



**INDEPENDENT
POOL & SPA
SERVICE ASSOCIATION, INC.**

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IPSSA Leadership use of Chapter funds and Stipends paid to Chapter volunteers.

As a reminder, IPSSA is a 501 (C) (6) nonprofit business league organization.

CHAPTER USE OF CHAPTER FUNDS a "Proper Uses of Chapter Tax-Exempt Funds" and the other a suggested policy relating to Distributions and Gifts to Chapter Members. Copies of those items are attached hereto. The bottom line concerning distribution of chapter funds is that they are required by law to be distributed only for a purpose that advances the legal purposes and interests of the entity. Direct distributions or gifts of chapter funds or property constitute a "private inurement" and are illegal under tax and corporate laws.

General Rule #1: Chapter funds must be used only for the furtherance of the chapter mission. For example:

- Rental Rooms for chapter meetings
- Purchase of supplies (coffee, tea, water) at meetings
- Office rent and utilities,
- Offices expenses
- Plaques
- A reasonable gift
- Occasional hosted social dinners
- Pay for advice from a qualified advisor (lawyer, CPA, etc.)
- Production and publication of a newsletter, website, public service information
- Promotions of trade/industry in general to the public, such as expo and tabletops
 - Many other things, as this is just some examples

General Rule # 2: It is unlawful for tax-exempt entity to give away or use it revenues for any purpose other than the furtherance of the mission of the organization. For example, the following gifts would be unlawful

:

- A chapter giving money or gift cards to members.
- A chapter paying bills on behalf of any member or non-member.

DISTRIBUTIONS OF SURPLUS CASH. Chapters that have a surplus of cash and are considering distribution of some of that cash back to members. For the reasons stated in the prior paragraph, such distributions are not lawful and could result in substantial problems for both the chapter making the distributions and the recipients of those distributions Chapters are free to reduce their dues for any amount of time they wish in order to avoid amassing more than is desired in surplus funds. A chapter may simply waive dues for a year, thereby avoiding private inurement concerns.

MANUFACTURER REBATES. IPSSA chapters that may receive a cash rebate from a manufacturer:

Scenario #1: the manufacturer may distribute the rebate in cash for redistribution to the members, or the manufacturer uses the chapter roster to distribute rebates to each chapter member, There are serious concerns with the transaction in scenario #1 as described. Namely, when a manufacturer gives IPSSA funds, those funds become IPSSA funds, which may not be distributed to members (see above two paragraphs), or IPSSA is merely holding the funds as an



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Gifts and Distributions to Members

Purpose: All IPSSA funds, whether held at the National, Regional or Chapter level, are held as assets of a tax exempt entity (IPSSA), and are therefore subject to numerous laws, regulations and restrictions relating to those funds. IPSSA, as holder of the tax exemption, is accountable for the use of said funds. The purpose of this policy is to clarify how those funds shall be maintained and used.

1. Chapter Funds – Funds received by IPSSA Chapters from any and all sources, including dues, donations and revenues from non-dues programs, shall be maintained in a bank account held in the name of the Chapter. The Chapter shall use those funds in a manner consistent with the mission of the Chapter, and the mission and tax exemption of IPSSA. IPSSA shall not be entitled to use those funds other than as permitted by law.
2. Chapter Board of Director Responsibility – The Board of Directors of each Chapter shall be accountable for the use and oversight of Chapter funds and shall ensure that all of said funds are used in a manner consistent with the mission of the Chapter, and the mission and tax exemption of IPSSA. Since IPSSA is accountable to tax authorities for use of funds by the Chapter, each Chapter shall provide a full account of all Chapter funds and their past, current and planned use upon the request of the IPSSA Board of Regional Directors. IPSSA may, without the approval of Chapter, withhold from future dues revenues, any amounts necessary pending the provision of a full account of Chapter funds, of any amounts necessary to restore misused funds, or of all funds in the event that Chapter fails to consistently abide in this policy.
3. Proper Uses of Funds – Chapter uses of funds include any expenditure necessary, as determined in good faith by the Chapter, and in accordance with generally accepted accounting principles. Such expenditures generally include expenses (travel, lodging, meals, etc.) related to leadership meetings; attendance of spouses at occasional leadership meetings, the provision of minor amounts of alcohol served in conjunction with Chapter receptions and meals; door prizes at meetings when the prizes are aimed at incentivizing attendance at said meetings; meals for approved key guests of the Chapter; payment for services rendered beyond volunteer service to IPSSA; the Region or the Chapter on an arms-length basis; and other similar purposes, provided in every instance, that the funds are expended PRIMARILY FOR THE DIRECT BENEFIT OF, OR IN FURTHERANCE OF THE CHAPTER'S MISSION. The benefit to Chapter leaders or members may be incidental, but not primary.
4. Unacceptable Uses of Funds – Chapters may not expend any Chapter funds for general gifts for chapter members (including their families, employees, and designates); distribution of excess revenues of the Chapter; payment of business expenses of Chapter members (including most insurance) unless approved in advance and in writing by the IPSSA Board of Regional Directors. The IPSSA Board of Regional Directors may seek input from legal counsel concerning such distributions as needed.
5. Future Interpretations – This policy is subject to future amendment and interpretation by the IPSSA Board of Regional Directors, as may be necessary to protect IPSSA and its tax exemption.



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intermediary, with none of the funds belonging to IPSSA. Presumably, IPSSA is merely holding the funds and distributing them on behalf of the manufacturer. If so, the concern is that IPSSA is distributing them to every chapter member -- whether the member is a customer of that manufacturer or not -- indicating that the transaction is not truly in the nature of a rebate, but rather is in fact an IPSSA program that appears to result in private inurement.

Is there a way to resolve this concern? Yes. Namely, if manufacturers wish to grant rebates, they should issue rebates directly to their own customers, as is a common practice. This avoids an appearance of there being a buying group (which is a very complicated arrangement), undue favoritism granted to some vendors but no other vendors, or private inurement. There is nothing wrong with manufacturers offering rebates, or with IPSSA endorsing (if the conditions are right) one or more vendors in exchange for a royalty, with qualifying chapter members receiving special pricing or rebates.

STIPENDS PAID TO VOLUNTEER LEADERS. Payment of stipends to volunteer leaders.

Payment of stipends is legal, but there are several critical issues that should be considered prior to paying them. If the chapter is in California, a stipend may constitute a wage under AB-5, making the recipient an employee of the entity/chapter. If a volunteer leader who receives a stipend is characterized as an employee, the result could be very harsh on the chapter. We do not yet know how AB-5 will be applied to volunteer leader stipend cases. There have been no cases concerning application of AB-5 to this kind of volunteer service (volunteer service of as a high level leader of a nonprofit organization who serves as an officer, as opposed to a "volunteer" office support person who works part time shifts at the nonprofit organization's office or store), so legal input concerning the issues is significantly less definite than I would like it to be.

Next, a chapter (whether in California or elsewhere) board member can be an employee of the organization and, which can trigger certain rules and IRS scrutiny. Consistently, serving as both an employee and board member is not unlawful. Mark Alcorn, IPSSA's legal counsel recommends against it, because it looks inappropriate to other members who are not familiar with the facts and circumstances, it usually results in significant conflicts of interest, and it tends to leave the employee in a compromised position when controversial issues arise.

Payment of a stipend should, in most cases, not trigger AB-5 or similar rules because the stipend is intended to offset the cost of volunteering time and is not a wage paid for time worked. Here are some of the characteristics of a stipend:

- The payment is not tied to productivity or hours worked
- The usual signs of an employment relationship are missing: no supervisor, no time clocks or time sheets, no employee benefits, etc.
- The services provided by the volunteer are typical of volunteer service rather than employee work
- No employees are displaced by the volunteer service
- The volunteer service is less than full time
- The service is truly voluntary, and not coerced
- The stipend is not a substitute for compensation

When the stipend is tied to the amount of work done, it takes the appearance of compensation for time worked rather than an offset of the cost of volunteering time.



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Third, all stipends constitute income, and should be reported on Form 1099-NEC. IPSAA should issue a 1099 to every volunteer leader that receives a stipend of any amount or more.

**Policy Status: Current
Approved by BORD May 8, 2021**