

## Avoiding holiday party headaches for businesses

The consumption of alcohol at holiday work parties can lead to fun, but it can also lead to a post-holiday lawsuit.

In one particularly eventful holiday party, an employee was caught by his manager leaving the party with two beers for the road. The employee was confronted and when his beers were taken away things took a turn for the worse. The employee bit off his manager's finger, chewed it up and spit it out. That one was brought to court in the case of *State v. McLean*, 2006 Ohio 275.

If alcohol is going to be served at the work holiday party, it is important to not let things get out of hand. Through vicarious liability, if an employee causes an injury while "on the clock," then the business itself could be liable for the damages. If an employee



**Evan T. Engler**  
Harris & Engler

is hurt during an "on the clock" activity, then they could be eligible for workers' compensation. Generally, a work holiday party could be considered an "on the clock" activity if attendance is mandatory, if employees are paid or if business is conducted at the party.

Most holiday party litigation has to do with the havoc wreaked by those driving home from the party intoxicated. The safest way to ensure that everyone gets home safely is to provide taxi service to those drinking at the party. If alcohol served, then food should be served. Dedicated drivers can be used, but businesses should be aware that

if an employee is asked by a supervisor to drive someone home then that could be considered to be an "on the clock" activity.

Many work holiday parties involve customers or family of employees. Sexual harassment claims can be brought against a business not only by harassment from one employee to another, but from customers to an employee. "The customer is always right" does not mean that the customer can harass employees.

Businesses are potentially liable to non-employee guests for premises liability or

"slip and fall" liability. A good insurance policy protects against this, but the potential liability can be avoided by holding the party at a restaurant or bar.

Work holiday parties also run into religious discrimination trouble when the party appears to favor a religion. Holiday parties should strive to be as secular as possible.

Your business' holiday party should be fun, but certain precautions should be taken to ensure that it does not leave a lasting headache.

## Tips for charitable giving

As the end of the year approaches, charitable giving is on the minds of many people. Charitable giving is a great opportunity for small businesses to strengthen their ties in the community and to fund organizations and causes that are important to the business, its owners and employees. Although altruistic motives often dictate how small businesses contribute to charities each year, it is important for businesses to be aware of some important requirements related to charitable giving.

### Make sure the charity is a qualified organization.

Charitable contributions are only deductible if they are made to a qualified organization. The IRS has a tool on its website to quickly determine whether your desired charity is a qualified organization.

### Make sure the type of contribution is deductible.

The IRS will allow you to deduct contributions of money or property made to a qualified organization if the money or property is for the use of the qualified organization and not a specific individual. Importantly, you cannot deduct the value of your time or services to a charity, but you may be able to deduct travel and other related expenses associated with providing these services to a charity.



**Katherine R. Dodson**  
Terrence A. Grady  
& Associates

When determining the value of your charitable contribution, it is important to take into account and subtract any benefits you receive from the charity in exchange for your contribution.

### Keep the necessary documents.

The IRS has very stringent recordkeeping requirements for charitable contribution deductions. The types and complexity of the substantiation requirements increase with the value of the contribution deduction. There are extremely technical requirements for the higher dollar non-cash charitable contributions. It is strongly advisable that the donor seek tax advice from accountant or tax attorney before making a cash or non-cash contribution over \$250. Additionally, IRS Publication 526 contains information concerning the recordkeeping requirements for charitable contributions.

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