Deputized Fundraising—The Basics

by Dan Busby, ECFA President

Deputized fundraising is practiced by many ECFA members, particularly mission agencies and evangelistically oriented ministries. The practice is sometimes referred to as "self-supported," "deputational," or "staff support raising." The concept is a wholesome and effective alternative to traditional fundraising methods. "It utilizes those most intimate and involved with the charitable program to present funding needs not to strangers but primarily those who know their competence and character," says George R. "Chip" Grange, Gammon & Grange.

Under the deputized fundraising approach, the charity generally determines an amount each staff member is responsible to raise. Funds raised are often recorded in a support account for each worker. Charges are made against the support account to fund the staff member's particular sphere of the organization's ministry. These support account charges may include amounts for the charity's overhead expenses.

Even the IRS has acknowledged that deputized fundraising is a widespread and legitimate practice and the contributions properly raised by this method are tax deductible. This acknowledgement appeared in their Technical Instruction Program for Fiscal Year 1999, designed specifically for IRS agents.

How does a charity properly raise funds using the deputized concept? The IRS proposes two general tests to determine whether a tax-deductible contribution was made to or for the use of a charitable organization, or if a gift is a non-deductible pass-through to a particular individual who ultimately benefited from the contribution:

- The first test is whether the contributor's intent in making the donation was to benefit the organization itself or the individual. This is called the "intended benefit test."
- The second test is whether the organization has full control of the donated funds and discretion as to their use, so as to ensure that they will be used to carry out its functions and purposes. This is called the "control test." But how does a charity know if the "intended benefit" and "control" tests have been met? Unfortunately, the IRS provides little guidance on these tests. Charities, with advice from their CPAs and attorneys, have no choice but to design their action plan without any bright-line test, or clear safe harbors. Let's take a closer look at the two tests:
- **Intended benefit test.** In the 1999 Technical Instruction Program, the IRS has provided the following suggested language for use in donor receipts to help clarify the record of the true intentions of a donor at the time of the contribution:

> "This contribution is made with the understanding that the donee organization has complete control and administration over the use of the donated funds." Thus, use of this language should provide strong evidence of both donor intent and organizational control in the deputized fundraising context.

But *when* should a donor understand whether to make a gift to a charity that has complete control and administration over his or her gift? ECFA suggests that the best time for this understanding to occur is at the point of solicitation—before the gift is ever made.

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Truthfulness in fundraising is one of ECFA's basic tenets. And using the suggested wording at the point of solicitation is the best way to communicate the pertinent facts to the prospective donor *before* the donation is made.

In February 2000, the IRS formally indicated that the following language in *solicitations* for contributions, with no conflicting language in the solicitations and no conflicting understandings between the parties, will help show that the qualified donee has exercised the necessary control over contributions, that the donor has reason to know that the qualified donee has the necessary control and discretion over contributions, and that the donor intends that the qualified donee is the actual recipient of the contributions:

> "Contributions are solicited with the understanding that the donee organization has complete discretion and control over the use of all donated funds."

• **Control Test.** The IRS uses the phrase "discretion and control" with respect to a charity's obligation over deputized funds. Informally, the IRS has stated that discretion and control may be evidenced by such factors as adequate selection and supervision of the self-supported worker, and formalizing a budget that establishes the compensation and expenses of each deputized individual. Establishing compensation and expense reimbursements with reference to considerations other than an amount of money a deputized fundraiser collects is very important. For a complete list of the factors indicating adequate discretion and control, see the box in the next column.

The following is a review of issues that should be considered by ministries using the deputized fundraising approach:

• **Determine how to put donors on notice that you will exercise discretion and control over the donations.** Using the IRS recommended language in solicitations—written or verbal—*and* on receipts makes good sense to us at ECFA.

• **Be sure your organization consistently communicates with your donors.** Eliminating written conflicts between solicitation letters (including "prayer" letters), donor response forms, deputized worker training materials, receipts and other related documents can be accomplished by a careful review of your current documents. It is also important to establish procedures to insure that the reviews are ongoing. The more daunting task is the proper training and continuing reinforcement to self-supported workers of

Factors Demonstrating Control and Discretion Over the Deputized Fundraising Process

According to the February 2000 IRS statement, charities that receive revenues through deputized fundraising—through individual missionaries, staff members, or volunteers conducting grass-roots fundraising to support the organization—can demonstrate control and discretion by the following factors:

- Control by the governing body of donated funds through a budgetary process;
- Consistent exercise by the organization's governing body of responsibility for establishing, reviewing and monitoring the programs and policies of the organization;
- Staff salaries set by the organization according to a salary schedule approved by the governing body. Salaries must be set by reference to considerations other than an amount of money a deputized fundraiser collects. There can be no commitments that contributions will be paid as salary or expenses to a particular person;
- Amounts paid as salary, to the extent required by the Internal Revenue Code, reported as compensation on Form W-2 or Form 1099-MISC;
- Reimbursements of legitimate ministry expenses approved by the organization, pursuant to guidelines approved by the governing body. Reimbursement must be set by considerations other than the amount of money a deputized fundraiser collects;
- Thorough screening of potential staff members pursuant to qualifications established by the organization that are related to its exempt purposes and not principally related to the amount of funds that may be raised by the staff members;
- Meaningful training, development, and supervision of staff members;
- Staff members assigned to programs and project locations by the organization based upon its assessment of each staff member's skills and training, and the specific needs of the organization;
- Regular communication to donors of the organization's full control and discretion over all its programs and funds through such means as newsletters, solicitation literature, and donor receipts; and
- The financial policies and practices of the organization annually reviewed by an audit committee, a majority of whose members are not employees of the organization.

the need to clearly and consistently communicate the discretion and control concept to donors.

- **Use appropriate terminology when communicating with donors.** Since the organization should not commit that contributions will be paid as salary or expenses to a particular person, self-supported workers should never imply the opposite, verbally or in writing. A donor may indicate a preference that a gift to a charity be used to support the ministry of a certain individual, and the charity may track the dollars based on the preference. But the organization and the deputized worker should refrain from any inference that the contributions will be paid as salary or expenses to the worker. This is a fine line but one that should be observed.
- **Avoid passing amounts raised by a particular worker to that worker.** Since the organization should not commit that contributions raised by a particular worker will be paid to the worker as salary, fringe benefits and expense reimbursements, it is important that the organization's practices match the commitment. If every dollar raised by a worker for the organization is spent on the worker, this is indicative of the organization's lack of discretion and control over the funds.

Clear communication with donors about the discretion and control issue not only places the donor on notice, it serves to reinforce this concept in the mind of the deputized worker. Too often, self-supported workers assume they have an element of personal ownership of funds that they raise for the charity. For example, when the worker leaves the employment of charity A, he may mistakenly believe that the balance in his account will be transferred to charity B, where he will be employed. While a transfer to charity B may be appropriate, it is not required.

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