This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

DO'S AND DON'TS OF CORPORATE SPONSORSHIP

Corporate donors often provide much-needed funding to support the activities of nonprofit organizations. Funding that is contingent on the company receiving some sort of public recognition in return is called a sponsorship. Sponsors generally come in two forms: event sponsors and corporate sponsors. *Event* sponsors provide funding in connection with a specific event. In contrast, *corporate* sponsors provide funding that is *not* tied to a specific event. In entering agreements with either type of sponsor, it is important that your organization be aware of the potential tax consequences of providing benefits to the sponsor that exceed the safe harbors set by the IRS.

Income received by nonprofits that is unrelated to the organization's mission may be subject to unrelated business income tax ("UBIT"). To be considered UBIT, income must be derived from a trade or business that is regularly carried on and not substantially related to the organization's exempt purpose. The Internal Revenue Code provides that sponsorship payments will not be subject to UBIT when the organization merely thanks a sponsor by publically acknowledging or identifying it. On the other hand, regularly promoting a sponsor or its products may be considered advertising, and *may* cause the nonprofit to be taxed on the sponsor's payment. Moreover, for *event* sponsors, any acknowledgment must be tied to the specific event sponsored. So while the name of a *corporate* sponsor may be displayed all year round on the organization's website, recognition of an *event* sponsor should be limited to immediately before, during, and after the event.

In the case of either type of sponsor, the line between sponsor acknowledgement and sponsor advertising can be very murky. Here are some helpful do's and don'ts to follow to prevent your organization from inadvertently crossing this line and losing a large chunk of its sponsorship dollars to taxes.

General Information about the Sponsor

DO provide *neutral* information including the sponsor's name, logo, or contact information.
DON'T provide price information about the sponsor's products or any language indicative of savings or value.

Example: A music shop sponsors a walkathon fundraiser held by Organization A. Placing the name of the music shop, its address, and telephone number on tickets, tshirts, banners, and event programs is not considered advertising, neither is including the music shop's name in the title of the event. However, stating that "CDs at the local music shop will be on sale for the next week" will cause the donation to be taxable.

Slogans

DO use promotional logos or slogans that are an established part of the sponsor's identity and that do not by themselves constitute advertising.
DON'T use slogans that contain advertising information.

Example: Stating "sponsored by Nike who says 'Just do it'" or "sponsored by GE, 'We bring good things to life'" is mere acknowledgement. However, using Wal-Mart's slogan "Save Money, Live Better" could be advertising because the slogan provides comparative information about pricing.

Language about the Sponsor's Industry

DO announce the type of business the sponsor is in or the types of products the sponsor makes.
DON'T use language that endorses the sponsor or that comments on the quality of its products or services.

Example: A statement that "this event is sponsored by furniture maker Haverty's" does not constitute advertising but a statement that "this event is sponsored by Haverty's, purveyor of *fine* furniture" does.

Exclusivity Arrangements

DO grant a business sponsor the distinction of being the "exclusive *sponsor*" of your event.
DON'T grant a business sponsor the distinction of being the "exclusive *provider*" of its kind of products or services at your event by restricting products belonging to the sponsor's competitors.

Example: Allowing The Coca-Cola Company to be the sole sponsor of your sports events constitutes sponsor acknowledgement. However, referring to Coca-Cola as the exclusive provider of soft drinks or only allowing Coca-Cola products at the events crosses the line.

Contingent Donations

DO agree to payments by the sponsor that are contingent on the event actually taking place or being broadcast.

DON'T agree to payments where the amount is contingent on the attendance level at the event, broadcast ratings, or other factors that indicate the level of public exposure of the event.

Acknowledging Sponsors on your Website

DO include a hyperlink on your website to a neutral page on the sponsor's website.
DON'T include a hyperlink that links the Internet user to a URL with a product or service promotion or endorsement of the sponsor.

Example: A hyperlink to the main page of the sponsor's website is generally considered sponsor acknowledgement. However, a link to the pricing page of the sponsor's website constitutes advertising.

Periodical Exception

All the above do's and don'ts apply to recognizing a sponsor in printed and electronic materials that are connected with a specific event, such as event programs and brochures. However, there are special rules to consider for organizations that have a "periodical", which is any regularly scheduled and printed material published by or on behalf of a nonprofit that is *unconnected* with any event hosted by the organization. Examples include monthly newsletters and magazines. Whether recognition of a sponsor in such a periodical will generate UBIT is a complex area that requires a case-by-case evaluation, and an organization should consult with an attorney if such a situation exists.

Conclusion

The distinction between advertising revenue that triggers UBIT and sponsorship acknowledgment, which doesn't, can be confusing. However, understanding the difference between the two is critical for any nonprofit organization that solicits corporate sponsorships. The key to ensuring favorable tax treatment is to avoid using any language that endorses the sponsor, or induces the public to buy the sponsor's products or use its services.

It is also important to distinguish between sponsors of your organization and sponsors of a particular event. While the former can be recognized regularly, for example all year round on your organization's website or in monthly newsletters, recognition of the latter should be limited to immediately before, during, or after the event.

In addition to following the guidelines above, the organization should consider entering into written agreements with sponsors that clearly identify the company as either an event or corporate sponsor, and limit recognition to the bounds set by the Internal Revenue Code. Laying out both parties' expectations beforehand can help prevent misunderstandings down the line and keep sponsorship dollars with the organization and away from Uncle Sam.