



VENABLE

Setting the Stage for Corporate Partners

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What Genre?

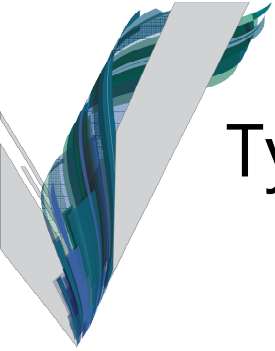
DRAMA

Comedy

Mystery

Musical





Types of Engagements

- **PHILANTHROPY**
- *Marketing*
- *Fee for Services, Goods or Intellectual Property*
- *Collaborations*



Philanthropy

A **voluntary nonreciprocal transfer** of cash or other assets

- Cash
- In-Kind Goods or Services





Philanthropy: Qualified Sponsorship

Qualified Sponsorships – “Payment...with no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgment of the name or logo” – Internal Revenue Code Section 513(i)





Philanthropy: Qualified Sponsorship

Qualified Sponsorships are exceptions to taxable income*

Substantial benefits do not include mere “use or acknowledgment” of the sponsor’s name or logo



**aka Unrelated Business Income Tax or UBIT*



Philanthropy: Sponsor Acknowledgment

- **Planting for Green** is sponsored by JRE-G Corporation
- NGO thanks JRE-G Corporation for supporting **Planting for Green**
- JRE-G Corporation is a proud sponsor of **Planting for Green**



NGO's **Planting for Green**
Sponsored by JRE-G Corporation





Philanthropy: Qualified Sponsorship



2%

- IRC Section 513(i) Safe Harbor – no arrangement or expectation that the payor will receive a substantial return benefit (valued at 2% or less of sponsorship payment)
- Other than the use or acknowledgment of the name or logo (or product lines) of the payor's trade or business in connection with the tax-exempt organization's activities
- Applicable to broad range of activities, *excluding*
 - Qualified conventions and trade shows
 - Periodicals (e.g., magazines, journals, newsletters)
 - Contingent payments



Marketing





UBIT: Unrelated Business Income Tax

Revenue from a trade or business that is regularly carried on and not substantially related to tax-exempt mission

- *C.F. Mueller Co.* case – law school-owned pasta manufacturer





Marketing: Royalties

- A charity can license its trademark to a company to place on its products or services
- Income for the license is a royalty
- Passive income from intellectual property is not taxable
 - Internal Revenue Code Section 512(b)(2)





Marketing: Consumer Inducement

“Every time you buy a t-shirt between June 1 and December 31, 2016, 5 cents will go to the NGO, up to a maximum of \$25,000.”

States regulate charitable sales promotions by companies have entered contracts with charities as commercial co-venturers





Marketing: 26 State Laws

Current Registration States

- Alabama (*bond* and registration)
- California (unless certain requirements met)
- Illinois (as a charitable trust)
- Massachusetts (*bond* and Forms 10 and 10B)
- South Carolina (registration and Notice of Solicitation forms)



Current Notification States

- Arkansas (charity)
- Connecticut (charity)
- Hawaii (CCV)
- Mississippi (CCV)
- New Hampshire (charity)
- New Jersey (charity)
- Utah (charity)



Marketing: Creative Ideas

- 
- **Sweepstakes**
 - **Online crowdfunding**
 - **Consumer actions for corporate giving**
 - **Round up at the register**
 - **Corporate Foundations Intermediaries-
Amazon Smile**



Marketing: Reputational

Charity rating organizations –

Charity Navigator

Charity Watch

BBB Wise Giving Alliance

GuideStar





Services, Goods, and Intellectual Property



Determining whether its mission related can be a *Mystery*



Services

- Selling services to a company to advance your purpose





Intellectual Property



- Exception from UBIT for *passive royalty* for charity's intellectual property like trademarks, photography, writings, or patents
- Legal considerations of joint ventures when developing IP together



Scenario

- A sponsorship of NGOs “City Seeds,” the tree planting in new open spaces in urban areas for \$500,000
- Sale of the company’s hiking shoes where \$2 goes to charity—up to \$250,000 over three months
- Charity agrees to promote the company’s hiking shoe sales for one month on its website, Facebook, and Twitter for fees of \$25,000





Philanthropy + Marketing + Services

Identify mission purpose
Use of company trademark
State charitable contribution/sponsorship income

Control charity's trademark
Require legally required disclosures
Require compliance with legal filings
State royal income

State marketing services provided by charity
State service fee income that is fair market value (which will be subject to tax)



Collaborations

- Charitable outcome defined and measurable
- Partners may include companies, trade associations, other NGOs, government, etc.
- Methods
 - Public relations on issues
 - Sharing expertise
 - Developing guidance on issues
 - Influencing public policy
 - Influencing community
- Cautions
 - Authority of staff to act
 - Public perceptions
 - Clarity on value to company or industry
 - Controlling brand
 - Controlling intellectual property development
 - Exit strategy



Thank you! Questions?



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Anita Drummond is a member of Venable's nonprofit organizations practice group. She has significant experience working in-house for nonprofit organizations and for the federal government, as well as in private practice. She is well versed in the broad range of legal issues facing nonprofits, and is very focused on using the law to help nonprofits further their mission and achieve their goals.



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Atitaya C. Rok is an associate in Venable's nonprofit organizations practice group. Ms. Rok advises nonprofit organizations, including public charities, private foundations, trade and professional associations, and for-profit corporations on a variety of charitable fundraising matters, including charitable solicitation regulation compliance and commercial co-venture campaigns. She also works with both nonprofit and for-profit clients in political law compliance, including registration and reporting at the federal, state and local levels, and overall legal and regulatory compliance.

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