language
2. Price information or indication of savings or value associated with the product or service
3. Endorsement/Inducement to sell, purchase or use product or service

• For sponsorships that are counted as donations, we will need to know the number of table seats provided as part of a sponsorship in order to properly split the payment between Fundraising Revenue and Donation.
A *raffle* is defined by the CA Dept. of Justice as a scheme for the distribution of prizes by chance among persons who have paid money for paper tickets that provide the opportunity to win these prizes. Each ticket is sold with a detachable coupon or stub, and both the ticket and its associated coupon or stub are marked with a unique and matching identifier.

The University Corporation/San Francisco State University is officially registered with the CA Dept. of Justice and authorized to conduct raffles in the State of California.

- Registration must be renewed each year
- This is submitted by UCorp
Raffle Rules & Regulations

University fundraising event plans must ensure that any raffle activity adheres to the following rules:

1. According to CA Penal Code 320.5, 90% of raffle revenue must be used for a charitable purposes or programs. 50/50 drawings are illegal for our non-profit under California law.

2. The raffle must be conducted under the supervision of an individual who is 18 years of age or older.

3. Raffles can be advertised but may not be operated or conducted in any manner over the Internet, nor may raffle tickets be sold, traded, or redeemed over the Internet.

*** Organizers should be aware that payments received for the purchase of raffle tickets are not eligible for a charitable tax deduction. The purchaser has received in return the benefit of a “chance to win.”
Raffle Reporting Procedures

Every year, UCorp needs to submit a Nonprofit Raffle Report (CT-NRP-2) to the CA Dept. of Justice on or before October 1.

- Contains total aggregate revenue details on all the raffles held by the University starting on September 1\textsuperscript{st} 2019 through August 31\textsuperscript{st} 2020.

Event coordinators must send raffle receipt and expenses information to Leo Valle (UCorp) at leonardo@sfsu.edu /ext. 87933 within 3-5 business days of any University fundraiser raffle event.
Raffle Reporting Procedures (continued)

There is a [raffle report form](https://ucorp.sfsu.edu/forms) on the Ucorp site under “Special Events”:

1. What fundraiser the raffle was a part of including date, time, location, etc.
2. Whether that fundraiser raised more than $5,000
3. Gross $ receipts of the raffle
4. What fund raffle proceeds were deposited into
5. Were funds from sources other than ticket sales used for the administration or other costs of conducting the raffle? If so:
   - Source of funds
6. Contact information for person in charge of raffle, department rep or coordinator (in case UCOrp has any questions).
How Raffle Reporting Affects You

All staff and college & department representatives involved in raffles are responsible for:

1. Documenting raffle receipts and expenses. Ensure that all event coordinators are aware that this is required.

2. Submitting the Raffle Report to UCorp in a timely manner. Reporting of all gross receipts, total cost/expenses associated with the raffle, whether the raffle grossed over $5,000, etc. (see slide 23)

   - If an organization gives away raffle tickets, registration/reporting is not required if all tickets for a drawing are free, solicitations of voluntary donations to the organization are in no way connected to distribution of tickets, and this is made clear to all participants. If a "donation" is required in return for a ticket, registration/reporting is required.
Raffle Prize Donations

If a donor provides a Gift-in-Kind donation for use as a raffle prize, the Advancement Gift Processing Team will need to have the following documented for each item:

a) A completed Donor Intent Form
   - If unavailable, a letter or email from the donor stating the exact intent of their donation and making it clear that they are relinquishing ownership of said item(s).

b) Person receiving the Gift-in-Kind on behalf of the University will need to complete the Gift-In-Kind Acceptance Form

- Both forms are located on the University Advancement Forms page: [http://advservices.sfsu.edu/content/forms](http://advservices.sfsu.edu/content/forms)
- Forms should be submitted via email to the Gift Processing Team (Irina Krasnitskaya, Lauren Balenzuela or Jessa Delos Reyes) in ADM 154C.
Questions?

• For questions regarding this training, please contact:

Lauren Balenzuela, Lead Gift Processor, at laurenmb@sfsu.edu or 415-405-3967
Resources - Policies

• CA Department of Tax and Fee Administration Publication 18 for non-profit organizations (tax & special events)

• CSU policy on fundraising events ICSUAM 15701.00

• CA Non-profit Integrity Act of 2004 summary of key provisions (online auctions)

• Charity Raffles, Guide to Penal Code 320.5, CA Penal Code 320.5

• IRS Publication 526 on Charitable Contributions

• University Advancement Gift-In-Kind Policy & Procedures
Resources - Forms

- Gift-In-Kind Acceptance Form
- Donor Intent Form
- Auction Sales Form
- Raffle Report Form