

## UNIT GIFTS AND TAX EXEMPT STATUS Boy Scouts of America

### Issue of Tax Exempt Status

The Boy Scouts of America is a public charity, tax exempt under IRC Sec. 501 (c)(3). An IRS group exemption allows us to extend this tax exempt status to “subordinate organizations” – this includes all BSA local councils and approved local council trusts.

It has been the long-standing position of the IRS and the BSA that units – such as packs, troops, teams, posts, and crews – are NOT covered by the BSA’s group exemption, and that the BSA’s tax exempt status under IRC Sec. 501(c)(3) does NOT extend to units. Units are not, in themselves, legal entities. They are chartered to partner organizations of the BSA such as churches, PTAs and civic groups. Since a unit is “owned” by its chartering organization, each unit takes its tax status from that organization. Units are NOT subordinate organizations of the Boy Scouts of America.\*

Even if a unit is considered “tax exempt,” it is still prohibited from soliciting gifts for unit support. As stated in the BSA Charter and Bylaws Article XI, Sec. 1, Clause 2:

*“Contributions shall be solicited in the name of the Boy Scouts of America only through or by the authority of the Corporation, and shall be limited to the National Council or chartered local councils... Youth members shall not be permitted to serve as solicitors of money for chartered organization units, for the local council, or in support of other organizations. Adult members and youth members shall not be permitted to serve as solicitors of money in support of personal or unit participation in local, national, or international events.”*

This also prohibits a unit from soliciting online gifts on its Website. The council’s right to control local fundraising is stated in the BSA Rules and Regulations, Article XI. Section 1, Clause One(c):  
*“... local councils shall control the raising and expenditure of all funds for local Scouting work in their jurisdiction.”*

Units often use the tax ID number of their chartering partner for tax matters. If this is not, units should request an Employer Identification Number from the IRS (Form SS-4, available at [www.irs.gov](http://www.irs.gov)). Sometimes, units mistakenly claim that their number is part of the BSA’s group exemption, and they temporarily end up on our exemption list. But each year, all units are routinely removed from the list of subordinates as part of the National Council’s annual tax compliance.

Units should not use the tax ID number of the BSA National Council, the tax ID number of the local council, or the group exemption number issued to the Boy Scouts of America. Even though these numbers can now be found on the Internet (e.g. on [www.guidestar.org](http://www.guidestar.org)), if a council gives them out it implies that the council approves of their use. The only exception is if a unit is helping with a gift that will go to the council. Since units are not legal entities, they also should not file for their own tax exempt status under IRC Sec. 501(c)(3).

*\* One source of confusion over the years has been an IRS publication that uses the Boy Scouts of America as an example of how to include subordinate organizations in a group exemption. The IRS example is correct, but unit leaders mistakenly interpret it to mean their unit.*

## **Designated Gifts to Benefit a Unit**

Gifts are frequently designated to units, but not “solicited.” There is a large grey area as to what constitutes “solicitation” of a gift by a unit or unit leaders. But the problem for most donors is always the same – gifts to a unit are often NOT tax deductible and cannot be substantiated for tax deduction purposes. This usually occurs in three situations:

- 1) United Way Gifts: Gifts are often distributed by the United Way to individual units because of a specific donor designation to that unit. If a United Way does not require designated contributions to go to 501(c)(3) organizations, then virtually any Scout unit could receive a “pass through” gift from a local United Way. But individual units may not solicit these gifts, nor should they be listed in United Way promotional materials or receive a “designation number” from them.
- 2) Employee Matching Grants and Volunteerism Incentive Programs: In many corporations (e.g. ExxonMobil, Wal-Mart, GE, etc.), an employee can volunteer hours to a charity and the corporation makes a grant or gift to that charity. In most cases, units cannot receive these funds because of program rules and limitations imposed by the corporations. Corporate giving plans only distribute gifts to 501 (c)(3) charities – this precludes gifts to many Scout units. Also, many corporations do not give matching funds to “religious organizations” – in these cases, neither a church nor its Scout units are eligible for the funds.
- 3) Bequests: Individuals sometimes include a gift to a Scout unit in their will. If the unit is tax exempt, the donor’s estate is entitled to an estate tax charitable deduction for the unit gift. If the unit is not tax exempt, the unit may still receive the gift – but the estate will NOT receive a charitable tax deduction. The gift is treated like a non-deductible distribution to an individual. However, as a practical matter this is only a tax problem for large estates.

Local councils may accept gifts designated for a specific unit – and this will overcome many of the problems discussed above. But gifts accepted by a local council cannot be “passed through” to an individual unit. The money must remain in a unit account and be used by that unit to cover campership fees, Scout shop items, awards, etc. Consider how a college handles scholarship money for students. As long as your council handles unit gifts the same way – by spending it or crediting it within the council – the council won’t encounter tax problems. Unit accounts are completely at the discretion of each council. While they are beneficial for the units, but they create administrative challenges at the council level – especially as the number of unit accounts increase.

For more information, please contact the National BSA Foundation at 972. 580. 2219.