



Charitable Deductions Substantiation Requirements

As year end quickly approaches and we begin planning for another tax season, we believe it is important to call to your attention newly enacted legislation in the area of charitable giving. The new substantiation rules are quite stringent and the burden of proof rests with you, the taxpayer. It is very important that you are able to substantiate any charitable deductions you would like us to report on your tax return. We are hopeful that this communication will guide you as you gather together your tax information for us.

Cash, check, or other monetary gift

For a contribution of cash, check, or other monetary gift, regardless of the amount, you must maintain a bank record **or** a written communication from the donee organization showing its name, plus the date and amount. For these purposes, a bank record can include a canceled check, a bank copy of a canceled check, or a bank statement containing the name of the charity, the date, and the amount. However, see the rules below for gifts greater than \$250. It is **not** sufficient to maintain other written records, such as a log of contributions, even if each contribution is of a relatively small amount.

Payroll deduction charitable donations

Donors making contributions through payroll deductions must substantiate by (1) pay stub, Form W-2, or other document furnished by your employer that shows the amount withheld for the purpose of a payment to a charity; **and** (2) a pledge card or other document prepared by (or at the direction of) the donee organization showing the name of the donee organization.

As discussed below, the deduction from each wage payment of wages is treated as a **separate** contribution for purposes of the \$250 threshold.

General contribution of property other than money

Donors of noncash property must retain a receipt, which can include a letter or other written communication, from the donee. It must show the name of the donee, the date and the location

of the contribution, and a reasonably detailed description (but not necessarily the value) of the property contributed. If obtaining a receipt would be impractical (e.g., if the donor deposits property at a charity's unattended drop site), the donor can support a deduction by keeping reliable written records that contain the following information:

- The name and address of the donee.
- The date and location of the contribution.
- A reasonably detailed description of the property contributed.
- The fair market value of the property at the time the contribution was made.
- The method used to determine the fair market value (and, if the valuation was determined by appraisal, a copy of the appraiser's signed report).
- The terms of any agreement or understanding entered into by the donor relating to the use, sale, or other disposition of the contributed property.

Please see the rules below for gifts in excess of \$250.

Charitable deductions of \$250 or more

Stricter substantiation requirements apply in the case of charitable contributions with an **individual** value of \$250 or more. No charitable deduction is allowed for any contribution of \$250 or more unless you substantiate the contribution by a contemporaneous written acknowledgement of the contribution by the donee organization. You must have the receipt in hand by the time you file your return (or by the due date, if earlier) or you will not be able to claim the deduction.

The acknowledgement must include the amount of cash and a description (but not value) of any property other than cash contributed, whether the done organization provided any goods or services in consideration for the contribution, and a good faith estimate of the value of any such goods or services. If you received only "intangible religious benefits," such as attending religious services, in return for your contribution, the receipt must say so. This type of benefit is considered to have no commercial value and therefore does not reduce the charitable deduction available.

If you make **separate** contributions of less than \$250, you will not be subject to the requirement to obtain a written receipt, even if the sum of the contributions, to the same charity, total \$250 or more in a year. Also, if you have contributions withheld from your wages, the deduction from each payment of wages is treated as a **separate** contribution for purposes of the \$250 threshold.

Charitable deductions of more than \$500

Donors of cash of more than \$500 face no additional substantiation reporting requirements other than those discussed above.

In general, if the total charitable deduction you claim for noncash property is more than \$500, Form 8283 (Noncash Charitable Contributions) must be attached to your tax return. Another requirement is to maintain the reliable written records discussed as well as **all** of the following:

- How the donor acquired the property (e.g., by purchase, gift, bequest, inheritance, or exchange).
- The approximate date on which the donor received the property.
- The adjusted basis of the contributed property (with the exception of publicly traded securities) immediately before the contribution.

Additional requirements apply to gifts of particular kinds of noncash contributions in excess of \$500, specifically, (1) qualified vehicles, (2) qualified conservation contributions, and (3) clothing and household items.

Charitable deductions of more than \$5,000

Donors of cash of more than \$5,000 face no additional substantiation reporting requirements other than those discussed above.

In general, you are required to obtain a qualified appraisal for donated property with a value of more than \$5,000, and to attach an appraisal summary to the tax return. A qualified appraisal is not required for publicly traded securities for which market quotations are readily available. A partially completed appraisal summary and the maintenance of certain records are required for (1) non-publicly traded stock for which a claimed deduction is greater than \$5,000 and no more than \$10,000, and (2) certain publicly traded securities for which market quotations are not readily available. A qualified appraisal is required for gifts of art valued at \$20,000 or more.

Recordkeeping for contributions for which you receive goods or services

If you receive goods or services, such as a dinner or theater tickets, in return for your contribution, your deduction is limited to the excess of what you gave over the value of what you received.

Generally, an organization must give you a written statement if it receives a cash or noncash donation valued at more than \$75 and is partly a contribution and partly for goods or services. Keep the statement for your records as it may satisfy some or all of the requirements.

Substantiating contributions of services

Although you cannot deduct the value of services you perform for a charitable organization, some deductions are permitted for out-of-pocket costs you incur while performing the services. You should keep track of your expenses, the services you performed and when you performed them, and the organization for which you performed the services. Keep receipts, canceled checks, and other reliable written records relating to the services and expenses.

As discussed above, a written receipt is required for contributions of \$250 or more. This presents a problem for out-of-pocket expenses incurred in the course of providing charitable services, since the charity does not know how much those expenses were. However, you can satisfy the written receipt requirement if you have adequate records to substantiate the amount of your expenditures, and obtain a statement from the charity that contains a description of the

services you provided, the date the services were provided, a statement of whether the organization provided any goods or services in return, and a description and good-faith estimate of the value of those goods or services.

New Law Encourages Cash Donations for Midwest Disaster Relief

Taxpayers who make qualifying cash contributions for disaster relief efforts in the Midwest could benefit from a recently passed law that suspends the percentage-of-income limits that would normally apply when taxpayers deduct the contributions on their 2008 federal tax returns.

Under the Heartland Disaster Tax Relief Act, an individual taxpayer who itemizes deductions may choose to deduct qualifying cash contributions up to 100 percent of his or her adjusted gross income, reduced by deductions for other charitable contributions. Cash contributions qualify for this special treatment if they are made to a public charity for disaster relief efforts related to certain areas in Arkansas, Illinois, Indiana, Iowa, Missouri, Nebraska or Wisconsin. The contributions must be made no later than Dec. 31, 2008.

As always, please contact us with any questions or concerns.

Heritage Wealth Advisors