

The following is for use by assistive readers and users who prefer a text version of this course.

## **StayExempt.irs.gov: Required Disclosures Course**

### **Page 1 – Welcome**

Welcome to the Required Disclosures course. This course is presented by the Exempt Organizations division of the IRS.

### **Page 2 – Introduction**

**Leagle:** Hi. I'm Leagle, the StayExempt Eagle, and I'll guide you through the courses here at StayExempt.

This course includes questions and activities to test your knowledge. The scores are for your reference only. They're designed to help you understand the material better.

### **Page 3 – Objectives**

**Leagle:** In this course, you'll learn to identify which records are open to public inspection. I'll also show you how to determine the fair market value of goods or services given in exchange for contributions, and we'll ensure you understand that donors should receive accurate, written acknowledgments of their contributions so they'll donate again.

First, let's cover the basic Public Inspection Rules.

### **Page 4 – Sudden Request**

**Clarence:** Hi, I'm Clarence. I'm president of the local Big Band Jazz Society. A complete stranger asked me for a copy of my organization's annual return. She said if I didn't give her a copy right away, she'd complain to the IRS and I'd get fined. Is she right? What do I do?

**Leagle:** Hi Clarence. It's okay. As the proprietor of a Section 501(c)(3) organization, you DO have a responsibility to keep certain documents on hand and available for public viewing. The Internal Revenue Code has rules about this, which we refer to as Required Disclosures.

Let's take a look at which documents should be kept on hand, and the rules for disclosing them.

### **Page 5 – Public Inspection Rules**

**Clarence:** So, what documents do I have to share?

**Leagle:** In return for being tax exempt and receiving tax deductible contributions, Congress requires Section 501(c)(3) organizations to disclose information about their organization to the public. You're required to share the following documents with the public when requested:

- Annual returns for three years after the due date. This includes returns like your [Form 990](#), [990-EZ](#), [990-PF](#), and any Forms [990-T](#) filed after August 17, 2006, including your extensions.
- All Form 990 schedules (except portions of Schedule B), attachments and supporting documents.
- Your application for exemption and all supporting documents, like Form 1023, if you filed it on or after July 15, 1987.
- And the determination letter from the IRS that shows your organization has tax-exempt status.

Certain documents must be made available immediately, while others can take you some time to gather and reproduce.

## Page 6 – Timely Response to Requests

**Clarence:** So, how quickly do I need to make the documents available?

**Leagle:** Normally, it's the day you're asked for them.

**Clarence:** That would be difficult because I don't have a permanent office. I run my organization out of my home.

**Leagle:** No problem, Clarence. If your organization has no office or has limited hours during certain times of the year, the requested information should be made available within two weeks.

Some people might want copies to take with them.

## Page 7 – Making Copies

**Clarence:** If someone asks for copies to keep, do I have to provide them?

**Leagle:** Yes, you do, whether the request is made in person or in writing.

**Clarence:** But I don't have a copy machine. Do I have to pay for the copies myself?

**Leagle:** Actually, you can charge a reasonable fee to cover the cost of the copies.

But there's a simple solution. Just use the Internet! If you post your information online, you can refer requesters to the website and consider the job done. There are, however, several documents you don't have to provide.

## Page 8 – You are Not Required to Share...

**Clarence:** The rules seem rather broad, so are we really required to provide all documents?

**Leagle:** No, you're NOT required to share all business documents. For instance, you don't have to disclose some information found on Schedule B of Form 990 or Form 990-EZ, documentation for unfavorable rulings or certain types of information that the IRS approved.

- Portions of Schedule B of Form 990/990-EZ – You don't have to identify your contributors by name, only the amounts and natures of the contributions.

- Unfavorable rulings – An earlier denial of tax-exempt status is an example of an unfavorable ruling.
- Certain types of information that the IRS said could be withheld – This could include trade secrets, patents, processes, styles of work and national defense material.

Remember that there are consequences to not complying with these rules.

## Page 9 – Penalties

**Clarence:** You mentioned consequences. How severe are they?

**Leagle:** You or employees of your organization can be fined \$20 for each day of noncompliance, up to a maximum of \$10,000. If the failure to comply was deemed willful, the employee could face a penalty of \$5,000 per return or application!

So, let's review what you've learned so far.

## Page 10 – Recap

**Leagle:** So, you've learned that there are certain documents you must disclose to the public upon request. They include your annual returns, like the Form 990, Form 990-EZ, or Form 990-PF; any Form 990-Ts filed after August 17, 2006; all Form 990 schedules, attachments, and supporting documents; Form 1023; and your determination letter.

Remember that you're not required to disclose the donors listed in Schedule B of Form 990 or 990-EZ, any unfavorable rulings or anything the IRS said you could withhold.

And don't forget to provide the information in a timely manner and provide copies upon request.

Finally, penalties for noncompliance can be severe.

So, let's try an exercise before moving on to the next section.

## Page 11 – Knowledge Check

**Leagle:** Let's look at an example. A woman requested that you email her a list of contributors. Should you do it, yes or no? Pause your system to think about it.

If you said no, you're correct. You don't have to disclose the names of your contributors, only the amounts and natures of the contributions.

## Page 12 – Knowledge Check

**Leagle:** Let's look at another scenario.

Suppose your organization has a parent organization and a man asks you to mail him copies of your parent organization's annual returns for the past three years. He says he'll pay for the copies. Should you do it, yes or no? Pause your system to think about it.

If you said yes, you're right. You're required to disclose three years of annual returns. If the returns are available on a website, direct the person to that site. Otherwise, send the returns within two weeks.

Remember that there are accumulating penalties associated with not providing this information. They are \$20 for each day of noncompliance, up to a maximum of \$10,000.

To stop the penalties from accruing, you'll need to send the requested annual returns within two weeks. If the returns are available on a website, direct the person to that site instead.

## Page 13 – Progress Check

**Leagle:** Great job! You've learned to identify which records are open to public inspection. Next, we'll show donors how much they can deduct based on goods or services they receive for their donations.

## Page 14 – Quid Pro Quo

**Clarence:** Aside from documents, what other kind of disclosures are there?

**Leagle:** Well, there are also Quid pro quo disclosures. Quid pro quo is Latin for "something for something," as in, you give something to get something. When a donor makes a contribution to an organization and they receive a good or service in return for their donation, they've made a quid pro quo contribution. If that donation is greater than \$75 and you give the donor something in return, you must disclose the value of that item or service to the donor.

**Clarence:** So, why do quid pro quo donations matter?

**Leagle:** Well, donors can only claim a deduction for the amount they contributed above the amount of the goods or services they received, for example:

- A Donor gives \$100, then he receives a \$40 concert ticket. The Donor can claim \$60 for his charitable contribution.
- Any receipts or written statements must capture the attention of donors. You should never use fine print for this.

Next, let's talk more about the receipts.

## Page 15 – Donors Care about the Math!

**Clarence:** What happens if the documentation I provide isn't correct?

**Leagle:** Well, if you give a donor inaccurate documentation, they'll likely deduct the wrong amount on their tax returns. If a donor claims the wrong amount as a charitable deduction and gets audited, you can probably assume he or she won't make more donations to your organization.

Read the letter below. When you're done, let's talk about the consequences of not providing donation information.

Dear Emma,

You should have given me a written statement disclosing the value of the concert ticket you gave me as a "thank you" for my contribution at your last fundraiser. Because I didn't know the value of the ticket, I deducted too much as a charitable contribution on my personal income tax and now I may be in hot water. Consider that my last donation!

Sincerely,

Disgruntled “Previous” Donor

## Page 16 – Another Reason to Comply!

**Clarence:** What kinds of penalties result from supplying the wrong documentation?

**Leagle:** Well, you could be fined \$10 per contribution, up to \$5,000 per fundraising event (or mailing) if you fail to provide a written disclosure statement at the time of solicitation or upon receiving the contribution.

Next let’s talk about some exceptions.

## Page 17 – Exceptions to the Rule

**Clarence:** Do I need to provide documentation for every single donation?

**Leagle:** Actually, there are some exceptions.

“Tokens” are insubstantial goods or services that you provide to donors in exchanges for contributions. These are so small, you don’t have to document them separately. For tax year 2019, the amount is \$11.10 or less.

Also, annually-recurring rights or privileges provided as membership benefit don’t need documentation if the payment is \$75 or less.

Finally, intangible religious benefits don’t need to be documented either.

Goods and services are considered insubstantial tokens if these three things are true:

1. The donor gave at least \$55.50\* **and**
2. The item bears the organization’s name or logo (think calendars, mugs or posters) **and**
3. The item does not cost more than \$11.10\*

\* These dollar amounts are for 2019. Guideline amounts are adjusted for inflation. Contact IRS Exempt Organizations Customer Account Services at (877) 829-5500 for annual inflation adjustment information.

Examples of membership benefits you don’t need to disclose are:

- Free or discounted admissions to the organization’s facilities or events
- Discounts on purchases from the organization’s gift shop
- Free or discounted parking

Examples of religious benefits you do not need to disclose:

- Admission to a religious ceremony
- Very small tangible benefits, such as wine used in a religious ceremony

## Page 18 – Contents of the Quid Pro Quo Disclosure Statement

**Clarence:** What can I do to prevent any problems with Quid Pro Quo?

**Leagle:** You need to tell the donor that he or she can only claim the contribution amount that exceeds the fair market value of the goods or services provided.

Here's a sample of what you can use:

Dear Donor:

Thank you for your cash contribution of \$150 to the Tribal Cancer Awareness Society on 10/24/2012. In exchange for your contribution, we gave you a cookbook worth an estimated fair market value of \$25. Therefore, for federal income tax purposes, your contribution deduction is limited to \$125. Thank you again.

Sincerely,

Clarence

If you or your contributors would like more information on what individuals can deduct for contributions, you should take the [Can I Deduct my Charitable Contributions?](#) course here on StayExempt.

Next, let's talk about the other types of acknowledgements you might have to give to your donors.

## Page 19 – Non-Quid Pro Quo Acknowledgments

**Clarence:** But what if I don't give the donors anything for their donation?

**Leagle:** Technically, if you don't give a donor something in return for his or her contribution, you don't have a disclosure requirement. However, donors can't claim a tax deduction for any contribution unless they maintain a record of the contribution in the form of either a bank record (such as a canceled check) or a written communication from the charity showing the name of the charity, the date of the contribution, and the amount of the contribution.

In addition, without a written acknowledgment from you, donors can't claim a tax deduction for any single contribution of \$250 or more. Although it's a donor's responsibility to obtain a written acknowledgment, your organization can assist the donor by providing a timely written statement.

Next, let's review the details you need to include in a written acknowledgement.

## Page 20 – Written Acknowledgment Details

**Clarence:** Is there anything else I need to include in written acknowledgements?

**Leagle:** Here is a detailed list:

The name of the organization and date of the contribution;

The cash contribution amount; the description (but not value) of any noncash contributions;

- A statement that no goods or services were provided by the organization in return for the contribution, if that was the case - or a description and good faith estimate of the value of goods or services, if any, that an organization provided in return for the contribution;
- And a statement that goods or services, if any, that an organization provided in return for the contribution consisted entirely of intangible religious benefits, if that was the case.

Below is a sample of what this message could be written like:

Thank you for your cash contribution of \$300 that [organization's name] received on December 21, 2006. No goods or services were provided in exchange for your contribution.

## **Page 21 – More Acknowledgment Details, cont.**

**Clarence:** So, when do I have to send the acknowledgment to the donor?

**Leagle:** Generally, organizations send acknowledgments to donors no later than January 31 of the year following the donation. That's because donors must receive the acknowledgment by the earlier of 1) the date on which the donor files his or her individual federal tax returns for the year of the contribution or 2) the due date of the return (including extensions).

**Clarence:** Can I send the donor an email acknowledgement?

**Leagle:** Yes. An organization can either provide a paper copy of the acknowledgment, or it can provide the acknowledgment electronically, such as an email addressed to the donor.

## **Page 22 – Acknowledging Donors' Unreimbursed Expenses**

**Clarence:** One of my volunteers asked me for a receipt for her expenses and I didn't know I needed to create one. She said she spent \$150 in travel expenses to speak at our gala. What should I do?

**Leagle:** Well, if a donor makes a single contribution of \$250 or more in the form of unreimbursed expenses, such as those out-of-pocket transportation expenses, you are required to send the donor a written acknowledgment letter, and the donor should keep good records of the expenses. If the amount is below \$250 you can still provide a receipt, but she doesn't need one to claim the deduction.

**Clarence:** What should the acknowledgment letter include?

**Leagle:** The acknowledgment letter should include a description of the services provided by the donor, a description and good faith estimate of the value of any goods or services that the organization provided in return for the contribution and a statement that goods or services provided in return for the contribution consisted entirely of intangible religious benefits, if that was the case.

Next let's talk about one other disclosure.

## **Page 23 – Other Disclosure Rules**

**Clarence:** So, what other disclosure should I be aware of?

**Leagle:** Just one more. If your organization offers to sell goods or services that are available free from the federal government, you must disclose that fact in a conspicuous and easily recognizable format.

Now, let's talk about the consequence of non-compliance.

## Page 24 – Why Comply?

**Clarence:** Okay, what are the penalties for not providing a receipt for out-of-pocket expenses?

**Leagle:** The penalty is the greater of \$1,000 for each day the failure occurred, or 50 percent of the total cost of all solicitations made by the organization on the same day it failed to meet the requirement.

So, let's go over what you've learned so far.

## Page 25 – Recap

**Leagle:** First, I talked about the Quid Pro Quo rules, which state that if donors gets something in return for their donations, you must disclose both the amounts of the donations and the fair market value of the goods or /services given. Even so, some insubstantial goods, membership benefits or intangible religious benefits don't need to be documented.

Also, unreimbursed out-of-pocket expenses are considered donations.

Finally, I mentioned that there are monetary penalties for non-compliance with any of the rules.

Let's try an exercise before moving on to the next section.

## Page 26 – Knowledge Check

**Leagle:** Pause your system and think of the best answer to this question: Which of these four statements best describes a Quid Pro Quo donation?

- A) A donation where the donor volunteers time and had out of pocket expenses.
- B) A donation that the organization has solicited through fundraising.
- C) A donation of Italian food.
- D) A donation where the donor gets something in return for their donation.

If you chose D, that's correct. A quid pro quo donation is one where the donor receives a good or service in return for his or her donation.

## Page 27 – Knowledge Check

**Leagle:** Let's do one more. Pause your system and think of the best answer to this question: Which of the following four items does NOT need to be included in a written acknowledgement?

- A) Statement that no goods or services were provided by the organization in return for the contribution, if applicable
- B) Date of the contribution
- C) The estimated value of a non-cash donation
- D) Description (but not value) of noncash contribution

If you chose C, you're correct. Written acknowledgements shouldn't include the value of a non-cash donation – only a description of the donated item.

## Page 28 – Progress Check

**Leagle:** Great job! You have learned how to explain the fair market value of the goods and services you provided for contributions and ensure that donors get accurate written acknowledgements of their donations.

## Page 29 – Additional Resources

**Leagle:** I mentioned several resources during this Required Disclosures course, so feel free to go back to review them or you can use this list of links.

Resources:

- [Can I Deduct My Charitable Contributions?](#) course here at StayExempt
- [Exempt Organization Public Disclosure and Availability Requirements](#)
- [Pub 1771, Charitable Contributions: Substantiation and Disclosure Requirements](#)
- Chapter 2 (page 9) of [Pub 557, Tax-Exempt Status for Your Organization](#)

## Page 30 – Conclusion

**Leagle:** On behalf of everyone in the IRS Exempt Organizations division, thank you for taking this Required Disclosures Course.

Before you leave, please take a minute to send us your feedback using this [email link](#). The information you provide will ensure that this and other courses at StayExempt provide a valuable learning experience for future participants.

After you've sent your feedback, you can print out a [Certificate of Completion](#) as recognition for attending this course.