NONPROFIT TRENDS

SUBSTANTIATION AND DISCLOSURE REQUIREMENTS FOR CHARITABLE CONTRIBUTIONS

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Tax-exempt organizations need to be familiar with the requirements of the Internal Revenue Code regarding the documentation that should be provided to each donor upon receipt of a contribution. Failure to comply may result in denial of tax deductions to donors and imposition of penalties on charitable organizations. The critical factors that tax-exempt organizations and donors need to consider are the dollar amount and form of the contribution (e.g., cash or noncash property). Cash contributions include items given by cash, check or credit card, and can also include out-of-pocket expenses (i.e., travel expenses) incurred if time has been donated. If the contribution is made in cash, the type of record which the donor must keep varies based on whether the contribution is under $250, or $250 or more.

Cash Contributions Less Than $250

For each cash contribution that is less than $250, the donor must retain one of the following items:

- A canceled check or legible account balance statement that shows:
    1. Check number, amount, date posted and the payee, if paid by check.
    2. The amount of the transfer, date posted and the payee, if paid by electronic funds transfer.
    3. The amount, transaction date and to whom paid, if charged to a credit card.
- A receipt or written confirmation from the charitable organization, showing the name of the organization, the amount and the date of the contribution.
- Other reliable information in order to substantiate the contribution.

Contributions of $250 or More

To claim a deduction for a contribution of $250 or more, the donor must have an acknowledgment from the donee. Separate checks written to an organization on different dates are regarded as independent contributions and are not aggregated in determining the $250 threshold. However, two checks written on the same day are considered to be one contribution.

The acknowledgment from the organization must abide by the following parameters:

- It must be written.
- It must include the following items:
    1. The amount of cash contributed.
    2. Whether the qualified organization provided the donor with any goods or services in conjunction with the contribution (dinner, golf event, etc.).
    3. A description and good faith estimate by the organization of the value of any goods or services received by the donee.
- The donor must receive the acknowledgment by the date the donor files the tax return for the tax year which includes the contribution, including extensions of time for filing the return.

A canceled check is not sufficient; nor will the donor receive a deduction if he/she files an amended return to include a contribution that was missed on the original return, if the written acknowledgment was provided after the filing date (including extensions) for the original return.

Noncash Contributions

As is the case with cash contributions, the records needed to claim charitable deductions for noncash contributions are based on the dollar amount of the contribution claimed on the donor's individual tax return.

Noncash Contributions of Less Than $250

While the donee does not need to provide a receipt (or letter) for these contributions, it is good policy to always furnish receipts, since valuations are the responsibility of donors. Accordingly, the receipt should include the following:

1. The name of the charitable organization.
2. The date and location of the charitable contribution.
3. A reasonably detailed description of the property donated.

The donor is required to keep reliable written records of the items donated to the charitable organization. The written records must include the following:

1. The name and address of the charitable organization.
2. The date and location of the contribution.
3. A description of the property in detail (e.g., for donated securities keep the issuer, type of security).
4. The fair market value of the property at the time of the contribution, and how it was calculated.
5. The cost or other basis of the property.
6. The amount claimed as a deduction for the tax year.

Contributions of $250 or More

In addition to meeting the requirements for noncash contributions of less than $250, the donor must also:

- Obtain a written acknowledgment from the donee.
- Make sure the acknowledgement includes:
    1. a description of the contributed property;
    2. whether the qualified organization provided the donor with any goods or services as a result of

the contribution;

3. a description and good-faith estimate of the value of any goods and services received from the organization in exchange for the contribution.

- Make sure the acknowledgment is received on or before the earlier of the date of tax return filing for the year of the contribution or the due date, including extensions, for filing the return.

Noncash Contributions Over $500, But Not Over $5,000

The donor must provide the following additional information on his/her individual tax return for noncash contributions over $500 but not over $5,000 including:

- How the property was originally obtained by the donor (e.g., purchase, gift, bequest).
- The approximate date the property was obtained.
- The cost or other basis and any adjustments made to basis (not including publicly traded securities).

Deductions of $5,000 or Over

In order to claim a deduction for property valued at $5,000 or more, the donor must have an acknowledgment from the donee and the written records described above for noncash contributions of $500 but not over $5,000. In figuring whether the contribution is over $5,000, the donor must combine claimed deductions for all similar items donated to any charitable organization during the year.

Generally, the donor must also obtain a qualified written appraisal of the donated property from a qualified appraiser, except in the case of publicly traded securities. Penalties can be imposed if a donor overestimates the value of donated property, depending on the amount of the overstatement.

Fundraising Events - Quid Pro Quo Contributions

When donors receive some benefit in conjunction with their contribution, they may claim a deduction for a charitable contribution only for the excess of their payment over the fair market value of any goods or services received from the charity in return for the contribution.

When the total payment to the charity is $75 or more, the charity must inform the donor of the estimated fair value of any benefits received in return for the contribution (i.e., the fair value of any concert tickets, dinner, etc.). The disclosure of the value of the benefits may appear either in the solicitation or in the written acknowledgment of the payment. The Internal Revenue Code imposes stiff financial penalties on charities for insufficient disclosure. Disclosure of the value of goods and services received in return for the contribution is not required if a donor makes a contribution to a charity in the context of a fundraising campaign and the value of the benefit is "insubstantial."

A benefit is “insubstantial” if: (1) the fair market value of the benefits is not more than the lesser of $75 or 2% of the contribution; or (2) the payment by the donor is at least $52.00 and the benefits are token items bearing the charity's name or logo, and the aggregate cost to the charity is $10.40 or less. (The cost and benefit value amounts shown here apply to payments in 2014, and are adjusted annually based on the Consumer Price Index.)

Due to the potential consequences of noncompliance, whether inadvertent or otherwise, tax-exempt organizations should:

- Always provide written acknowledgment of all cash gifts of $250 or more, and of all gifts of property other than cash.
- Routinely include in all solicitation materials the estimated value of goods and services provided (unless "insubstantial").

FOR MORE INFORMATION CONTACT:

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