



Legal Minute

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Crowdfunding for Nonprofits

About Crowdfunding

Crowdfunding is a means to collect money from online contributors to fund an initiative, program, or event. For nonprofits, it can be a powerful fundraising tool when used as part of an overall strategy to connect people with your nonprofit's mission. Most crowdfunding campaigns share two key features: 1) they are focused on raising funds to support a specific project or program, and 2) have a defined end to the fundraising period. Crowdfunding *is* a good way to raise money for specific projects and capital campaigns, and fundraising events. It is *not* the answer to a nonprofit's revenue shortfalls.

Crowdfunding host platforms. Crowdfunding provides a web-based portal for your organization's fundraising campaign hosted by a crowdfunding platform. The host site accepts money directly through its credit card processor, keeps a running total of donations to your project and other features, depending on the platform. Platforms like [Kickstarter](#) are geared more towards raising funds to produce tangible products, while others are more suited to nonprofit fundraising. [Causevox](#) provides web design tools and a central online presence for multiple organizations dedicated to the "social good." Platforms such as [Indiegogo](#) and [Gofundme](#) host, manage donations, and track progress towards fundraising goals. For specific events, [Eventbrite](#) and similar platforms advertise the event, manage ticket sales, and track sales progress in real time. Visit a few crowdfunding host sites to get an idea of which campaigns and projects are attracting funding as well as the hosts fees, features, limitations and advantages.

Crowdfunding costs. Launching a crowdfunding campaign has both tangible and intangible costs. Before signing up, research the fees associated with the service against the potential income you plan to raise through the campaign. Some sites charge a flat percentage rate on all donations to cover credit card processing costs. Others charge additional fees tied to the amount of funds raised. Factor in intangible costs such as staff, time, energy, and social capital needed to get the word out. The design and content of the campaign is the responsibility of the organization and the process can be time-consuming. If you've offered something in return for the donation, consider the time spent fulfilling pledged benefits after the campaign is completed. Finally, be prepared for some delay between the end of the successful campaign and the delivery of the collected funds, and that some payments may never materialize.

Legal Pitfalls

Quid pro quo contributions. A quid pro quo payment is one made by a donor to a charity partly as a donation and partly for goods or services. A charity is required to disclose a quid pro quo contribution of more

than \$75 or face a penalty of \$10 per contribution not to exceed \$5000 per year per fundraising event. To use the [IRS](#) example, a donor who gives a charity \$100 and receives a concert ticket valued at \$40 has made a quid pro quo contribution. While the donor's charitable contribution is \$60, the quid pro quo contribution is \$100. If the donor's quid pro quo contribution exceeds \$75, the charity must provide a disclosure statement:

- Informing the donor that the amount of contribution deductible for tax purposes is limited to the excess (in the example, \$60) over the fair market value of goods or services provided by the charity, and
- Provide the donor a good faith estimate of the fair market value of the goods or services the donor received (in the example, \$40 for the ticket).

A disclosure is not required if the goods or services to the donor have "insubstantial value." If the donor in the above example received a bumper sticker instead of a ticket, no disclosure is required because the bumper sticker is of "insubstantial value." If the donor claims a deduction of over \$250, the nonprofit should provide the donor with a written acknowledgment of the donation.

Charitable solicitation registration. Most states require registration by an organization before making any charitable solicitation within the state. The obvious question for an online fundraising campaign is whether the nonprofit must register with all jurisdictions from which it accepts online donations. The answer hinges on whether the nonprofit targets specific donors in a state or receives regular and ongoing contributions from a state. The [Charleston Principles](#) created by the National Association of State Charity Officials provides some guidance. Under the principles, a nonprofit must register for online charitable solicitations if it:

- Solicits through an "interactive website." (a "donate here" button on a web page is "interactive"), AND
- The nonprofit either 1) "specifically targets" persons located in the subject state for solicitation or 2) receives contributions from the state on a "repeated and ongoing basis."

Most nonprofit crowdfunding campaigns do not fall within these guidelines. Crowdfunding campaigns typically accept donations from everywhere and don't target an audience within a specific state. Contributions from a specific state are usually not "repeated and ongoing;" crowdfunding ends when the project goal is met, the deadline for meeting the goal has passed, or the fundraising event has occurred.

Unauthorized use. Images, videos and other visual content help a nonprofit explain its mission and the reason for the campaign. If you use images, music or videos that you did not create, you must have permission to use them. The [Digital Millennium Copyright Act](#) ("DMCA") provides copyright owners with tools to enforce their rights. Any copyright owner can file a "DMCA Takedown Notice" for a work they own. The notice is sent to the service provider (in this case, the crowdfunding host platform) requesting the copyrighted item be taken down or face legal consequences. The copyright owner is not required to register the copyright with the federal government as a prerequisite to making a DMCA request. If you're not sure about an image, avoid using it in your crowdfunding campaign.

Protecting your intellectual property. Most crowdfunding campaigns will have some level of intellectual property worth protecting by trademark, copyright or both. Consider protecting your brand by registering it with the [US Patent and Trademark Office](#). A copyright protects literary, musical, or artistic works. As of 2011, the copyright notice © is no longer required to protect your work, which is automatically protected the minute it's created. If you're sure the work is created after March 1, 1989, you can assume it's copyrighted. If your campaign includes original art, consider federal copyright registration through the [US Copyright Office](#), which provides greater protection, including the ability to take down copycats or prevent unauthorized use under the DMCA.