Wisconsin Elks Association

Business Practices Committee

Standard

Practices Manual

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Foreword

It has been said that running a retail business, really any business these days, is a bit like juggling chainsaws while running the four hundred meter high hurdles. The constant and sometimes conflicting pressures of anticipating the marketplace, producing a high-quality, low-cost product, dealing with the needs of customers and employees, and pleasing the ever-vigilant regulatory bodies, combine to make the job of successfully managing these forces more of a black art than a true science. Oh yes, and all the while attempting to eke out some semblance of a profit!

The purpose of this publication is to help the Club Managers, House Committees, Boards of Governors, Board of Trustees and members of the Elks Lodges of Wisconsin to identify and understand the many areas of consideration that must be accounted for while operating the Lodge and it's food and beverage service

The contents of this publication are not necessarily all-encompassing. While some sections may contain suggested guidelines and some "how-to" discussions, it has been purposely constructed to be fairly general in the treatment of the presented topics. This decision was made so that the publication would be useful and at the same time not be so specific that the task of maintaining its currency and accuracy would require frequent, intensive effort.

Further, because each Elks Lodge is unique in its internal character and culture, no number of step-by-step, cookbook-style presentations will guarantee success. Using the contents of this publication as a foundation to build upon and framework to work within is the intent and recommendation of the publishers. The Wisconsin Elks Association Business Practices Committee encourages a flexible, interpretive adaptation of the principles contained herein by the person or committee assigned responsibility for their Lodge's club operation.

It is critically important that the reader understand that any discussion of legal issues as they pertain to a topic should not be construed in any way as professional advice. In other words, do not "hang your hat" on the contents of this publication in such sensitive areas as discrimination, harassment, and personnel policies. It must be the responsibility of each proprietor to seek out professional advice whenever faced with questions concerning the legality of a situation.

With these declarations and disclaimers in mind, the Wisconsin Elks Association Business Practices Committee hopes the readers of this publication will find its contents useful and thought provoking. Feedback about improving the quality and usefulness of this publication is highly encouraged. Revisions and additions to the publication's content will be made and distributed periodically as necessary to maintain currency, accuracy, and usefulness.

Where Can I Find Answers?

Introduction

As stated in the foreword, this publication makes no attempt to be all-encompassing, nor does it lay claim to be the final authority on issues that pertain to conducting a food and beverage operation. Although specific examples and guidelines may be highlighted, by no means do they represent every perspective concerning an issue. There are several additional excellent sources of information to utilize when questions arise. Several are listed below and doubtless there are others that an enterprising individual or Lodge will discover. It is only important that a thorough examination of an issue be made, more so than the exact means by which information is discovered and used.

Grand Lodge Publications

Manuals supplied to subordinate Lodges by the Grand Lodge offices often contain at least some of the answers to frequently asked questions, and there has been significant progress on the part of Grand Lodge to make their contents current and pertinent. For example, the Auditing Accounting and Management Manual contains up to date information about required tax returns, definitions of taxable unrelated business income, the budgeting process, internal controls, records retention and the like. As the Grand Lodge requires these manuals to be on Lodge premises at all times, they are frequently a good place to look first for needed information. In addition, they will often contain the official Grand Lodge statement of policy concerning the basic issue being investigated. For these reasons and others, be sure not to overlook Grand Lodge manuals as a basic source of information.

The Library

This is another easily overlooked source of information, and the sheer volume of books and periodicals devoted to pertinent business issues virtually guarantees that your public library will provide a wealth of useful answers to your questions. Best of all, it's free!

Business Associations

The Tavern League of Wisconsin and the Wisconsin Restaurant Association are two first-rate examples of business associations in which membership is a definite plus. Both groups act as 'watchdogs' for the interests of their members, especially as they relate to pending or just-enacted legislation that affect everyday business operations. Both publish a newsletter, hold meetings, and offer seminars; all vital sources of current information. Both supply an information hotline phone number for the use and convenience of their members. A sample Wisconsin Restaurant Association newsletter is found in the Appendix.

Since Grand Lodge discourages subordinate Lodge memberships in groups such as these and Chambers of Commerce, it is suggested that the Lodge's Club Steward, Manager, Head Chef, or Head Bartender obtain an individual membership. Because the Lodge directly benefits from this arrangement, it is also suggested that the Lodge reimburse the employee for their membership dues. In some cases, it may be appropriate to reimburse them for mileage associated with attending various meetings or seminars. At the very least, a membership in either group will get the Lodge onto its newsletter circulation list, which is invaluable in and of itself. In the case of the Wisconsin Restaurant Association, the member also receives a periodical devoted to the foodservice industry. Many additional services and products are also available to members of the WRA free or at minimal cost, including forms for uniform cost deductions and the like.

The Internet

Many private and government concerns maintain an Internet page (or "Web site") which helps supply a source of information for often-asked questions. The main benefit of taking advantage of this service is the fact that it is available on-demand, virtually around-the-clock. Especially in the case of government regulatory agencies, which seem to be perpetually understaffed, answers to relatively simple questions can often be gotten more quickly using this method over telephone or postal contact methods.

Below are listed some Web sites that have been found particularly useful as they relate to issues germane to an Elks Lodge. Bear in mind that these sites may change address or cease to exist altogether at some point. Also consider that this list is very likely the mere "tip of the iceberg"; it's a virtual certainty that additional useful sites already exist and will continue to be created in the future.

Be sure to double-check the accuracy and currency of information. Web sites can be wrong just as any other media source can be wrong. Misinformation can be accidental or intentional without the reader's prior knowledge; the distinction between fact and opinion can sometimes blur. Government sites, as a rule, tend to be more trustworthy in this regard.

<u>Elks Grand Lodge</u> - WWW.ELKS.ORG - The Grand Lodge of The B.P.O.E. maintains an easy-to-use Web site that contains current and useful information, an online version of the Elks Magazine, resource areas for members, and links to other interesting sites including State Association and Subordinate Lodge Web sites.

<u>Internal Revenue Service</u> - WWW.IRS.GOV - This site is loaded with information. IRS news and breaking developments, publications and forms, electronic services, and help/feedback sections are all available at this site. One particularly powerful offering is a search service. It can help the reader to quickly "zero in" on topics of interest. For

example, a search using the phrase "unrelated business income" turns up over 70 "hits" which can be individually explored.

State Of Wisconsin - WWW.WISCONSIN.GOV - Another site with a lot of valuable content. Particularly useful is the list of links to state agency pages. The state Department of Commerce, Labor and Industry Review Commission, Department of Regulation and Licensing, and Department of Workforce Development (formerly DILHR) are all listed here, as well as many others. There are also links to other governmental units at the federal, county, and municipal levels. A screen sample of the agency page list may be found in the Appendix.

Milwaukee Journal-Sentinel - WWW.JSONLINE.COM/BYM/ - The Milwaukee Journal Sentinel newspaper has a very information-rich Web site. In particular, their seven-page business resources section is chock-full of pertinent links to security exchange sites, tax-related private and government sites, small business resource sites, and several more. Screen samples of this site may be found in the Appendix.

U.S. Small Business Administration - WWW.SBAONLINE.SBA.GOV - The "Online Library" and "Offices & Services" options are just two of the several useful areas you can access from this site. A monthly newsletter called "The Small Business Advocate" is available by using the "Advocacy" option. This is a government site that's very practical in its approach to business informational needs.

Consumer Information Center - WWW.PUEBLO.GSA.GOV - Remember all those late-night TV spots that gave you the address in Pueblo, Colorado to write requesting a free catalog of federal publications that were available? Well now this information, and much more, is online. Especially useful are the "Small Business", "Employment", and "federal Programs" options. You can read the publications themselves at this site, or you can order the printed version. There are many links to other government and private sector sites, which are related to your topics of interest. One called 'The Small Business Exchange" has a lot of information that can be put to practical use right away.

Search Sites - WWW.YAHOO.COM", "WWW.ALTAVISTA.DIGITAL.COM", "WWW. EXCITE.COM" - These are just three of the more popular "search engine" sites. What they do for you is search their vast database of Web sites for the ones that contain a phrase or collection of keywords that you supply. The resulting list of "hits" can then be explored. Finding information this way can sometimes be roundabout and time-consuming, but can also reward those who have patience with some sites that will prove their worth many times over.

Lodge Members

Consider the possibility that your own members can often share their experience and knowledge, and that they are often delighted to serve their Lodge by doing so. Our Order has long been known for its many members who are business entrepreneurs. Perhaps they are directly engaged in the type of business that deals with the issue at hand on an everyday basis. Perhaps they have a relationship with someone else within or outside your Lodge who can help you. Don't be afraid to ask!

Professional Advice

Matters that pertain to the legality of an issue or liability for a situation are examples of times when Lodges should seek out professional advice. There will be times that there is no practical substitute for trained, experienced professional help. Again, there may be members in your own Lodge who can guide you when a question such this arises. It's not fair for you to expect them to act as your unpaid advocate time and time again, but many times these members are the ones to ask when you're not sure about the need to hire and consult with professionals.

Computerization

Introduction

Computerizing certain aspects of the operation and management of a Lodge and club holds out the promise of increased accuracy and timeliness of information with a decrease in the effort required to attain these goals. This is generally a realistic view of the benefits of using computers in any business.

However, it is also easy to overstate the potential benefits and underestimate the amount of time and effort required to prepare and maintain information stored by a computer. Understanding the magnitude of the investment of time and money required to install and maintain a computer system is important to the ultimate success of the project. Equally important is managing the expectations of the people who will be the hands-on users of the system(s) and the people who depend on information from the system(s) to assist them in their job responsibilities and duties.

What to Computerize?

There are two primary areas of an Elks Lodge that usually seem obvious targets to most people for applying computerization. Often an area that receives attention in early discussions about this topic is club finances and the related area of product inventory. "If we could just get a handle on where our money comes from and where it goes," the prevailing train of thought states, "it would be easy to make decisions about what needs to be improved and changed. We'll get a computer to keep track of these things."

Another area, and one that often receives secondary attention, is the Lodge Secretary's responsibilities. A great deal of the Secretary's energy is devoted to maintaining membership records and accessing them for mailing lists, reports, etc. While a manual system based on the Grand Lodge ledger cards has been in use for decades and is workable, the time spent on maintaining records in this manner is enormous, even in a relatively small Lodge. A system of this type is inadequate for producing mailing lists and labels, and of limited value for producing selective membership lists such as PER's, Old Timers, and the like. Add the yearly task of filing the change-of-address report required by the Elks Magazine, and it becomes easy to envision the savings of time and effort that a computer would make possible.

The Secretary's Office

The Secretary's office is probably the best place to get started with a computer in a Lodge if the decision is made to proceed. The investment in software is relatively small ($100-$400), and the increased ability to easily produce many of the reports and lists dealing with membership early in the life of the system provides a very good cost/benefit ratio.

Another reason for this recommendation is that the Secretary's duties are generally easy to recognize and define. This makes it a low-risk situation to see if Lodge officers will be comfortable with working on a computer. It affords them the chance to accustom themselves to a particular system and gain experience with using it. By starting out in a fixed, small-scale scope of use, the Lodge leadership team will recognize that using computers requires a certain investment of time, and then decide whether to apply what they've learned to club and Lodge finances.

It also provides a chance to expose club management and staff to a computer and judge their level of acceptance to the idea that a computer might assist them in some of their duties. The feeling-out process can take place well before any decision is made to expand the computer's use into the club operation area. This will help greatly to head off sudden, unexpected resistance to a computer system that the club operation employees had no advance warning about and possibly had no voice in choosing.

Lodge And Club Finances

The decision whether or not to computerize Lodge and club finances should be made carefully. It should be studied in detail and should consider several factors before proceeding with an installation plan. Dealing with abstract ideas of the costs and benefits will make a successful implementation very difficult to achieve. Concrete expectations of what tasks the system will assist with and the information it will provide is a must. These expectations will help provide criteria against which various systems can be judged during the selection process.

Knowing what the system is expected to do and what it will provide will also go a long way in identifying what kinds of information will be required to be input into the computer. A computer system cannot automate a task or produce a report without raw information to process. Probably the biggest potential pitfall that needs to be avoided at all costs is underestimating the amount of time and effort that will be required for data entry. For example, if a computer system will be expected to produce a complete accounts payable list for vendors, each and every vendor invoice must be entered into the computer first.

The level of detail required for the input process will depend on other system expectations. For example, if the computer system will be expected to maintain a perpetual inventory, each invoice line item quantity will need to be entered. If this amount of detail is not a requirement, it is possible that the invoice total dollar figure is all that needs to be entered. Regardless of the level of detail, the number of vendor invoices per month needs to be examined. A reasonable estimate of the time required for data entry can then be arrived at. At some point, the person or persons responsible for this data entry will also have to be determined and designated.

If the system is expected to issue vendor checks, the number of checks written in an average month should be determined, and a corresponding time estimate recorded. Again, if this function is a requirement, designating the person who will be responsible for the task must be done.

This process of determining requirements is actually a systems analysis. If a Club Manager or House Committee or Board Of Governors decides to seriously consider computerizing their financial systems, it would be a mistake to overlook the possibility that a member trained in systems analysis or experienced in using PC-based financial systems might be available and willing to help evaluate a proposal.

Speaking strictly from the perspective of Grand Lodge statutes, maintaining the financial status of any club or Lodge is actually the job of one person – either the Lodge Treasurer or the Lodge Secretary. The primary user of any computerized financial system is the Treasurer and the Secretary. They will ultimately be responsible for maintaining the accuracy of the information stored in the computer, even if others are designated to perform data entry tasks.

Regardless of who the primary user of the system will be, it is very important that they be involved in the decision-making and selection process. After all, no system can be considered a success if it is disliked by its primary user, or not used for a particular function because it is difficult to do so.

Selecting Software and Hardware

Simply put: Software determines hardware. Software that's chosen will always specify a minimum hardware configuration necessary in which to run. This configuration serves well as a starting point for determining the final configuration of the computer that will serve the Lodge's needs. Trying to determine hardware capacity and power before choosing software is likely to lead to a purchase of a computer ill-suited for the task(s) intended.

Membership Software

There are a number of choices for membership software that will assist the Secretary. The Grand Lodge does not directly sell nor specifically recommend membership software. However, they will supply a list of software vendors that offer these products. Features that Lodge Secretaries find particularly useful include creating mailing labels and lists, quarterly membership reports, Old-Timer, PER, and officer lists, and the ability to create an update diskette in approved format for the annual Elks Magazine audit. It is recommended that a program specifically designed to meet the needs of Elks Lodges be purchased rather than a more general-purpose membership tracking system designed for any organization, club, or church.

Financial Software

For financial software, the membership software vendors sometimes offer accounting-type packages also. However, considering the limited amount of information sharing that membership and financial reporting require and the relatively high cost of these packages ($200-500), they are not the recommended alternative.

Instead, consider some of the popular small-business financial packages such as Peachtree or QuickBooks. Besides the lower purchase cost ($50-$150), these packages offer the advantage of having hundreds of thousands of installed sites. Because they are so popular, it is easy to find others who use the package and you can compare experiences and share tips in their use. These packages also tend to be very bug-free, offer a technical support hotline, and are updated on a frequent basis. In addition, they offer an accompanying set of forms, checks, and even windowed envelopes to make disbursements and payroll processing part of the entire computerized process.

Other Software

There are some other tasks that computers can help with. Large institutional food and beverage purveyors, such as SYSCO Foods, offer software that not only helps break out the cost and gross profit for per-plate menus, but also helps in the ordering process by printing out an order list or actually dialing the parent company and transferring order information electronically.

Internet access is growing in commercial importance every day. While the benefits of conducting business over the Net may not be clearly defined today, the progress in this direction seems inexorable. Some day, your Lodge may be sending correspondence not only to members, but also to other businesses, other Lodges, and possibly to the Grand Lodge, using Internet facilities.

It is not necessary to purchase Internet browser software separately. Internet Explorer by Microsoft is included with their Windows 95 operating environment. Internet access companies, such as the local telephone company or America On-Line, offer free software when you contract for their services.

Hardware

In determining the desired hardware configuration, don't forget to consider relatively low-cost accessories like a modem for connecting to the Internet, a vendor's bulletin board, or an on-line order placement service. As a rule of thumb, get the fastest modem that the local Internet access provider supports. Don't worry about other services or sites being slower that this speed. Modems are able to adjust their speed downward to match that of the modem to which they connect.

When choosing printers, gauge the need for features with the amount of purchasing power your budget allows. For example, if the computer will not be used for desktop publishing of newsletters or flyers, a laser printer is probably not necessary and an ink-jet printer will suffice.

If the computer in question is to run Lodge or club financial software, a tape backup system is an accessory that is well worth the money. It would be foolhardy to invest the money, time, and effort in a system upon which the Lodge and club depend completely for their financial record keeping, and then losing all the data because of a failed hard drive. A tape backup system used faithfully and regularly will prevent the permanent loss of critical data when a hardware failure occurs. These accessories are reliable and represent a small incremental increase in the overall investment made in a computer system. An alternative is using the computer's floppy disk to make backups. In either case, backups are absolutely necessary and should be kept off-site, or in a fireproof safe.

Monitor sizes, hard disk drive capacities, amounts of RAM memory, CD-ROM drives, and multimedia sound accessories are issues where the decision process is mostly subjective. Much of what drives these decisions is monetary, although the software that is to be run and whether or not Internet access capability is desired will make certain minimum configurations mandatory. Consult with an experienced user in these areas, ideally a Lodge member if possible. Buy your computer like you would buy a car. "Doing your homework" before shopping will maximize what you get for your money and result in a good fit for your budget and needs.

Conclusion

Introducing a computer into the Lodge can benefit several people in many different ways. It is not a panacea for proper internal procedures and controls. The degree of success the Lodge will experience with the installation of a system will frequently depend upon the strength of procedures and controls already in place. Properly studying the needs and expectations from a computer system and then matching them to software and hardware should result in a positive experience. It is also important to involve the hands-on users of any system in the decision-making and selection process. Do not expect to computerize all possible tasks at once, but implement computerized solutions gradually and systematically, building success in one area upon the foundation of experience gained from another.

Safeguard your data! Don't skimp on proper backup devices and procedures, especially if your financial records are kept on the computer. It would not be considered "overkill" to back up twice daily, with the day-end backup going to a bank safe-deposit box or similar secure facility. Wherever backups are kept, consider how safe they are from fire, flood, theft, and other catastrophe.

Employment Policies

Introduction

Consistent, published policies that clearly state employer and employee responsibilities in the workplace will greatly reduce adversarial situations and help produce an enjoyable, productive work environment. These policies should cover, but not be limited to, the following: Workplace Safety, Hiring Practices and Discrimination, Pregnancy Leave, Employee Disabilities, Employment of Minors, Unemployment Compensation, Minimum Wage, Overtime, Harassment, Performance Reviews, Disciplinary Procedures, and Job Descriptions.

Workplace Safety

Safe working conditions are expected by everyone, but sometimes receive little attention until an accident occurs. The result is not only in the temporary and sometimes permanent loss of an employee; it also contributes directly to higher Workers Compensation claims and premiums.

Be sure to follow all Occupational Safety and Health Act (OSHA) requirement. See Section 4 for more information pertaining to OSHA requirements. OSHA mandates are federally enforced, and there is no variance from state to state.

It is the employer's responsibility to provide necessary training in the safe and proper operation of equipment. Many equipment-related accidents are the result of improper or inadequate training in its proper use, rather than an equipment failure. Make sure employees receive the training they need before allowing them to operate equipment while unsupervised. In addition, make sure the equipment itself conforms to the manufacturer's standards for maintenance and safe operation.

Periodically inspect your workplace, looking for potential hazards. Are products and supplies stored safely? If they are out of ordinary reach, is there a safe way to access them, such as a sturdy ladder? Are all safety devices, such as fire suppression systems and extinguishers, in proper working order? Are appliances clean and properly maintained? Looking at your facilities with a critical eye will help identify potential problems and corrective measures before they lead to an accident.

When evaluating your workplace for its safety level, be sure to solicit the opinions and ideas of your employees. Actively involving them in your safety awareness program helps to reinforce a safety-first attitude and will further help to identify potential problems before they become real problems.

Hiring Practices and Discrimination

Wisconsin Elks Lodges are employers and have the responsibility to provide a positive atmosphere for their employees, members, and guests alike. They are bound to abide by federal, state, and local laws in the treatment of current and prospective employees.

When interviewing an applicant, avoid "loaded" questions. Employers have the right to ask questions that will help them determine the best-qualified applicant for the job. Likewise, there are several areas to which they cannot legally direct their questions. Some questions that have been considered "traditional" may be illegal, or interpreted as discriminatory under Wisconsin's Fair Employment Law and other laws. Refer to Wisconsin Equal Rights Pamphlet *Fair Employment Law #1 In A Series*.

(Throughout this section, we will reference these pamphlets; they can be found on the Internet at WWW.DWD.STATE.WI.US/ER/DISCRIMINATION_CIVIL_RIGHTS/PUBLICATIONS.HTM)

Some examples of interview questions that may be asked and should be answered by the applicant:

Where have you worked before?

What duties did you perform on previous jobs?

What are your short and long term career goals?

Why are you interested in this job?

What education level have you completed?

How did you learn about this job?

What is your Social Security number?

Who is prepared to provide references for you?

What is your address and phone number?

What special qualifications or skills do you have?

What are your greatest strengths and weaknesses?

Tell me about yourself.

Are there questions I can answer about this job or organization?

Do you have a license to perform this job? (If required)

Note that these types of questions focus on the job, the specific qualifications required for it, and the applicant's career goals.

Some examples of interview questions you should not ask and the applicant is not obligated to answer:

Are you married?

With whom do you live?

Do you have children or expect to have any soon?

What does your spouse do?

How old are you?

Were your parents born in this country?

How old are you? (But you may ask if they are legally old enough to work)

Have you ever been arrested? (But you may ask for information about criminal convictions)

Are you physically handicapped?

What is your military service status?

What is your height / weight? (But you may ask if the job has height or weight requirements.)

What memberships do you hold in social, religious, and community groups?

Where do you bank?

What are your day care arrangements for children?

Note that the above questions delve into the applicant's personal life and are not legitimate occupational questions.

Word your questions carefully, making sure they relate directly and specifically to the qualifications for the job for which the applicant is interviewing. Be sure to check the applicant's references, either by phone or mail. If the applicant is not selected, let them know as soon as possible but do not feel obligated to address specific reasons for their rejection.

Another point to make - if you are using an employment application form that is over 2 years old, you are probably asking questions that are illegal. Go out to the local office supply store and buy some current applications. Also, if you are not using employment applications, you are playing with fire. An employment application is a guide to questions you can ask and leave out the questions you can't. Not using one is only inviting those who are interviewing to ask discriminatory questions.

Sections 111.31-111.395 of the Wisconsin Statutes provides that it is unlawful to discriminate against employees and job applicants because of their:

SEX	USE OF LAWFUL PRODUCTS
COLOR	ARREST OR CONVICTION RECORD
ANCESTRY	HONESTY TESTING
DISABILITY	NATIONAL ORIGIN
MARITAL STATUS	PREGNANCY OR CHILDBIRTH
RACE	SEXUAL ORIENTATION
CREED (religion)	GENETIC TESTING
AGE (40 or over)	MILITARY SERVICE MEMBERSHIP

This law applies to employers, employment agencies, labor unions and licensing agencies.

Employers may not require certain types of honesty testing or genetic testing as a condition of employment, nor discipline an employee because of the results.

Employees may not be harassed in the workplace based on their protected status nor retaliated against for filing a complaint, for assisting with a complaint, or for opposing discrimination in the workplace

See appendix for a copy of the above poster regarding Wisconsin's Fair Employment Law, which needs to be posted in your lodge where your employees will see it.

Pregnancy, Employment, And The Law

Any procedure that treats pregnant employees less favorably than other employees who have temporary disabilities is sexual discrimination, according to state and federal laws. It is illegal for an employer to use pregnancy as a reason to take any personnel-related action that would otherwise have not been taken. These actions include layoff, reduced responsibilities, or reduced pay. Refer to Wisconsin Equal Rights Division pamphlet *Fair Employment Law #2 In A Series*.

Persons With Disabilities On The Job

This law applies to virtually every private and public employer, regardless of the number of employees, and protects persons with disabilities against discrimination. A person with a disability may be passed over if the disability is reasonably related to the person's ability to adequately and safely perform job-related duties. An employer has a legitimate interest in maintaining a safe workplace, but may not reject applicants simply because they have disabilities. An employer is required to make a reasonable accommodation for disabilities unless it would result in hardship to the business.

Examples of reasonable accommodations would include installing a ramp for wheelchair access, equipping restrooms for disabled access, installing special telephones, raising or lowering the height of a desk or chair, providing reserved parking areas, etc. Refer to Wisconsin Equal Rights Division pamphlet *Fair Employment Law #4 In A Series*.

Employment Of Minors

Any person under the age of 18 must have a work permit. Work permits may be obtained from one of the state child labor permit offices. Most of them are located in school administrative offices.

Employers of minors are subject to certain restrictions when scheduling those minors to work. The time of day when they may be employed, including how early and how late, and the number of hours that they may work per day and per week are all regulated. These restrictions depend on the age of the minor and whether or not school is in session during the period they are employed. Only high school graduates and other minors who are exempt from school attendance may be employed the same hours as an adult. Although a given minor's required school hours may differ from another minor's required school hours, no minor may be allowed to work during hours they are required to be in school.

In addition to the hours and time of day restrictions, all minors must have at least a 1/2-hour meal break if they work more than 6 consecutive hours

See the Appendix for a schedule of hours and time of day minors may work, and also a copy of Department of Workforce Development's Chapter DWD 270 - regarding child labor laws.

Unemployment Compensation

Unemployment compensation is based on the number of workweeks during the past year from the date of filing. Do not be confused between definitions of full time, part time, temporary work, or probationary periods. The workweek depends solely on hours worked and wages earned. If an employee is subject to layoff for disciplinary reasons, be sure that the progressive disciplinary theory has been carried out. To get information assistance in the Madison area call 608-232-0824; in the Milwaukee area call 414-438- 7713; or call toll-free 800-494-4944.

Minimum Wage

At the current time, the Wisconsin minimum wage is the same as the federal minimum wage – $5.15 per hour in most instances. There is a lower minimum wage for "opportunity employees" ($4.25 per hour). An "opportunity employee generally is one who is not yet 20 years old, and is employed 90 days or less from the date of initial employment. There is also a lower minimum wage allowed where employees earn tips to augment their wages ($2.33 per hour). Where the employee earns the lower wage because of tips, the total of the wages plus tips still needs to get up to $5.15 per hour. A poster is available, WH Publication 1088, which outlines minimum wage provisions and must by law be posted where all employees can see it. Contact the nearest Wage and Hour Division office of the Labor Department to obtain this poster. It can also be viewed via the Internet at the following address: WWW.DOL.GOV/ESA/MINWAGE/MAIN.HTM.

Overtime

The Wisconsin overtime law applies to all employers except agriculture, private domestic/companion work, and some non-profit organizations (Elks Lodges are not exempted).

Employers may demand that adult employees work overtime. Employers may reduce or increase the hours of work in any given day or week. Overtime pay means time and one-half the regular rate of pay times the hours actually worked over 40 in any week.

A week is considered to be the established reoccurring 7 consecutive day periods. It is against the law for employers and employees to agree not to pay overtime. Hours paid for time not worked such as sick leave, vacation or holidays not worked do not count as hours worked for computing overtime pay.

Persons Exempt From Overtime in Certain Businesses and Circumstances as Provided In DWD 274.04:

(1) Persons whose primary duty consists of Administrative, Executive, Or Professional Work.
(a) "Executive" means an employee employed in a bona fide executive capacity who meets the following criteria:

1. Whose primary duty consists of the management of the enterprise in which he or she is employed or of a customarily recognized department or subdivision; and

2. Who customarily and regularly directs the work of 2 or more other employees; and

3. Who has the authority to hire or fire other employees or whose suggestions and recommendations about the hiring, firing, advancement or promotion or any other change of status of other employees will be given particular weight; and

4. Who customarily and regularly exercises discretionary powers; and

5. Who does not devote more than 20% (or in the case of an employee of a retail or service establishment who does not devote as much as 40%) of his or her hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in sub's. 1 through 4 provided, that this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch or establishment, or who owns at least a 20% interest in the enterprise in which he or she is employed; and

6. Who is compensated for their services on a salary basis at a rate of $700 per month or more.

b. "Administrative" means an employee employed in a bona fide administrative capacity that meets the following criteria:

1. Whose primary duty consists of the performance of office or non-manual work directly related to management policies or general business operations of his or her employer or the employer's customers, or

2. Who customarily and regularly exercises discretion and independent judgment; and

3. a. Who regularly and directly assists a proprietor, or an employee employed in a bona fide executive or administrative capacity; or

b. Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

c. Who executes special assignments and tasks solely under only general supervision; and

4. Who does not devote more than 20% (or in the case of an employee of a retail or service establishment who does not devote as much as 40%) or his or her hours worked in the workweek to activities that are not directly and closely related to the performance of the work described in sub's. 1 through 3; and

5. Who is compensated for his or her services on a salary or fee basis at a rate of $700 per month or more.

Harassment

The wise employer thinks "prevention", seeking to understand what sexual harassment is, how it can affect the workplace, and how to prevent or stop it. This is important because employers may be held liable whether or not they knew or should have known about inappropriate conduct. By definition, sexual harassment comprises any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature. It is illegal when it is either an implicit or explicit condition of employment, factors into employment decisions such as the granting of a promotion, unreasonably interferes with work performance, or creates a hostile, intimidating, or offensive work environment.

Offending behavior can come from fellow employees and non-employees, including Elk members and their guests. It can be verbal, non-verbal, written, or in the form of touching - anything that demeans or degrades an employee because of gender, male or female. Nonverbal behavior could include displaying suggestive or pornographic pictures or cartoons, staring, sexual gestures, or throwing kisses. Verbal behavior could include unwanted requests for dates, questions about one's personal life, lewd comments, dirty sexual jokes, inappropriate comments on appearance, and catcalls or whistling. Written materials may include unwanted love poems, letters or cards, even e-mail with a sexual tone.

To prevent and stop sexual harassment, it's important to develop and distribute a clear sexual harassment policy as part of a manual that outlines specific inappropriate conduct. It's also important to establish a complaint procedure that enables employees to call specific people - other than the employee's immediate supervisor - within the organization when there is a problem. Having a complaint procedure can reduce the chances of liability. (See the appendix for The Sample Harassment Policy from the Wisconsin Equal Rights Division. Every employee should see this, both current and new. Also, It should be posted so that the membership can see it also, as it affects them as well.)

Educate all employees on the issue, making sure they know they have a right to complain and how to do it. Supervisory training should include the topic of harassment and what to do about it. An employer will always be held liable for the acts of a supervisor, regardless of whether they were authorized or forbidden and regardless of whether the employer knew or should have known of their occurrence.

If a complaint is made, it should be taken seriously. It should be investigated immediately, as thoroughly and confidentially as possible. Confront the alleged offender to get his or her version, and then separate the complaining employee from the alleged offender until the matter is resolved. Make sure no retaliation occurs as the result of the complaint.

If corrective action is indicated, discipline the offender in accordance with the procedures set forth in your sexual harassment policy statement. Make absolutely no exceptions to the fair and even application of these procedures. If corrective action was taken, follow up to make sure the harassment has actually stopped.

Refer to Wisconsin Equal Rights Division pamphlet *Fair Employment Law #2 In A Series.*

Performance Reviews

This responsibility is frequently mentioned as one of the most uncomfortable for supervisors, and typically both employer and employee dread the performance review process. Yet, with a well thought- out procedure in place to which the employer and employee both contribute, the review can become an important tool to fully develop staff skills.

The cornerstone of an effective employee development process is a document that lists major job objectives or key responsibilities, the expectations or standards for them, and the degree of success to which the employee attained them. A sample of a document that can be used for this purpose is found in the Appendix, titled "PERFORMANCE PLANNING AND DEVELOPMENT".

A document such as this serves a number of very useful purposes. First, it allows the employer and employee to jointly develop a specific list of duties and skills that identify ongoing accountabilities. Second, it provides a method to jointly set specific goals for improvement of current skills and acquisition of new skills. Third, it provides a structured framework from which to conduct a performance evaluation by using an objective list of evaluation criteria. Fourth, it provides a specific list of topic areas pertinent to the employee and the job that can serve as the basis of discussion. During the evaluation, a new copy of the form should be completed to reflect the same information for the ensuing period.

An example of a job description for the position of Club Manager may be found in the Appendix.

A document that describes how, and how often, the performance review will be conducted is an important part of the employer's policy manual. An example of this type of document is found in the Appendix, titled "PERFORMANCE REVIEW PROCEDURE". Clearly declaring the purpose, frequency, and responsibilities of all parties involved in the review will leave little room for misunderstandings or errors of omission. Consistent application of the statements made in this document is the key to its effectiveness.

Each Lodge must decide how to conduct their performance review process. When the final procedures have been developed, they should be included in a policy statement that is always on file and is distributed to all current and future employees.

Disciplinary Procedures

This is probably one of the most delicate and sensitive responsibilities of a manager or supervisor. It is seldom a pleasant experience for the employer or employee. Because disciplinary actions can lead to termination, care must be exercised to consistently follow prescribed procedures or the terminated employee may seek legal recourse, claiming the termination was unfair, unjustified, or discriminatory.

Current popular sentiment favors a procedure known as "progressive disciplinary theory". Under this practice, specific infractions that justify disciplinary action are described along with the action taken for the first, second, third, etc. violation of the work rule. Some infractions may be considered more "minor" than others and thus actions taken for repeated violations are "progressively" more severe. Labor arbitration and hearing bodies favor this type of disciplinary approach when it is applied and documented consistently.

All instances of work rule violations and resulting disciplinary actions must always be documented and kept in the employee's personnel file. This will help avoid litigation over the application of disciplinary action, and provide the basis for defense against a charge of unfair treatment or termination.

Lodges are encouraged to adopt and carry out this type of discipline policy. Because the job descriptions and duties of employees vary greatly from Lodge to Lodge, it is practically impossible to use any form of standard policy. Lodge managers may refer to books, examples obtained from area businesses, or even specially developed computer software to help them develop their own policies and procedures in this area. Failure to create a disciplinary policy and consistently enforce it can lead to a negative workplace environment with unmotivated and unhappy staff.

Job Descriptions

Job descriptions that address the specific duties of all employees, no matter how "major" or "minor", should be on file in each Lodge and distributed to all employees. These will help provide the basis for performance review criteria, employee development, and in some extreme cases, disciplinary action. Without an appropriate job description, it can also be difficult to identify the best-qualified candidate for an open staff position.

An example of a detailed job description can be found in the Appendix, titled "JOB DESCRIPTION: CLUB MANAGER". Because of the individuality of each Elks Lodge, the Lodge should expect to develop their own descriptions to fit their staffing arrangement. Here again, referring to books, other examples, and computer software will prove helpful.

Employee Handbooks

All Lodges should have employee handbooks. An employee handbook spells out: benefits, policies of the Lodge, work hours, personal conduct, conditions of employment, termination of employment, etc. A well written employment handbook can take out a lot of the uncertainty in an employees mind, and in a lawsuit. With a employee handbook, there is also a chance that it is not well written, that it can be used against the lodge in a court of law. Some tips on employee handbooks from lawyers:

- Avoid using general phrases such as "employees may only be terminated for cause".
- Avoid phrases such as employment continues so long as the employee "does a satisfactory job".
- Say what you mean and mean what you say.
- State that the employee relationship is an at-will relationship and can be ended at any time.
- Don't make reference to long-term employment, uninterrupted employment, continuing employment.
- Make sure supervisors know the terms and procedures in the handbook and follow them.
- Don't make promises to employees in the handbook.
- Update handbooks and review them periodically.
- Make sure employees receive copies of changes and modified handbooks, and that they acknowledge receipt of the handbook.

Tips and Service Charges

Tips and services charges received by employees of the Lodge generally are taxable income to the employees, and the lodge needs to report the income on the employees W-2, and also withhold payroll taxes from the amount reported.

A distinction needs to be made between **tips** and **service charges**: A tip is a "free-will offering", such as the cash left on the dining room table or left in the jar of the bartender. The customer is free to give what they want, even free to leave no tip at all. Tips also include tips left on a credit card, as long as they are "free will offerings". A service charge is one that is not a "free-will offering". Examples of service charges are the standard percentage added to a dining bill when there is a party that is over a certain number of guests; or a charge put on the beer kegs at a wedding, with the money going to the bartenders. The customer does not have a choice in paying the charge because the charge is added on automatically.

All tips received by an employee are taxable income subject to federal income tax. All tips paid in cash (or checks or other cash equivalent, including charged tips of $20 or more that an employee receives in a calendar month while working for any one employer are wages subject to Social Security and Medicare taxes, FUTA, and income tax withholding.

Tips of less than $20 received by an employee during a calendar month while working for a particular employer are not wages for Social Security and Medicare taxes, FUTA or federal income tax withholding purposes, even though such tips are taxable income (Which means that the employee should still report the tips on his/her personal tax return, but the employer is not required to withhold taxes, nor report on the employees w-2).

Once the amount of tips received in a calendar month reaches $20 from any one employer, the entire amount of tips received is included in wages, not just the amount over $20. An employee who receives $20 or more in tips must report those tips in writing to the employer by the tenth day following the month in which the tips are received. The employee should use the Form 4070 to report these tips to the Lodge (See Appendix for a copy of the Form 4070).

Service charges should automatically be added to the employees' W-2's, with corresponding withholdings taken out of their paycheck.

Common sense would dictate that each employee who receives tips should have the IRS rules explained to them - regarding their duty to report tips to the Lodge.

Large employers (Those employing 10 full time employees or more on an average day, and where tips are customarily given) have a higher reporting duty to the IRS. They must annually file the form 8027 (Employer's Annual Information Return of Tip Income and Allocated Tips – see Appendix for a copy of this Form).

Large employers also have to make sure that the tips claimed by the employees' equals at least 8% of the Gross Sales. If they don't equal at least 8%, the Lodge needs to allocate income to the employees, as if they had received it, to get the tips reported up to the required 8%.

Available Posters

The following posters are available and are required to be posted in a clear location in the workplace.

"Wisconsin's Unemployment Compensation Law" – available from Unemployment Compensation Office, PO Box 7905, Madison, WI 53707, 608-266-8958.
"Minimum Wage Rates for Adults and Minors", "Wisconsin Fair Employment Poster", and "Notice of Employees Rights under the Wisconsin Family Leave Act" – Available from The Equal Rights Division. See below.

It is highly recommended that Lodges become knowledgeable about the information listed. Pamphlets and posters can be obtained directly from the Wisconsin Equal Rights Division, 201 E. Washington Avenue, PO Box 89238, Madison, WI 53708, 608-266-6860; and from their Milwaukee office at 819 N. 6th Street, Room 255, Milwaukee, WI 53203, 414-227-4384.

Pamphlets are also available from any local office of the Wisconsin Department of Workforce Development. Requests for information pertaining to unemployment compensation should be directed to the Unemployment Compensation Division.

OSHA Requirements

General Information

OSHA is an acronym for the Occupational Safety and Health Act. It is codified in the CFR (Code of Federal Regulations) section 1910.xxxx. This information is readily available in most public libraries, in the reference section. Typically, OSHA codes are referenced as follows: Blood-Borne Pathogens 29 CFR 1910.151.

Covered Subjects

OSHA was first created to provide safer working conditions in mines and the heavy manufacturing industry. It has now been expanded to cover virtually every workplace in the United States. OSHA codes cover all of the following subjects:

Fall Protection
Hearing Conservation
Blood-Borne Pathogens *
Hand Protection *
Respiratory Protection
Eye Protection *
Foot Protection *
Personal Protective Equipment *
Ergonomics *
Lockout/Tag out *
Safe Lifting *
Electrical *
Chemicals *
Confined Spaces *
First Aid *
Hazard Communication (Right-To-Know) *

* - Indicates OSHA codes which may typically apply to Elks Lodge "club" operations, including bar, dining room, kitchen, bowling lanes, etc.

This list is not all-inclusive, and not all OSHA codes apply to all Elks Lodge club operations. The State of Wisconsin, Department of Commerce (formerly Department of Industry, Labor, and Human Relations, or DILHR) has adopted virtually all the OSHA codes as Section 32 of the ILHR Administrative Codes. Administrative codes have the same force as law.

Employer Responsibilities

Employers are responsible for training their employees in safe work practices, and to provide proper personal protective equipment as required by law or by work place conditions. Records of the training given, citing the specific OSHA section the training pertains to, the date, trainer name, and trainee's name, must be kept available for inspection. Failure to train is a violation of OSHA codes.

Right To Know – MSDS

MSDS is an acronym for Material Safety Data Sheet. These sheets explain the hazardous contents of workplace products as determined by OSHA. MSDS contain ratings of the products in three main areas: Health, Flammability, and Reactivity. Information about exposure limits, route of entry into the body, target organs, cancer rating, and recommended emergency first-aid is included in the MSDS health section.

Employers are required to maintain MSDS records in an area where they are readily available to all employees. Though this may sound like an overwhelming task, it is not difficult to obtain all necessary MSDS information. All institutional vendors are required by law to make MSDS documents available on request to their customers. The Lodge needs only to ask their vendors for MSDS information that applies to all covered products they purchase! All MSDS must be kept for 30 years, even if the product or chemical is no longer being used or stored on the premises.

Required Licenses

Licensing is a task that can be easily forgotten or overlooked. The typical Elks Lodge conducts many activities that require Federal, state, city, or county licenses. Be sure that all licenses are renewed on time and are displayed in accordance with the rules of the licensing agency. Listed below are several licenses that the "typical" Elks Lodge will need to legally conduct activities on their premises. This list may not be all-inclusive so if there is any question about the need for a license, contact the City or County Clerk in your community.

Local Licenses

Local municipalities generally issue licenses to sell alcohol and cigarettes, renewable annually.

The local municipality, renewable, can issue a restaurant license annually.

Some cities or counties require a separate dance license, renewable annually.

Some cities or counties require licenses for amusement machines, such as arcade-style pinball or video games, renewable annually.

If the Lodge operates a bowling center, golf course, swimming pool, health club, RV park, or other facilities of this nature there are probably additional licenses to acquire.

Contact the City or County Clerk in your community for detailed information.

State Licenses

Every place of business must have a state-issued Seller's Permit for Sales Tax. (One exception is for an Elks Lodge that has gross receipts from sales of personal tangible property and taxable services of less than $15,000 in a year, although there is no exemption for receipts from a bingo game.) Contact the Wisconsin Department of Revenue at PO Box 8902, Madison, WI 53708-8902.

If there is a commercial boiler on the premises, it must be registered with the Department of Industry, Labor, and Human Relations (DILHR), Safety and Buildings Division, PO Box 7969, Madison, WI 53707, telephone 608-266-1904.

Some cities or counties require restaurants to acquire a separate Type 2 Restaurant license from the Wisconsin Department of Health and Social Services, Division of Health. They may be contacted at 608- 266-2835.

Federal Licenses

A yearly license issued by the Bureau of Alcohol, Tobacco, and Firearms (BATF) must be obtained.

Personal Licenses

Statutes require that a licensed bartender be on the premises at all times when alcoholic beverages are being sold. An unlicensed bartender may work behind the bar so long as a licensed bartender is present somewhere on the premises. The same municipality that issues retail liquor licenses issues bartender licenses.

The State of Wisconsin requires that at least one person certified in food handling and preparation must be present when food is being cooked or served. To become certified, a person must attend approved training sessions. For more information, contact the Wisconsin Department of Health and Family Services, Division of Health, at 608-266-2835.

The Music Industry

Two royalty-collection and enforcement companies - BMI and ASCAP - actively patrol businesses where music is played, either from recorded media or by live bands. They assess and collect fees based on the physical size of the business facility. If the assessment goes unpaid, these groups are very vigorous in using legal action to enforce the law. Elks Lodges are not required by law to pay any fees to these groups because of our status as a private fraternal organization. If either of these organizations attempts to negotiate a private licensing agreement with a Lodge or does not recognize that Elks Lodges are exempt from existing laws, it is recommended that the Lodge enlist help from a restaurant association, tavern league, or legal professional. These agreements are excessively costly and should not be entered into lightly, nor be viewed as a panacea for the issue of music licensing.

Regulatory Inspections

Locations that engage in retail commerce, especially those that serve prepared food, are subject to regular and frequent inspections as determined necessary by the department or agency with jurisdiction. When an inspection is made and deficiencies are noted, the amount of time the Lodge will be granted to correct them should also be noted in the inspection report. If the amount of time granted seems unreasonably short, contact the inspecting agent and attempt to negotiate a more favorable period of time.

Simply ignoring a report containing deficiencies or refusing to perform the corrective work indicated is NOT an option. Should either of these courses of inaction be taken, the regulatory agencies have within their power the authority to shut down part or all of a Lodge's club operation. In extreme cases, it may also be possible that a condemnation process could be started. Once these penalties have been imposed, it will be much harder to negotiate an agreeable course of action on behalf of the Lodge.

Health Inspections

Inspections are generally done yearly but the frequency is up to the discretion of the inspector. If deficiencies are noted on the inspection report the follow-up inspection is generally performed within 30 days unless otherwise noted.

In the Appendix is a copy of the Wisconsin Administrative Code that gives authority to the Department Of Health And Family Services to create and enforce rules for restaurants. This sixteen-page copy describes many of the restrictions that apply to restaurant operations in Wisconsin. It quantifies many of the items that are under jurisdiction of DHFS. Although verbose and rather difficult to read, as are many governmental publications, it should be read and understood by the person or position responsible for maintaining compliance with its requirements.

Fire Inspections

A representative from the Fire Marshall’s office performs inspections, generally as often as every six months. A municipality may have its own inspector appointed, such as if it has a volunteer fire department.

Building Inspections

A municipal engineer will perform inspections to ensure conformance to state and local building codes. Building inspections are usually required to meet building codes during and upon completion of construction or remodeling. It is recommended that an annual inspection of your facility be performed internally to assess its condition and adequacy.

Kitchen ANSUL Systems

When installing an ANSUL system, obtain proper building permits, ensure the installation meets appropriate codes, and submit a copy of your maintenance contract to your insurance carrier. A typical contract provides for inspections every six months, and reporting favorable inspections to the insurance carrier will keep rates at their minimum.

Raffles, Pull-Tabs & Bingo

Raffles

The Wisconsin Gaming Commission regulates raffles of all kinds. The commission prints a very informative pamphlet titled "LEGAL REQUIREMENTS FOR RAFFLES IN WISCONSIN". A sample of this pamphlet is in the Appendix. Also in the Appendix is a letter written by the director of the Wisconsin Gaming Board in response to inquiries about raffles and drawings. Also in the Appendix are an Original Raffle License Application and an Annual Raffle Report and Renewal Application.

Below are highlights of the pamphlet's contents, but this is no substitute for having copies of the pamphlet on the Lodge premises. To acquire the pamphlet or specific game regulations, contact:

Wisconsin Gaming Commission Office of Charitable Gaming PO Box 8941 Madison, WI 53708-8941 Telephone: 608-266-5433 Fax: 608-264-6644

The difference between Class A license and a Class B license is that with a Class A license, you may sell some or all of the tickets on days other than the same day as the raffle drawing. With a Class B license, all of the tickets for that raffle are sold on the same day of the raffle drawing.

Class A license:

No more than 200 raffles per license per year.
Tickets must list all prizes worth $500 or more.
Prizewinners need not be present.
Raffle licenses are valid for 12 months.
Profits must be used to further the organization's purpose for existence.
Lists of winners of prizes worth $100 or more must be maintained for 12 months after the raffle ends.
No raffle ticket may exceed $100 in cost.
Lists of prizewinners must be available on request.

No salaries, fees, or profits may be paid to an individual or organization to operate the raffle.
Annual reports listing dates, number, receipts, prizes paid, profits, and expenses must be filed.
Each ticket sold shall include a separate identification number, printed on both the purchaser’s and the organization’s portion of the ticket, and numbered consecutively in relation to the other tickets.
All drawings shall be held in public.

Class B license:

The same as a class A license except,
The raffle tickets need not be numbered consecutively.
No raffle ticket may exceed $10 in cost.

Also in the Appendix is “Legal Requirements for Calendar Raffles in Wisconsin”. You need a Class A license to sell a calendar raffle. Most of the rules for a Class A license are the same, with a few minor differences for the calendar raffles.

Another Appendix item titled "CONTESTS, SWEEPSTAKES, AND SALES PROMOTIONS", is related to raffles and give-a ways and is an opinion issued by the office of James Doyle, then the Wisconsin Attorney General. It clarifies the position of the Wisconsin Department of Justice concerning what constitutes a lottery, legal bingo games and raffles, postal regulations that apply to the mailing of lottery information, and raffle licensing forms and procedures.

Pull-Tabs

The only "pull-tabs", or "rip-tickets" that should be used in any Elks Lodge are those that are sanctioned and supplied by the State Gaming Commission. Contrary to some opinions, the amount of prize money paid out by these pull tabs is not significantly less than illegal pull tabs which were popular in the past. In fact, several of the illegal pull-tabs actually paid less to the participants than the current Wisconsin Gaming Commission pull-tabs. Considering the heavy penalty of criminal prosecution for illegal gambling, loss of liquor license, and possible revocation of Lodge charter, it seems foolhardy to even consider pull-tabs other than those supplied by the State of Wisconsin.

Bingo

Bingo is a form of gaming that is also sanctioned and regulated by the Wisconsin Gaming Commission. Inquiries about the licensing should be directed to the above address and telephone. Excerpts of statutes set forth by the Gaming Commission to regulate bingo may be found in the Appendix, titled "BINGO CARDS" and the also found in the Appendix, titled “Wisconsin Bingo Law Requirements. You will also find a copy of the Bingo License Application, and the Semi-annual Bingo Occasion Report, which is due to the state on the 60th day after the last day of the reporting period (The bingo license will indicate the due date of the report) If your Lodge is considering starting bingo as a fun-raising activity, the organizers should contact the Commission to obtain all necessary rules, application forms, and reporting requirements.

Here are a few of the requirements that must be met under Wisconsin law. Please note that these are not all-inclusive; refer to the statutes, brochures and application materials for complete information. All requirements apply to every organization conducting bingo, regardless of the number of occasions held per licensing year or the amount charged for cards.

- The Wisconsin Division of Gaming must license all organizations conducting bingo games.
- Every bingo occasion held must be listed on the license.
- Every bingo organization must maintain a separate bingo checking account from which to pay prizes and sustain bingo operations. All prizes and expenses must be paid from this bingo account.
- Each organization must file financial bingo occasion reports twice each year.
- Twice a year, each licensed organization must pay an occupational tax on the gross receipts derived from bingo during the previous six months.
- Every organization conducting bingo must have a Seller s Permit and collect sales tax. Contact the Wisconsin Department of Revenue at (608) 266-2776 for information. The Division of Gaming does not have the forms for, nor information regarding, seller s permits/sales tax.
- A comprehensive bookkeeping system must be utilized and all records kept for at least four years. Division of Gaming personnel on a regular basis will audit such records.
- All profits from operations must be used for proper and legitimate expenditures.
- The maximum charge for a regular (admission) card is $1.00.
- The maximum charge for a limited period bingo occasion single card is 50 cents.
- All bingo supplies and equipment must be: purchased from a supplier licensed by the Wisconsin Division of Gaming; purchased from another licensed bingo organization; or, received free of charge from a licensed bingo organization.
- All bingo games must be conducted according to Chapter 563 of the Wisconsin Statutes and the Wisconsin Administrative Code.
- All bingo workers must be at least 18 years of age.
- The supervising member must not be a convicted felon, or if convicted, have been pardoned or released from probation or parole for at least 5 years.

Revenue Restrictions

Accounting for revenues and profits from legal raffles, bingo games, and pull-tabs must meet strict requirements for each game as set forth by the Wisconsin Gaming Commission. The legal requirements state, "Gross receipts derived from the conduct of bingo shall not be commingled with any other funds of the licensed organization. Keep raffle funds and pull tab monies separate".

In addition, it is generally required that the profits be used only for the organization's purpose for existence and may not be used to purchase items such as beer, liquor, pop, bar or kitchen supplies, and the like.

Insurance

There are two mandatory insurance programs:

1. **Grand Lodge Liability Group Policy**

Grand Lodge statutes provide for liability self-insurance for Subordinate Lodges of the Order through Elks National Headquarters. This should not be confused with the Property Plus insurance coverage, which is provided by a private carrier.

The Grand Lodge Liability provides coverage for incidents on Lodge premises, and for official Lodge activities carried on outside the premises, such as Hoop Shoot, Soccer Shoot-Out, etc. Inclusions and exclusions of the policy itself changes frequently, so specific questions about liability coverage should be directed to the Wisconsin Elks Association's insurance advisors or the Grand Lodge.

This policy is liability only. Property coverage for fire, theft, vandalism, etc. is not included. Also included in this policy is bonding for Lodge officers and Lodge employees. There is no reason to purchase a separate policy.

The payment for this coverage comes out of the $9.50 per member Grand Lodge assessment.

2. **Property Plus Group Policy**

The Grand Lodge Trustees have recently made this program a self-insured program also. Marsh Risk and Insurance Services, Inc. is the administrator of the program. This policy covers Lodge and personal property only. No liability coverage is provided by this policy.

Each Lodge should have a Grand Lodge-issued manual in their possession that explains terms of coverage and claims procedures. Included in this manual are procedures for contacting representatives of Marsh Risk and Insurance Services, Inc. with any questions about coverage. The insurance advisors to the Wisconsin Elks Association can also be of assistance to answer questions.

Marsh Risk and Insurance Services, Inc. bills the premiums annually.

Worker's Compensation

Worker's Compensation Insurance is required by the State of Wisconsin and is not provided by either of the two insurance plans mentioned previously. Each individual Lodge must arrange for their Worker's Compensation insurance.

If local insurance agencies are unwilling or unable to provide Worker's Compensation insurance for your Lodge because liability and property/casualty are not also being purchased, inquire about inclusion into the Assigned Risk program administered by the State of Wisconsin.

Other Insurances

Each Lodge should consider, on at least and annual basis, the need for other special coverage and riders. For example, Officers and Directors liability policies are available as a separate policy from the Order's property insurer, Marsh Risk and Insurance Services, Inc.. If your Lodge is incorporated, Errors and Omissions coverage for the corporation's directors can be examined for consideration. Separate policies for sexual discrimination and harassment are available and should be considered.

It may also be prudent to consider the need for special coverage for unusual articles of property within a Lodge or on its property. Examples of items that should possibly be covered separately include antiques, works of art, and statues, signs, or logos, which could be considered one-of-a-kind and nearly impossible to replace.

Tax And Financial Records

Introduction

There are many types of financial recordkeeping systems that meet the needs of a small business. Some record and retain only the bare necessities, while others track and retain large amounts of detailed transaction information in addition to that which is required by various regulatory bodies. How much information a Lodge collects and keeps on file will be determined by its individual needs.

Regardless of how much or little recordkeeping goes on in a Lodge, there are certain minimum standards that should be met for their retention. Lodges that determine their needs require additional recordkeeping are encouraged to define and implement a workable recordkeeping policy.

What Records To Retain?

Two primary forces drive the definition of a minimum standard for record retention in an Elks Lodge: government agencies and Grand Lodge mandates. When considering the needs for tax and financial record retention, meeting the requirements of government agencies will nearly always satisfy the corresponding Grand Lodge guidelines as well.

State and federal agency requirements usually receive the greatest attention when financial records retention is considered, but check to be sure that any county or city requirements are taken into account.

Financial-related forms and reports that are required filings with regulatory agencies are an obvious place to start when developing a list of records to retain. Some of them consist of forms that can be duplicated and filed; others are deposit coupons that are kept by the institution receiving the payment. In the case of the latter, the filer usually generates some sort of report internally, which summarizes information for this purpose. Keeping this summary should be adequate for retention purposes in most cases, but if you're more comfortable with making a copy of the deposit coupon to keep along with the report, by all means do so.

Listed below are reports and deposit forms required by state and federal agencies. Whether the item is a filed report, deposit coupon, or internally generated deposit summary report, a copy of each one should be retained

STATE

Sales Tax return
SWH Deposit (WT -6)
State Unemployment Tax (SUTA)
SWH Reconciliation (WT - 7)

FEDERAL

FICA & FWH Deposit (8190)
941 Federal and FICA Withholding Reconciliation
940 Federal Unemployment Tax (FUTA)
W-2 Wage Statements
W-3 Annual Reconciliation of W-2 Information
990 / 990T Annual Statement

Financial records kept by a Lodge will vary greatly, mainly because the type and volume of day-to-day records and documents created by each Lodge will reflect their individual needs and style of operation.

An example of this is daily receipts recording. By now, every Lodge should have a cash register that records a master transaction tape; ideally, a second tape for customer receipts should also be in use. The master tape should be "rung out" every day, with the department and grand total revenue figures transferred to a weekly or monthly running tally. This report usually provides the basis for reporting sales and calculating sales taxes payable.

If the Lodge generates a periodical payroll register, it should be part of a records retention program. Lodges that contract their payroll or directly print payroll checks using a computer may not generate a payroll register for each pay cycle. In cases such as these, quarterly reports should be generated to provide the basis for filing state SUTA and federal 941 reconciliation reports. These reports should be retained.

Any documents that are directly used to prepare financial performance statements or any of the above required governmental filings should be part of a retention program.

How Long to Retain Them

Please refer to the appendix for a schedule regarding how long to retain specific records.

Disposal

Once the appropriate retention period has lapsed, it is important to dispose of records properly. It is likely that they contain information that would be considered sensitive, confidential, or personal. Rather than simply discarding them in recycle bins or in trash receptacles, these records should be shredded or otherwise destroyed so that the information contained in them cannot be retrieved or reconstructed.

Internal Controls

What are Internal Controls?

Internal controls provide the checks and balances needed for the Lodge to have confidence in the financial reporting and to combat theft and pilferage of the Lodge's assets.

According to the Grand Lodge AUDITING, ACCOUNTING AND MANAGEMENT MANUAL, each lodge needs a system of internal control to protect assets from waste, fraud and theft and to ensure accurate and reliable accounting data. Laws of the Order and By-Laws of the Lodge mandate some of the controls. The volume of business, complexity of Lodge organization and number of employees available determine additional controls needed. It is not feasible to provide on simple set of internal controls for all Lodges. Each Lodge should design its own system. The cost of controls should always be justified by benefits to be derived. The number of employees between which responsibilities can be divided will generally be a factor.

General Controls

The following controls should always be included:

- Procedures for using vouchers to authorize payment of bills against the Lodge, to include:
  - Voucher form to be used, as designed by the Lodge. (Two examples are shown in the manual)
  - Who prepares the voucher and attaches it to the bill. (Normally the Secretary)
  - Who approves the voucher, invoice or bill to verify receipt of material; to verify price billed against price quoted, to indicate committee approval, etc. Normally, the Secretary will prepare the voucher, which is then approved by the Secretary and the Exalted Ruler. Any Lodge may require that all vouchers/bills be approved by the Trustees to insure compliance with the budget. After all prior approvals are obtained; the Secretary reads the bills at a regular session of the Lodge under the order of business-"Bills Against the Lodge". Subsequent to the Lodge meeting the Secretary will present the bills to the Treasurer for payment.

- Procedures for authorizing payment of employees. A time clock, with individual time cards, is preferred for a large number of employees. Otherwise a time sheet or book with the supervisor's signature of approval for each pay period should be used. Treasurer should insure that pay rates for new-hires and any pay changes are properly authorized, preferably by actual record in minutes of meetings of the supervising or managing body of the Club or other entity.

- Procedures for receipt of merchandise and supplies. Quality, weight and count should be checked. Deliverymen should not be permitted to place merchandise in the storeroom without careful check. It is appropriate to limit the number of individuals who are authorized to sign for deliveries.

- Treasurer should never be involved with inventory or receiving.

- A receipt book for the Lodge may be kept in the Club room so that members may pay dues during hours the Lodge office is closed. The money and name of member paying dues should be given to the Secretary promptly. Members should be encouraged to pay dues by check.

- Person originally receipting for cash should not be involved in depositing or recording receipts.

- Secretary's receipts should be reconciled with Treasurer's receipts each month. Delay increases difficulty in identifying discrepancies.

- Bank statements should be obtained from the depository monthly. Statements for checking accounts should bear a closing date of last day of month wherever possible. All bank statements should be reconciled monthly and necessary corrections entered.

- Bank deposits should be made promptly, daily if possible. It is not unreasonable for the Treasurer to designate another person to make deposits, provided that the Treasurer receives deposit slip promptly.

- Cash kept in the Lodge overnight should be stored in safes with combination locks that meet requirements of the casualty insurer.

- Lodge assets should be covered by adequate casualty insurance and personnel who handle cash should be bonded. Sections 12.050 and 12.0600 of the Statutes specify the minimum bond required for the Secretary and the Treasurer. The Lodge should determine amount of bond to be carried for each person involved.

Controls Applicable to Club Operations:

- Good business practice requires that management pay close attention to the cost of sales ratio for the bar and dining room. When ratios exceed the guidelines given below, management should review existing practices on over-pouring, spillage, waste, pricing policies, purchasing functions, inventory control, etc. Improvements should be implemented and selling prices should be increased where necessary. It is just good common sense that the club should make sufficient gross profit to support itself.

- Cost of goods sold should not exceed 35% of sales. Ratio determined by the formula: cost of sales divided by sales = ratio.
- Employee expenses should not exceed 35% of sales. Ratio determined by the formula: Total salaries and wages + employee meals + payroll taxes and benefits divided by sales = ratio.
- Entertainment cost should not exceed 6% of sales. Ratio is determined by the formula: Total entertainment cost of bar and/or dining room (depending upon whether one or both receive benefit) divided by sales = ratio.

➢ It is emphasized that these ratios are maximums. Individual Lodges, depending upon volume of sale and other circumstances, may with to establish their own goals at less than these maximums.

➢ Use recording cash registers with sufficient flexibility to record all sales by product and other miscellaneous cash receipts. A numbered continuous tape should be locked within each cash register while it is in use.

➢ It is suggested that cash registers be equipped with additional tape to permit giving the customer a cash register receipt, together with his change, immediately upon being served.

➢ Dining room sales checks should be pre-numbered in sequential order and accounted for daily. The supervisor should investigate missing sales checks.

➢ Separate cash drawers should be provide for each individual handling cash receipts.

➢ Access to the tape locked in the cash register should be limited to an individual, <u>other than the bartender or cashier</u>, who should count the cash, balance against tape totals, and prepare the daily summary of receipts.

➢ There should be an established policy for action to be taken on cash shortages/overages.

➢ Persons responsible for inventory should not be involved with sales.

➢ Inventory of merchandise for resale should be taken monthly or quarterly and, <u>at a minimum</u>, at the end of the year, March 31st.

➢ A member of the Auditing & Accounting Committee or an Officer should supervise taking the inventory and spot check pricing and extending.

The Budget Process

General

One of the most important aspects of running a business is to have financial statements prepared on a monthly basis, and comparing these actual numbers to those that were budgeted for at the beginning of the Lodge year.

The budget process is that phase of accounting dealing with planning the activities of a Lodge in financial terms and comparing actual progress with the plan. It is a management tool that is most effective when actual revenue and expenses are compared to the budgeted amounts periodically, during the year, and management decisions are made to adjust operations as needed. This enables the lodge to manage its operations to attain a profit sufficient to finance the Lodge's fraternal and charitable objectives, to provide for growth and prevent year-end losses.

Preparation of the Budget

According to the Grand Lodge Auditing, Accounting and Management Manual, the initial action should be the Exalted Ruler-elect requesting from each of his committee chairmen their best estimate of fund-raising income and a detailed estimate of their expenses. The Secretary, Treasurer and Trustees should commence early to assemble estimates of those budget line items that do not require prior year actual data, such as dues and fees income, mortgage principal, interest expense, insurance, etc. With an effective accounting system, where postings are kept current, the General Ledger should provide actual income and expense data for the prior year within a short time after March 31st. The Exalted Ruler-elect, the Lodge Trustees, the club operations manager, and other relevant members should convene budget meetings. They should develop the best available estimates, giving consideration to the Exalted Ruler-elect's plans, the committee estimates, and prior year experience. The following should be considered:

- Prepare worksheets in advance. (Examples are shown in the manual)
- Budget by same line items that are used to record income and expenses.
- Prepare income section first on the theory that you should not spend more than you expect to receive. Be realistic and conservative.
- When preparing the expense sections, estimate fixed and semi-fixed expenses first, i.e., those over which the Lodge has little or no control.

- Prepare separate schedules where more detail is desired, such as a detailed list of charity donations to be made.

- When budgeting activities that generate income, such as bingo or fund-raising events, always budget gross receipts and expenses, never the net income.

- Do not overlook capital items that are not "expenses", such as purchase of equipment, mortgage principal, bond redemptions, etc.

- Budget may include an amount for contingent purposes to cover unforeseen emergencies. Expenditures there from require a two-thirds affirmative vote of the Lodge.

- It is not good business practice to prepare a deficit budget. Keep expenses within the limits of anticipated income.

- It is advisable that the Lodge Trustees coordinate the various budgets to prevent overlapping and duplication.

Periodic Budget Review

According to the Grand Lodge Auditing, Accounting and Management Manual, the periodic budget review is the most important phase of the budget process. The trustees, the Club supervising or managing body, and other entity managers should give this high priority on the agenda of their meeting. Regular reports for the accounting system providing actual revenue and expenses to date are required. Comparing this actual progress to the budget will point up variances of material amounts that require action or further investigation. It is important that management decisions be made at this time to adjust for shortfalls in income or excess expenses, such as implementing conservation measures, eliminating non-productive hours of Club operations, reducing labor costs, raising selling prices, etc., in order to prevent a loss at the end of the year.

Personnel Records And Right-To-Privacy

The Need For Confidentiality

Increasingly, laws and courts are shaping the rights and responsibilities of employers and employees with respect to the information kept in employment files. Recent court cases at the state and Federal level have affirmed that employees do have the right to a certain amount of privacy. The rapid development of electronic communications has highlighted the fact that it can be easy to violate an individual's privacy, and thus legal and societal consciousness of the privacy issue is likely to remain high.

It is very important for Elks Lodges to create and adhere to a responsible policy concerning the employment records of all its employees. Despite the fact that some Lodge members might consider themselves to be "part owners" of the Lodge, and therefore entitled to review employee records, this practice' will put the Lodge and its officers at risk of civil action for failing to safeguard the employees' right to privacy.

Likewise, it is critical that authorized access to these records not be abused. Someone who has the authority to view and update personnel records also bears the responsibility to keep their contents strictly confidential within the definition of the Lodge's policy concerning the employee's right to privacy. If the contents of an employee's file are made public through discussion, reproduction, or publication, courts have ruled in favor of that employee's right to collect damages for invasion of privacy.

Obviously, only persons who are able to carry this responsibility should be granted this privilege.

Who Should Access Personnel Records?

The simplest way to form an employee records access policy is to specifically state which management and supervisory positions have the responsibility for the maintenance of their contents, and to exclude all other individuals. This policy is recommended to be included in House Rules as a formal statement. Describing who may and may not access personnel records and making it known in printed form provides a strong basis to deny access to someone who should not have it.

It is recommended that only direct supervisors and their managers have access to an employee's records. For example, a head bartender who has supervision responsibilities for shift bartenders should be allowed access to their records. A head waitress or chef with supervisory responsibilities should likewise have access to the personnel records of the wait staff. Any managers that supervisors report to should likewise have access to these records. The position of club manager or Steward should be responsible for the security of these records and everyday enforcement of the access policy.

The Lodge office to which the manager or Steward directly reports is the only member who needs or should have access to employee records. Assuming that the manager or Steward reports directly to the chair of the Board or Governors or House Committee, then only that committee chair and vice-chairman should have access to these employee records. Other members of these committees, Lodge Officers, and general membership should not be given access to employee records. Granting access to a second person such as a vice-chairman helps ensure consistency of policy enforcement and keeps it from being abused.

By tightly restricting access to confidential records in this manner, a Lodge has a reasonable chance to maintain them accurately and with the necessary confidentiality. Opening up access to a wider circle of officers, committee members, or general membership greatly increases the chances that the employees' privacy may be invaded. At the risk of sounding trite, common sense should and must prevail here!

Employment Records to be Kept by the Employer

DWD 272.11 Wisconsin Administrative Code provides that:

(1) Employers in the State of Wisconsin must make and keep payroll or other records for three years for each of their employees which contain:
  (a) Name and address.
  (b) Date of birth.
  (c) Date of entering and leaving employment
  (d) Time of beginning and ending of work each day.
  (e) Time of beginning and ending of meal periods:
    1. When employees' meal periods are required or when such meal periods are to be deducted from work time.
    2. This requirement shall not apply when work is of such a nature that production or business activity ceases on a regularly scheduled basis.
  (f) Total number of hours per day and per week.
  (g) Rate of pay and wages paid each payroll period.
  (h) The amount of and reason for each deduction from the wages earned.
  (i) Output of employee, if paid on other than a time basis.
(2) The required records or a duplicate copy thereof shall be kept safe and accessible at the place of employment or business at which the employee is employed, or at one or more established central record keeping offices in the state.

Keep personnel records on each employee for as long as the Lodge employs him or her. The types of records that should be kept are addressed in Topic 3 of this manual.

Personnel records should be kept for a minimum period of five full years after termination, and it is not uncommon for longer retention periods to be the case. Several large companies with fully developed Human Relations departments often keep the files of terminated employees for 12 to 15 years after their termination date.

Employees who are involuntarily terminated by the Lodge rather than resigning of their own accord will sometimes pursue legal action to collect compensatory damages for unfair or illegal employment practices, whether real or imagined. Other than the collective memories of the employee's supervisors and managers, personnel files are often the only tangible source of documentation that a Lodge may use on behalf of its own defense. For this reason, a Lodge may adopt a two-tier retention schedule; one shorter period of time (remember, a minimum of five years) for resignations; and a second, longer period of time for an involuntary termination situation.

Personnel Records Open to Employees

DWD **Chapter 103.13** Provides that:

a past or present employee has the right to view and copy their personnel records at least two times each calendar year. If an employee wishes to have a copy of the records, the employer may charge a reasonable fee for providing such copies, which may not exceed the actual cost of reproduction.

The employer may ask that an employee make these requests in writing. The employer then has seven (7) working days to provide the employee with an opportunity to inspect the documents.

If an employee is involved in a current grievance against an employer, the employee may have his or her union representative, or any other designated person, inspect those records that may have a bearing on the resolution of the grievance.

What records are considered open to employees and former employees?

The right to inspect "personnel documents" extends to documents which are used, or which have been used, to determine qualifications for employment, promotion, transfer, additional compensation, termination or other disciplinary action, and medical records.

What exceptions are there to the requirements of the Open Personnel

Records Law?

The right of the employee to inspect (or have copies of) his or her personnel records does not apply to:

Records relating to the investigation of possible criminal offenses committed by that employee;

Letters of reference for that employee;

Any portion of a test document, except that the employee may see a cumulative total test score for either a section of the test document or for the entire document;

Materials used for staff management planning (projections);

Information of a personal nature about a person other than the employee if disclosure would constitute an invasion of that other person's privacy;

Records that are not kept;

Records relevant to any other pending claim between the employer and the employee that may be discovered in a judicial proceeding.

How can an employee act to correct inaccuracies in the personnel records?

If an employee disagrees with any information contained in the records, the employer and employee may agree to correct or remove the information. If agreement cannot be reached, the employee may submit a written statement explaining his or her position. The employer is required to attach this statement to the disputed item, and release it whenever that disputed item is released to a third party.
This statute is enforced by a complaint being filed with The Equal Rights Division within 2 years.

<u>Disposal</u>

Regardless of the length of retention chosen for personnel files, it is paramount that they be kept strictly confidential even up to the point of their disposal. Disposing of these records needs to be done with care also. By their nature, these records contain confidential information that should not be viewed by unauthorized individuals. Simply discarding them in a recycling bin or trash receptacle is not acceptable. They should be destroyed in such a manner that the information they contain cannot be retrieved or reconstructed. Shredding or other similar destruction is strongly urged

Unrelated Business Taxable Income

General

Although the Lodge is a not-for-profit entity, and as such does not pay income taxes, the Lodge can be hit with taxes on unrelated business income. Unrelated business income arises when a lodge undertakes a business or activity that competes with for-profit entities. Examples of this would be if the Lodge has a dining room open to the public, or has a hall rental when the Lodge has a mortgage, or the Lodge has the bar open to the public. Because not-for-profit entities have an unfair advantage over for-profit entities (we do not pay income tax on our profits), the IRS has a rule that evens the playing field (They will tax your profit).

Exceptions to the Tax

There are several exceptions that allow income from unrelated sources to not be taxed as an unrelated business. One of these exceptions is that bingo is automatically exempted from this tax. Another exception is where substantially all of the labor to put on the event or activity is done by unpaid workers. So if you have a Friday night fish fry open to the public, there would be no tax due to unrelated business income as long as the workers are all unpaid (You will run into a problem though, if the bar is open and you have paid bartenders. This income would be taxed as unrelated business income)

Other areas that the IRS has deemed are unrelated business income is the monies collected to advertise in the monthly newsletter. Again, as long as unpaid workers due substantially all of the work getting the advertisers and collecting the monies, you will not get taxed on the income. (This also means that your Lodge Secretary should not be the one doing this work, as they are paid employees).

An exception to outside party hall rentals (on mortgaged property) being taxed as unrelated business income would be where the time that the Lodge is open for the rentals, compared to the total time the lodge is open, is less than 15%.

One way to make sure that you don't run afoul of these IRS rules would be to follow Grand Lodge advice, and keep your Lodge open only to the membership. If in doubt about which of your different activities may fall under the unrelated business income rules, ask your outside accountant.

Sales Tax Issues

General

State sales tax issues are a field of landmines, all ready and waiting for you to take one false step. It seems that for every rule there are 100 exceptions. Here are a few items to help your Lodge make it thru a sales and use tax audit with flying colors.

Paying Sales Tax

There is a lot of confusion in Elks Lodges as to whether we should be paying sales tax when we purchase tangible personal property. The answer is yes – we need to pay tax. It is true that an Elks Lodge is tax exempt, but that is for income taxes only. We still have to pay sales and use tax.

There are tax-exempt entities who do not pay sales and use tax, but these are charitable organizations (charitable organizations are exempt by the IRS as 501 c(3) organizations, where an Elks Lodge is exempt as a 501 c(8). We are fraternal, not charitable, in the eyes of the IRS).

Items purchased for resale

There is an exception to what is said above in that we should be paying sales tax on all tangible personal property. That exception is when we purchase something for resale, such as when we buy snacks for the bingo refreshment stand, or food for the dining room. The lodge will be charging the customer sales tax when they sell the item to their customer, so if we were to pay the tax also when we purchased the item, the state would be collecting the tax twice.

There are two ways to not pay the sales tax on purchases made for resale. One is to give the vendor an certificate of exemption,(A copy is included in the Appendix) and there is also a line on the sales and use tax return for taking a deduction for sales tax paid on items purchased for resale.

Use Tax

Generally, an out of state vendor with no presence in the State of Wisconsin will not charge you Wisconsin sales tax. This does not mean that you do not have to pay a tax. Where the state was not allowed to charge a sales tax, the state imposes a use tax. The rate is the same as the sales tax you would have paid. Instruct the office to review all vendor invoices, and to keep track of all out of state vendor invoices where no Wisconsin sales tax was charged. Use tax is paid in with the same return used to pay sales tax.

Sales Tax Collected on a Catered Affair

When a caterer is used, and the Lodge collects the money from it's members and then turns around and gives the money to the caterer, the lodge should retain the portion that is for the sales tax. This is because even though the bulk of the money is going to the caterer, the Lodge is responsible to the state for the sales tax. You may not give the sales tax to the caterer and have them turn it in to the state.

If the state were to come in and audit, they would assess the tax to you. They do not care that you gave the tax to the caterer, even if the caterer did indeed turn in the money to the state. The only recourse you would have is have the caterer file an amended tax return with the state, and then hope that the caterer will refund you the money. In the meantime, the lodge would probably have to try and talk it's way out of some hefty penalties and interest.

If the caterer collects the money from the lodge members, then the caterer keeps the sales tax money collected and reimburses it to the state. The lodge has been kept out of the circle, and has no duty to the state.

Sources of Information

Grand Lodge Publications

Constitution and Statutes
Statutes Annotated
Auditing and Accounting Manual
Accident Prevention Manual
Grand Lodge Website (elks.org)

State of Wisconsin Administrative Codes

Department of Commerce Sections including electrical, plumbing, building inspections
Division of Gaming Chapters 41 through 44
Department of Health and Family Services
Department of Revenue
Department of Workforce Development including worker's compensation and unemployment