

Burden of Proof for Charitable Deductions

A few years ago, the tax rules requiring substantiation for charitable donations were tightened. Now, a new ruling shows that the IRS really means business.

Background: To deduct charitable contributions of \$250 or more, a taxpayer must obtain a written acknowledgment from a qualified charitable organization. The acknowledgement should include the amount of the donation, a description of any noncash property contributed and the value of any goods or services provided. Obtain acknowledgements by the earlier of either the date the tax return is filed or the due date of the return (plus any extensions).

Note that special rules apply to charitable contributions of property. For instance, the property must be used to further the charity's tax-exempt function. Additional tax return information is required for noncash contributions exceeding \$500. Also, for property valued above \$5,000, a taxpayer must obtain a qualified appraisal of the property's value. Note: The cost of the appraisal is treated as a miscellaneous expense. The taxpayer may deduct annual miscellaneous expenses in excess of 2% of adjusted gross income.

Recent change: Under a 2006 tax law affecting all monetary contributions (including gifts by check and credit card), no deduction is allowed without receiving a written communication from the charity. The written communication must show the amount of the contribution, the date the contribution was made and the name of the charitable organization. However, a bank statement may suffice for this purpose.

Finally, for contributions of more than \$75 where a benefit is received in exchange for a contribution—for example, dinner or prizes at a charity fundraiser—the charity must provide a “good faith estimate” of the goods or services received and the amount of payment exceeding the value of the benefit. The deductible amount is limited to the difference between the payment and the value.

The IRS continues to hold taxpayers accountable to the strict letter of the law. The new ruling is a prime example.

Facts: A taxpayer failed to obtain a written acknowledgment from the charity for a charitable contribution. The taxpayer then attempted to meet the requirement by having the charity file a revised information return with the IRS, indicating that the donation had occurred.

However, this did not meet the IRS' interpretation of the requirements. Reason: The tax law does not require substantiation if amounts are directly reported to the IRS under its applicable regulations. But no regulations have been formally issued on this point. In the absence of regulations, the taxpayer does not meet the requisite burden of proof.

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With so much at stake, it makes sense to carefully substantiate charitable contributions made during the year. All receipts should be presented to preparers at tax return time.