

Gift-giving by SCA Groups

The following letter was mailed to all the kingdoms on July 25, 1996.

It has come to the attention of the Board of Directors that, under our current practices and traditions, the Society for Creative Anachronism, Inc. is in violation of Internal Revenue Code Section 274(b)(1) regarding the limitations on the deductibility of gifts. In order to correct this problem and to comply with Corpora Appendix A, which states that the Society recognizes the absolute precedence of law issued by civil authorities over any of its internal rules, you are hereby directed to immediately cease the practice of purchasing gifts, of any kind, where funds of the SCA, Inc. are being used for such purchase. This also applies to reimbursements of any individual for the purchase of a gift on behalf of the branch. Any kingdom laws or policies regarding reimbursements for gifts to any person, including the Crown, are hereby declared null and void.

We are not saying that the giving of gifts must stop. Only that these gifts can not be paid for using Society funds. IRC Section 274(b)(1) limits the deduction for gifts to \$25 per person, per year. In the past, the branches have been interpreting this to mean they are limited to spending \$25 on a gift. This is incorrect. The \$25 limit applies to the person receiving the gift and is accumulated throughout the year for purposes of applying the limit on the corporation's deduction. Since the SCA, Inc. is treated as one entity by the IRS, and we have only one tax identification number for all our bank accounts, this limit applies across kingdom lines to any individual in the SCA. It is clear that the amount of gifts presented to the Crown at a single Coronation would put us in serious violation of this law. Multiply this by 13 kingdoms with at least two Coronations per year plus other events where gifts are presented by or to the Crown, and we believe you can see the magnitude of this problem.

Attached to this letter is a copy of the applicable law, and a more detailed explanation of how these rules work. If you have any questions regarding this matter, please call me at the number above or via email. Do not call the corporate office or your ombudsman as they will not be able to answer your questions.

Sincerely,
Carolyn Richardson
Director
cc: Corporate Office
Board of Directors

THE LAW

Internal Revenue Code Section 274 states, in part:

(b) Gifts

(1) Limitation. No deduction shall be allowed under section 162 or section 212 for any expense for gifts made directly or indirectly to any individual to the extent that such expense, when added to prior expenses of the taxpayer for gifts made to such individual during the same taxable year, exceeds \$25. For purposes of this section, the term gift means any item excludable from gross income of the recipient under section 102 which is not excludable from his gross income under any other provision of this chapter, but such term does not include -

(A) an item having a cost to the taxpayer not in excess of \$4.00 on which the name of the taxpayer is clearly and permanently imprinted and which is one of a number of identical items distributed generally by the taxpayer, or

(B) a sign, display rack, or other promotional material to be used on the business premises of the recipient.

(2) Special rules.

(A) In the case of a gift by a partnership, the limitation contained in paragraph(1) shall apply to the partnership as well as to each member thereof.

(B) For purposes of paragraph (1), a husband and wife shall be treated as one taxpayer.

The applicable regulation section is Reg. Sec. 1.274-3, which states in part:

(b) Gift defined. -- (1) In general, except as provided in subparagraph (2) of this paragraph the term gift, for purposes of this section, means any item excludable from the gross income of the recipient under section 102 which is not excludable from his gross income under any other provision of chapter 1 of the Code...a scholarship which is excludable from a recipients gross income under section 117, and a prize or award which is excludable from a recipients gross income under section 74(b), are not subject to the provisions of this section. [Carolyn's note - prizes we give for winners of tourneys and the like are not excludable under section 74(b) or any other part of section 74.]

(c) Expense for a gift. For purposes of this section, the term expense for a gift means the cost of the gift to the taxpayer, other than incidental costs such as for customary engraving on jewelry, or for packaging, insurance, and mailing or other delivery. A related cost will be considered incidental only if it does not add substantial value to the gift.

(e) Gifts made indirectly to an individual-- (1) Gift to spouse or member of family. If a taxpayer makes a gift to the wife of a man who has a business connection with the taxpayer, the gift generally will be considered as made indirectly to the husband...

Note: For purposes of reading this law, taxpayer refers to the donor, in this case the SCA, Inc. If it makes it easier to understand, substitute SCA where you see the word taxpayer and maybe King where you see the word recipient or individual.

WHAT THIS REALLY MEANS (OR, IN ENGLISH PLEASE)

Tax laws in the United States do not allow a deduction for money spent on gifts given to other person except under the limited deduction outlined in the law above. In order to be deductible at all, the taxpayer making the deduction must be in business (which we are) and there must be a business reason behind the gift. It would be difficult for the SCA to prove a business reason for gifts made between members of the SCA as currently practiced across the Known World. If no business reason exists, no deduction is allowed.

Furthermore, even if a business reason was established the \$25 limit would impose a serious bookkeeping problem on us. Keep in mind that this is a \$25 limit per person, per year. Husbands and wives will be treated as one person in some cases. For example, the King and Queen of the Kingdom of Podunk are mundanely married. At their Coronation, they receive gifts from 15 groups within the kingdom, each of whom spent \$50 on the gifts from their SCA account. During the rest of Their reign they attend 30 events, and receive one gift at each of these events worth approximately the same (\$50/event). They also attend the Pennsic War where they not only give gifts to the other Crowned heads, but also receive gifts valued at \$100/gift from 10 other kingdoms. Therefore, the SCA has expensed during the Reign (under old practice) a total of \$3250. We are limited by Section 274 to deducting on our return \$25 of this - the other

\$3225 is not deductible. If the King and Queen were not married, we could deduct \$50 and \$3200 would not be deductible. Multiply this example by 13 kingdoms (which isn't totally unreasonable and doesn't even include stepping down gifts) and the SCA has spent \$42,250 in one year on gifts, where we can legally deduct a maximum of \$650 (assuming none of the Royalty are married to each other).

QUESTIONS AND ANSWERS

Q1. Does this mean that all gift presentations in the SCA must stop?

A. No. However no funds of the SCA, Inc. can be used to purchase gifts, or to reimburse any individual purchasing a gift on behalf of the SCA branch. For example, if the branch wishes to give a gift, you may do so by passing the hat among the members of the branch. Member X can then buy the gift. The money must not be deposited into the branch account - it should be given directly to Member X, so be careful who you choose for this type of transaction. The SCA will not reimburse you if Member X runs off with the cash. Also, the money pitched in by the branch members is not a donation to the SCA.

You may also ask the members of the branch to contribute items that are then presented as gifts - many groups already do gifts this way. This is fine as long as you are not recording donation income for these items, and then deducting the same value as the cost of the gift. It is important that gifts stay on a person-to-person basis, and not involve the SCA branch's funds.

Q2. Our kingdom law states the kingdom will reimburse the Crown \$250 per reign for gifts. We haven't paid this money to our current Crown - should we?

A. No. Such a law puts us in danger of violating IRS law, and the Board has declared these laws null and void as of July 20, 1996. Any request for such reimbursement from the Crown to the Kingdom Exchequer must be rejected by the Exchequer.

Q3. How will this affect the travel funds? Are branches prohibited from giving money to the travel funds?

A. This does not affect the travel funds as they are used for reimbursement of legitimate expenses of performing ones duties. If a branch wishes to transfer funds to the kingdom travel funds they may do so in any amount they wish. This is considered a transfer of funds, not a gift to an individual even if only one person ends up using the money. The reimbursement of the Crown (or anyone) for travel upon presentation of valid receipts, of course, is a reimbursement of travel incurred while carrying out the duties of their office. Similarly, reimbursements to any individual for telephone calls, postage, etc. are not impacted by this rule.

Q4. What about gifts of Regalia?

A. Regalia is not affected. Regalia is defined as property of the kingdom used as a decoration or in ceremonies. Usually, regalia has some emblem of the kingdom on it, not anyone's personal arms. Descending royalty do not keep regalia when they step down, it goes to the next set of royalty for their use while they are sitting the throne. A gift of Regalia from a branch is a transfer of assets from one branch to another (for example, from a barony to the kingdom). Under current policy, we only report on the tax forms regalia with a documentable value of \$500 or more, but we still must keep track of all regalia regardless of value. Regalia with a value under \$500 should be expensed when purchased.

Q5. What about Royalty Discretionary Funds? [Note - these may be called something else in your kingdom - it is essentially money donated to the Crown from the branches or the Kingdom which is then used to reimburse the Crown for expenses of various types such as telephone bills or other items not specifically provided for by kingdom law or policy]

A. Royal Discretionary Funds are not affected but the Royals may not use such funds to reimburse themselves for gifts purchased. The same limitation applies since these funds are kept in the Kingdom account, generally, and paid out on presentation of receipts.

Q6. Our branch is not in the United States - are we subject to this rule?

A. Yes. While the Board recognizes that the international groups are not subject to US tax law, we want to keep everyone on an equal footing for this rule. It would not be fair to a shire in Washington State to have to pass the hat for funds for a gift to the incoming Crown, where a shire in Alberta can spend group funds on a similar gift (or a fancier one). Therefore we are making this an SCA-wide rule. This also makes it easier for the Seneschal and Exchequer to enforce.

International groups are encouraged, however, to find out what your local law is on this matter. Please check with your own government as to whether gifts are deductible at all, or in part, under your local tax laws. This is particularly important for international groups that are separately reporting to their own governments.

Q7. We just paid for a gift to be given at the next Coronation. Should we return it or what?

A. No, you do not need to return it. Just don't do it again in the future. Gifts that have already been bought or reimbursed are over and done with - do not go hunting down the person who bought it and was reimbursed, looking for your money back. While it is clear that we have violated this rule in the past, we cannot make it retroactive.

Q8. Would separately incorporating the kingdoms get rid of this problem?

A. No, it would just spread it out among 13 tax exempt organizations instead of one. Current within the SCA would result in separately incorporated kingdoms violating the rule within their own kingdom, if traditions continue as they have been practiced in the past. Keep in mind that the \$25 amount is an allowance made in tax law. If Section 274 didn't exist, gifts would not be deductible in any amount. It does not mean that if the section didn't exist you could deduct all you want.