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**Newsletter / the Larned A. Waterman
Iowa Nonprofit Resource Center**



The Larned A. Waterman Iowa Nonprofit Resource Center

Helping strengthen community organizations

eNewsletter

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In This Issue:

Remember Deductibility,
Liability When Making Food
Donations1

Why is the Bill Emerson Act
Important?2

Iowa Food Bank Association
Casts Wide Net.....3

Jude West: A Life of Giving;
2015 Nonprofit Summit....4

Decoding the NTEE
Taxonomy; Start a Nonprofit
Workshop5

Training Opportunities6

Remember Deductibility, Liability When Making Food Donations

by Richard Koontz, INRC Director

Recent statistics from the United States Department of Agriculture show that food insecurity has risen in Iowa. According to the Food Bank of Iowa, 1 in 8 Iowans is food insecure.¹ Iowa's Department of Human Services administers the Food Assistance Program to help our state's hungry. In 2014, 403,934 Iowans received food assistance.²

Iowa has numerous nonprofits that depend upon food donations.³ Nonprofits and Iowa citizens work alongside state programs to meet the needs of food insecure Iowans.

Where food donations are concerned, there are two primary legal areas to consider, tax deductibility and liability.

Deductibility

Individuals who make donations of food to qualifying charities can take a deduction for the fair market value (FMV) of the food.⁴ As with all non-cash gifts, the fair market value of donated food must be determined in order to report it as a deduction. The basic valuation rule is that we look at the price at which property would change hands between a willing buyer and a willing seller, neither having to buy or sell, and both having reasonable knowledge of all the relevant facts.

For individuals, fair market value of donated food items purchased at stores is the retail price, not the wholesale price the store paid to obtain the item. However, if the food is perishable and the expiration date has passed or is close to passing, the FMV may be considerably lower. Most individuals will make food donations of

less than \$250, so non-cash gifts rules about the level of receipting necessary from the charity are not significant.⁵

Businesses are governed by the contribution of inventory rules when donating food items.⁶ The contribution must be "apparently wholesome food" within the meaning of the Bill Emerson Good Samaritan Food Donation Act. That is, it must be "food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions."

The food must be used for the care of the ill, the needy, or infants, and cannot be transferred in exchange for money, property, or services.⁷ The donating business cannot be an S Corp.

Though the deductibility of this contribution did expire, efforts to renew it have been made by Congress, most recently in section 2 of the America Gives More Act (H.R.644). Under this bill there is a new method of calculating fair market value of food donations and also a percentage increase on deductions. These changes are seen as important ways to get more businesses to contribute rather than discard food.

Iowa has a Farm to Food Donation Tax Credit spelled out on the Iowa Department of Revenue (DOR) website.⁸ Iowa Code 190B.106 sets limits on the deductible amount, the

Donations, continued page 2

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lesser of \$5,000 or 15 percent of the value of the donated food. This credit began in the 2014 tax year.

Iowa Secretary of Agriculture Bill Northey says “Iowa farmers care deeply about their communities and this new tax credit program may provide some additional tax benefit to farmers who donate food to a food bank or food pantry.”⁹

To qualify for the credit, farmers must have produced the food donated, must transfer title to the food to an Iowa food bank or emergency feeding organization on the Department of Revenue list, and must not receive any compensation in return. In addition the food cannot be damaged or unfit for consumption, and it must meet the requirements of the Federal Emergency Food Assistance Program. The Iowa DOR has a helpful worksheet for donor farmers.¹⁰

The Farm Credit can be used on either the corporate or individual income tax returns of farmers. Iowa nonprofits that want to be a recipient entity for these donations can register on the Iowa DOR website.¹¹ More information is available for both food organizations and taxpayers at <https://tax.iowa.gov/farm-food-donation-tax-credit>

Liability

There are acts at both the federal and state levels dealing with personal liability for donations of food to charities. Iowa Code 672.1 deals with personal liability for donations of perishable food.

Perishable food is “food which may spoil or otherwise become unfit for human consumption because of its nature or type of physical condition. This term includes, but is not limited to, fresh and processed meats, poultry, seafood, dairy products, eggs in the shell, fresh fruits and vegetables, and foods which have been packaged, refrigerated, or frozen.”

Donors of perishable food are not liable criminally or civilly if the donor inspected the food at the time of donation and found it fit for human consumption. There is a parallel provision for the recipient charity that

keeps the charity from being liable. There is also a provision related to immunity from liability for donation of canned food in Iowa’s statute.

The Bill Emerson Good Samaritan Food Donation Act¹² is a federal law which provides immunity to donors and recipient charities. It states that, “A person... shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person... donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.” This act was named for the late Bill Emerson (R-Mo). (See story at right.)

Footnotes

¹ <https://www.foodbankiowa.org/NewsandEvents/CombatHunger.aspx>

² http://www.resultsiowa.org/humansvs.html#measure_1

³ See the Iowa Food Bank Association website at <http://www.iowafba.org/>

⁴ Food is specifically excluded from the “household items” deduction I.R.C. 170(f)(16)(D(ii))

⁵ See IRS Publication 526 for a summary of the receipt rules.

⁶ I.R.C. 170(e)(3)(C)

⁷ I.C. 170(e)(3)(A)

⁸ <https://tax.iowa.gov/farm-food-donation-tax-credit> See also the Drake University Law School case study at <http://www.law.drake.edu/clinicsCenters/agLaw/docs/farmFoodTaxCredit-caseStudies.pdf>

⁹ <http://www.iowaagriculture.gov/press/2014press/press11122014.asp>

¹⁰ This follows the record keeping rules in Treasury Regulations 1.170A-(b).

¹¹ <https://www.surveymonkey.com/s/farmtofoodIDR>

¹² 42 U.S. Code 1791

Why is the Emerson Good Samaritan Act Important?

by Diane DeBok, INRC Editor & Content Manager

The donation of fresh, wholesome food to free lunch programs, shelters, food banks and similar organizations is one of the favored solutions for reducing the growing problem of food waste while at the same time directing food to persons who are food insecure.

Donors might be concerned about liability in making these types of donations, but the Bill Emerson Good Samaritan Food Donation Act, passed in 1996, addressed this problem by providing protection for individuals and nonprofit feeding programs who act in good faith.

At that time, all fifty states had such laws protecting food donors, however, the lack of uniform language and applicability among the laws often made donors reluctant to give food. The Emerson Act provides uniform language that protects food donors from liability.

The man for whom the law is named, Norvell William “Bill” Emerson, was a Republican from Missouri who represented the state’s 8th district in the US House of Representatives from 1981 until his death in 1996. He worked for the Good Samaritan Food Donation Act but died before it was passed.

Emerson worked closely with Mickey Leland, Democratic representative from the 18th district in Texas, on many hunger issues.

Learn more about Emerson and Leland at <http://www.hungercenter.org/>

Iowa Food Bank Association Casts Wide Net to Fulfill Mission

by Diane DeBok, INRC Editor & Content Manager

Even though many indicators suggest the economy is improving, the percentage of food insecurity has increased. Iowa remains below the national average, yet the percentage of food insecurity in the state is greater than it was ten years ago according to the United States Department of Agriculture (USDA) report released in September 2014.

In the USDA's 2001-2003 survey, food insecurity was at 9.5 percent. The 2008-2010 survey revealed 12.1 percent food insecurity. The most recent survey, which covered 2011-2013, showed a small decline to 11.9 percent.

To learn about hunger and the issues intertwined with it, the Iowa Food Bank Association (IFBA) is a good place to start. IFBA State Director Cory Berkenes closely follows the many factors relating to hunger and continually seeks solutions and support for food insecure Iowans.

Berkenes attributes the gap between the recent food insecurity figures and those of ten years ago, in part, to the lingering effects of the 2008 recession.

"In so many families, someone lost work, then, if they found something else, it paid less. You can't improve your situation over night," he says.

As the Iowa Legislature reaches the final weeks of its session, Berkenes and others concerned with hunger, are keeping an eye on two bills. One is the State Food Purchase Program Appropriation (HF95, SF338) which would continue the appropriation of \$1 million of state money to match \$1 million from private donations to food banks. Language regarding matching is the same as for the current appropriation. The bill remains at a standstill while the state budget is being negotiated. If passed, the program would once again be a one-year appropriation.

The other bill is Sales Tax Exemption for Food Banks (SF136). By allowing tax exemption, this bill would enable food banks to direct more funds to food distribution, mobile food pantries, backpack programs, and similar projects. Last year the bill passed the Senate, but the House didn't get to it before the General Assembly adjourned. Supporters are optimistic that the bill will be passed this year.

An existing piece of legislation, which supporters hope will gain traction, is the Farm to Food Bank

Donation Tax Credit. Eggs, meat, and other fresh produce grown by individual taxpayers, partnerships, and groups as specified in the law, may donate produce to a certified food bank.

The tax credit is equal to 15 percent of the value of the food commodities donated or \$5,000, whichever is less. (See the related article on page 1.) To receive the donations, food organizations must register with the Department of Revenue (DOR). Qualified food donors were able to receive the tax credit on their 2014 returns.

Recently, the IFBA received a Solid Waste Alternatives Program (SWAP) grant from the Iowa Department of Natural

"It takes everybody to address hunger"

Resources. The grant money will be distributed among several food pantries and, according to Berkenes, will pay for the installation of 25 to 30 coolers which will increase storage capacity for fresh produce.

Support and resources to meet hunger needs come from many directions.

Says Berkenes, "It takes everybody to address hunger."

The eight Feeding America food banks in Iowa formed the IFBA in 2009 and by doing so, strengthened its collaborative efforts and gave Iowa food banks a stronger voice. The executive directors of the eight food banks make up the IFBA board of directors. They hired their first state director in 2010. Cory Berkenes took the position in January 2013. The organization serves all 99 counties in Iowa.



Learn more about the Iowa Food Bank Association at <http://www.iowafba.org/>

Jude West: A Life of Giving

by Richard Koontz, INRC Director

Jude West passed away on Monday, April 13, 2015 in Iowa City. He often joined INRC founder Willard "Sandy" Boyd and INRC Director Richard Koontz in conducting Principles and Practices training sessions. He was Emeritus Professor of Management and Organizations and retired from the Tippie College of Business at the University of Iowa in 2001.

Jude West gave the Larned A. Waterman Iowa Nonprofit Resource Center great advice and guidance. He did such great community service, advising and sitting on the boards of nonprofits. Jude provided strategic planning sessions to numerous groups on the University of Iowa campus. The UI's Nonprofit Organizational Effectiveness course had a central lecture on strategic planning given by Jude each year. I personally gained so much knowledge working with Jude and will miss him greatly. Jude has passed but his contributions will live on in Iowa for many years.

For more on Jude's career:

IowaNow: <http://now.uiowa.edu/2015/04/memorial-service-set-retired-ui-professor-former-vp-jude-west>

Iowa City Press Citizen: <http://www.press-citizen.com/story/news/education/college/2015/04/15/jude-west-obituary/25840257/>



Iowa Nonprofit Summit Scheduled for November 2015

Presenter submissions being accepted for 2015 theme, The Power of Relationships

The 2015 Iowa Nonprofit Summit will take place on November 9 and 10 at the Scheman Building on the Iowa State University campus. Registration opens this summer.

The biennial conference offers learning and networking opportunities for Iowa nonprofit and volunteer management professionals. The agenda features outstanding keynote presentations, break-out sessions, and exhibitors offering the latest resources available to help nonprofits and volunteer programs excel. The theme for this year's Summit is The Power of Relationships.

The Iowa Nonprofit Awards are also presented during the Summit. For information on the awards and how to make a nomination, see the Iowa Nonprofit Awards section of the INRC Web site at <http://inrc.law.uiowa.edu/>

The call for session presenters at the Iowa Nonprofit Summit is underway. Submissions for presentations must be received by midnight on July 10, 2015.

Download the guidelines at <https://www.regonline.com/custImages/240000/248608/ICVS/NPSummit2015/WorkshopCallforPresenters2015-FINAL.pdf> or contact Jody Benz at the Iowa Commission on Volunteer Service at 515-725-3094 or jody.benz@iowa.gov

Collaborators for the Summit include: Iowa Commission on Volunteer Service (Volunteer Iowa); Larned A. Waterman Iowa Nonprofit Resource Center; United Ways of Iowa; Volunteer Centers of Iowa; Iowa Council of Foundations; Iowa Mentoring Partnership; Iowa Association of RSVP Directors; Iowa Association of Foster Grandparents and Senior Companion Programs; and Iowa

Economic Development Authority's Main Street Iowa program.

Watch the INRC Web site and the Summit's online registration site for details.tt



Decoding the NTEE Taxonomy

Tools to help you navigate category layers

by Richard Koontz, INRC Director

Your nonprofit must have a purpose stated in its articles of incorporation, and that purpose is of central importance in getting and maintaining tax exemption.

There is a system of classification of purposes organized by letters and numbers called the National Taxonomy of Exempt Entities or NTEE. When the revised Form 990 came out the IRS provided in Part III for a coding system, which could be NTEE, but the IRS has stated that the various systems of coding “do not adequately reflect the wide range of program service activities provided by tax-exempt organizations.”¹

The NTEE codes are important in the new Form 1023-EZ application for exemption. The full list of codes is included on pages 18–20 of the instructions for the Form 1023-EZ on the IRS website at <http://www.irs.gov/pub/irs-pdf/i1023ez.pdf>

The NTEE codes are broken into 26 alphabetic categories, some of which are:

- A - Arts, Culture and Humanities
- B - Education
- C - Environmental Quality, Protection and Beautification
- D - Animal-Related
- E - Health—General and Rehabilitative
- F - Mental Health, Crisis Intervention
- G - Disease, Disorders, Medical Disciplines
- H - Medical Research
- I - Crime, Legal Related

Each category is further broken down into alphanumeric subcategories. Some items on the list are not descriptive of 501(c)(3) organizations. For instance, Category Y for membership groups is predominantly for nonprofits exempt under other 501(c) sections.

Once you have decided what the broad alphabetic category for your nonprofit is, consider the alphanumeric sub-categories. If Arts, Culture, and Humanities (A) is definitely your category, choose whether you are, for instance, an arts alliance (A01), museum (A50) or performing arts organization (A60). Notice that, for example, if your organization is a museum, can simply choose museum (A50), or you can be more specific by choosing art museum

(A51), children’s museum (A52), history museum (A53), natural history museum (A56), or science and technology museum (A57).²

For helpful guidelines on NTEE Codes visit the website of the National Center for Charitable Statistics at <http://nccs.urban.org/classification/NTEE.cfm> A particularly good resource is the National Taxonomy of Exempt Entities – Core Codes 2007 Desk Reference available online at <http://nccsdataweb.urban.org/kbfiles/322/NTEE-CC-Manual-2007a.pdf> This reference provides a more in-depth analysis of NTEE code sections.

Footnotes

¹I.R.S. Announcement 2011-36.

²Referred to by NCCS as “Docile Code” and “Centile Code.”



Training Opportunities

Starting an Iowa Charitable Nonprofit

On May 16 INRC Director Richard Koontz will conduct a day-long workshop on how to start a charitable nonprofit corporation. The agenda will cover how to draft articles of incorporation, how to obtain an EIN number, assistance in filling out the necessary forms, information on the IRS Forms 1023 and the new 1023-EZ and how to draft and adopt bylaws. Attendees receive one copy of the monograph *Starting an Iowa Charitable Nonprofit* by Koontz.

Early registration is encouraged as participants will need to gather information about their organizations in order to complete the necessary forms.

Date: Saturday, May 16

Time: 9 am-4 pm

Cost: \$50, payable by check only.

Location: Rm 265, Boyd Law Bldg., University of Iowa College of Law, Iowa City

For information: Telephone 866-500-8980 (toll free) or 319-335-9765 or download the registration form.

More training opportunities, page 6

Training Opportunities

INRC staff:

Richard Koontz

INRC Director

Brenda Steinmetz

Admin. Svcs. Coordinator

Diane DeBok

Editor & Content Manager

Charlene Onnen

Secretary

Volunteer Management Webinars

A six-part webinar series on volunteer management will be offered by the Volunteer Centers of Iowa and the Iowa Commission on Volunteer Service. Expert presenters from across Iowa will offer best practices training and provide a consistent curriculum to be offered throughout the state. For individuals who manage or coordinate volunteers for nonprofits, schools, government sector, faith-based organizations or service organizations.

Dates: Every other Wednesday, May 6-July 15, 2015

Time: 9-10:30 am

Cost: \$125 for all six sessions

Registration: <https://eventbrite.com/event/15762168069/>

For information: Download the flyer at <http://d31hzhk6di2h5.cloudfront.net/20150416/5c/7f/f9/3c/4de559e5cbcb7c33eb9b228e/VolunteerManagementFlyerFINAL.pdf> or telephone Lauren Finke at 319-272-2087 or email lauren_finke@vccv.org

Jones County Nonprofit Series: What is Endowment?

Free program for Jones County residents who want to learn more about endowment funds and their potential for preserving local funds to support the future of organizations.

Date: Tuesday, June 9

Time: 8:30-10 am

Location: Youth Development Ctr, 800 N. Maple, Monticello, IA

For information: Contact Amy Manternach at 563-588-2700.

About Our Organization

The Larned A. Waterman Iowa Non-profit Resource Center is a University of Iowa interdisciplinary collaboration created to make more accessible educational and service programs focused on strengthening the operational capacity of Iowa nonprofit organizations.

The INRC works collaboratively with government agencies, nonprofit organizations and educational institutions to impart new knowledge through activities and provide

Starting an Iowa Charitable Nonprofit

Day-long workshop on how to start a charitable nonprofit corporation. Covers articles of incorporation, how to obtain an EIN number, IRS Forms 1023 and the new 1023-EZ and more. Attendees receive one copy of the monograph *Starting an Iowa Charitable Nonprofit* by Koontz. See page 5 for more.

Date: Saturday, May 16

Time: 9 am-4 pm

Cost: \$50, payable by check only.

Location: Rm 265, Boyd Law Bldg., University of Iowa College of Law, Iowa City

For information: Telephone 866-500-8980 (toll free) or 319-335-9765 or download the registration form

Email & Networking

Offered by Nonprofit Assn. of the Midlands.

Presenter: Todd Mercural-Chapman, Omaha Advertising

Date: Wednesday, May 6

Time: 10 am-Noon

Cost: Members, \$25; Non-members, \$50

Location: 11205 Wright Circle, Ste 210, Omaha, NE

Information at: <http://www.nonprofitam.org/>

Board Boot Camp - Spring 2015

For new board members or current board members who would like to be more effective in board service.

Date: Tuesday, June 16

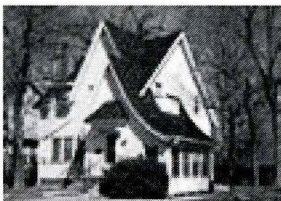
Time: 3-5 pm

For information: Community Foundation of Greater Dubuque at 563-588-2700 or email kari@dbqfoundation.org

information and training resources to help nonprofit organizations and interested persons throughout Iowa. We seek to build the capacity and develop the effectiveness of community-based organizations and enhance the overall effectiveness of local organizations in building communities.

The INRC also introduces students to the nonprofit sector and develops their sense of public and community service.

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