

## **The Oregon Public House: A New Way to Fundraise**

The Oregon Public House is the first of its kind. It is a nonprofit pub that will be donating 100% of its profits to local charitable organizations and of course it will be located in Portland, Oregon. What is unique about The Oregon Public House is that customers can choose which charitable organization their purchase will go towards. The Oregon Public House also plans to emphasize community by renting out the space above the pub as a community center, by providing a warm environment where customers can learn about different charitable organizations, and by using predominately local beers and local produce. Eventually the pub plans on crafting its own beer in order to be able to create the highest amount of profit for donation to charity. Amazingly, the Oregon Public House will be opening with zero debt, thanks to volunteers and donations from the community. Donors who donate \$1,500 or \$2,500 will receive one free beer per week or per day, respectively, for life. While operating, the pub plans to hire regular employees as well as utilize volunteer service. The idea for the Oregon Public House originated within a Foursquare church called the Oregon Community and, although many members are active in the creation and funding of the Oregon Public House, it is a separate entity unaffiliated with the church. The pub is scheduled to open this fall.<sup>1</sup>

Although the Oregon Public House has the potential to do a great amount of good in its community, it is not 501(c)(3) tax exempt. The Oregon Public House by definition is a fundraising organization operating as a business and “an organization has often been on tenuous exemption grounds when its primary activity consists of the operation of a business enterprise,

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<sup>1</sup> Melissa Reeser, *Want a Beer for a Change? Head to the Oregon Public House in Woodlawn*, Neighborhood Notes, Oct. 2010, [http://www.neighborhoodnotes.com/news/2010/10/want\\_a\\_beer\\_for\\_a\\_change\\_head\\_to\\_the\\_oregon\\_public\\_house\\_in\\_woodlawn/](http://www.neighborhoodnotes.com/news/2010/10/want_a_beer_for_a_change_head_to_the_oregon_public_house_in_woodlawn/) See also <http://www.oregonpublichouse.com/#/ABOUT%20US/OUR%20VISION>

regardless of the fact that all net income derived is payable to charitable beneficiaries.”<sup>2</sup>

However, in the fundraising area the IRS has few guidelines, especially for new ideas. When I asked Ryan Saari, the president of the Oregon Public House, about their 501(c)(3) status, he replied, “We applied, but the IRS has no precedent for what we’re doing. I kept repeating the words ‘first of its kind,’ but apparently, they don’t like innovators.” His reply only serves to emphasize how difficult it can be to predict whether a fundraising organization will be able to achieve 501(c)(3) status. However, some guidelines are available. When the organization’s purpose is too commercial, that organization cannot achieve exempt status.<sup>3</sup> A fundraising organization will have a “commercial and substantially non-exempt purpose” when, “activities consist of hiring individuals and paying the prevailing wage to work,” and “[it is] in competition with other for-profit employment establishments.”<sup>4</sup> The IRS looks at the “facts and circumstances” of each case when deciding whether or not a fundraising organization may qualify as a 501(c)(3) organization.<sup>5</sup> The Oregon Public House may be able to achieve 501(c)(3) status if it changes its organization to match the facts of similar organizations that did qualify as 501(c)(3) organizations. Whether or not the Oregon Public House does obtain 501(c)(3) status, it is paving the way for an innovative type of fundraising.

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<sup>2</sup> *L. Fundraising*, EO CPE 1982, available at <http://www.irs.gov/pub/irs-tege/eotopicl82.pdf>

<sup>3</sup> Fishman & Schwartz, *Nonprofit Organizations* 586 (2010).

<sup>4</sup> PLR 201230024, available at <http://opb.giftlegacy.com/?pageID=39&docID=710>

<sup>5</sup> *L. Fundraising*, EO CPE, 1982, available at <http://www.irs.gov/pub/irs-tege/eotopicl82.pdf>