

WE MUST ALWAYS EVOLVE TO BENEFIT THE UNIVERSE

**Peter J Reilly** Contributor*I focus on the tax issues of individuals, businesses & more*

Opinions expressed by Forbes Contributors are their own.

TAXES 2/25/2015 @ 9:03AM | 2,866 views

IRS Denies 501(c)(3) Exemption To Booster Club Due To Inurement

Love Those Thin Mints

Something I find rather annoying is the notion that a good way to fund salubrious activities for youth is through the youth themselves or their parents badgering relatives, friends and acquaintances into buying Christmas cards, wrapping paper, popcorn, etc. etc. I have one huge exception to this general disapproval. Girl Scout Cookies – specifically Thin Mints.

Thin Mints cause something of a dilemma in my household. My covivant is very health conscious and strives to have a house with only healthy items to eat in it. She also has a granddaughter who sells Girl Scout Cookies which gives me leverage to smuggle in contraband once a year.

Extensive negotiations with CV and her daughter, who is on my side in the debate, eventually led to a compromises of two. Two cases that is. There are 12 boxes to a case, in case you didn't know. There is still over half a case left, but I can tell that there will not be enough to get me through tax season. Thank god for Facebook. It turns out that my great-niece is also a Girl Scout and it just wouldn't be right to not buy some from her.

How The Girl Scouts Keep Their Exempt Status

SEATTLE SYMPHONY
\$29*
TICKETS
ONE WEEK ONLY!
OCTOBER 3-10, 2015
BUY NOW >
*JUST CHOOSE 3 OR MORE CONCERTS

At any rate, limited as the health benefits of eating Thin Mints might be, it appears that the sales effort is carried on in a way that is socially healthy. Here is an excerpt from some [guidance on managing troop finances](#).

- “ Remember, once something becomes the property of the troop, it is now a “Girl Scout item” and should be kept with the troop things. It does not belong to individual girls or parents/guardians. Troop money should be used to equally benefit the troop as a whole, not individuals. Keeping records to show how much each girl or family earns or contributes is not appropriate. Girls should be taught that they all must do their best to help the troop earn enough money to do what they want to do.

Girls should not be singled out for praise or blame for how much money they earn for the troop. Not all girls will perform or achieve equally. If a girl’s parents/guardians do not give her permission to participate in every money-earning opportunity, whether due to illness or other personal circumstances, the girl should not be penalized.

How Not To Run Fundraising Sales

The unnamed organization in [Private Letter Ruling 201507023](#), which I have decided to dub Buy Gyminy (BG) takes a different approach. Its model is what the Girl Scout cookie program would be like if Ayn Rand were charged with reorganizing it.

BG’s purpose is to “foster the education and development of children’s interest by participating in the activities of dance, gymnastics, Tae Kwon Do, child care, tumbling, cheer, and other children’s social/athletic events.” BG is affiliated with a for profit gym – lets’ call it Gyminy. BG is a membership organization with a single class of dues paying members. The primary activity is fundraising to help athletes perform at competitions.

How to Engage Employees

10 Steps to Improve Employee Engagement. Free eBook Download.



- “ Parents sell things such as steak, cookbooks, soup and coupon books to friends, family, neighbors and coworkers.

The money that each family raises by participating in your fundraising events is “earmarked for that family and goes towards their child’s competition fees.”

Your “goal is to help alleviate some of the financial burden it costs to compete at these events.” Families that do not participate in the fundraisers are “responsible to pay for the portion of their child’s competition and coaches fees.” As you explain:

We facilitate the fundraisers and the parents participate in these fundraisers we put on for them to help raise money for their children to compete, we keep track of their fundraising for them and the money goes towards their children’s competition and coaching fees.

And The IRS Says

The IRS has issues with BG’s exempt status application.

- “ The court in *Capital Gymnastics Booster Club v. Comm.*, T.C. Memo 2013-193, analyzed the fundraising activity of a gymnastic booster club. Parent-members sold items and were awarded points in proportion to the profit that the family generated. Each point was valued at \$10, and used to offset the family’s assessed costs of competition for their children. Parents who did not fundraise did not receive a benefit from the activity, they were responsible for writing a check to the organization for the full assessment for their children. The court held that the fundraising structure allowed assets of the organization to inure to the members who control the organization.

BG looks an awful lot like *Capital Gymnastics Booster Club*.

“ Your purpose is to assist your members fulfill a financial obligation for their children. Fundraising is your primary activity. You “facilitate” and “put on fundraisers” and the majority of your budget is spent on fundraising. Evidently you are using your funds, your time, and your exempt status to provide fundraising opportunities for your parents. However, the money that they make in your name does not go into your general budget. Rather, you keep an accounting of how much revenue each member brings in and permit each member to apply that revenue to the cost of athletic competitions for their children. Members who do not fundraise pay the cost of competitions from their own funds. You do not provide scholarships to any family. You do not jointly fundraise for the organization and then allocate to all equally or based on need or merit.

The benefit from the fundraising activity is allocated in direct proportion to the participation of the family.

The IRS also noted that the activities of the organization benefits the director who owns Gyminy.

“ In addition to the benefit to all your fundraising members, you provide a special benefit to the director who owns the gymnasium where all of the children of your members take lessons and compete. An exempt organization may not operate to direct funds, business, or other benefits to a commercial entity. P.L.L. Scholarship v. Commissioner, (events to raise funds for scholarships benefit affiliated bar), 82 T.C, Church by Mail (owners of printing and mailing service benefited from business directed to it from church they also controlled) The fact that all of the money that you raise enables athletes to compete on teams sponsored by the gym is a substantial private benefit. You also referred to using 25% of the membership fee to “be used towards upkeep of equipment they use for competing each year.” It is not clear whether you were referring to equipment owned by the Gym. If so, it would be additional inurement to a director and benefit to a commercial entity.

Because you significantly benefit your members rather than operating exclusively for exempt purposes, we cannot recognize you as exempt under §501(c)(3).

Is This A Gymnastics Thing?

Poking around on the internet it strikes me that this fundraising model was more prevalent in gymnastics than in other sports. That might be because if you are raising money for a baseball team or a band to go somewhere, you probably want to get the whole team there, since it won't do the other players much good if all the pitchers or all the tuba players aren't good at selling popcorn or whatever.

At any rate, the word seems to be getting out that this particular booster model does not work, if you are looking for exempt status. Dan Caldwell notes in his post [5 Essentials for Booster Clubs to Meet IRS Requirement](#) that booster clubs cannot allocate to participants based on their fundraising efforts.

RECOMMENDED BY FORBES

[Forbes 20 Best Foreign Retirement Havens For 2015](#)

[Apple iOS 9.0.2 Has Three New Nasty Surprises](#)

[15 Cars Owners Hold Onto For 10 Or More Years](#)

[10 Questions You Should Ask In A Job Interview](#)

[Does Tax Court Booster Decision Threaten Scouting?](#)

[Parent Booster Clubs - Raising Money For Your Own Kid Is Not Charity](#)

[Scholarships Do Not Make Beauty Pageant A Charity](#)

[Don't Use 501\(c\) Status As A Hallmark Of Credibility](#)