



IRS Requires Substantiation of Contributions

Donors must obtain acknowledgment from charity for gifts worth \$250 or more, must file Form 8283 for gifts of property over \$500, with appraisal over \$5,000

It isn't as easy as it once was to claim a charitable contribution deduction for a gift to charity.

Because of perceived abuses by taxpayers claiming inflated deductions without adequate justification, Congress and the Internal Revenue Service have tightened the rules over the last several decades.

The rules apply to the taxpayers seeking the deduction. In most cases, they do not directly apply to the charities receiving the gifts and do not impose penalties on charities, but charities that want to assist their donors and receive additional gifts will want to be sure that the donors are in position to claim their deductions properly.

Cash contributions. For “cash” contributions of less than \$250 made by currency, check, electronic funds transfer, credit card, debit card, or payroll deduction, the donor may not claim the deduction unless the donor has a cancelled check, bank record or credit card statement, an acknowledgment from the recipient charity, or a payroll record. The rule was changed by the Pension Protection Act of 2006 to require the written acknowledgment from the charity for gifts of currency, even for a gift of only \$1.

For cash contributions of \$250 or more, the donor must obtain a “contemporaneous” written acknowledgment from the recipient charity. The acknowledgement must include a statement of the amount of the gift, whether or not the donor received any goods or services in return, and if so, a description and good faith estimate of the value of such goods or services. Generally, a donor who receives goods or services in return, except for certain items of nominal value, is entitled to deduct only the amount of the payment that exceeds the value of the goods or services received. ([See Ready Reference Page: “Charities Must Set Value on ‘Quid Pro Quo’ Gifts”](#))

If the only benefit received is an “intangible religious benefit,” such as that received by those who “rent” pews in church or pay extra dues to attend High Holy Day services in a synagogue, the organization does not have to place an economic value on the benefits.

The acknowledgment is considered contemporaneous if received by the earlier of the time the taxpayer files the tax return claiming the deduction or the date the return is due, including extensions.

In determining whether cash contributions are \$250 or more, the IRS says a donor need not combine all of the contributions during the year. If a donor contributes \$25 a week to a church, the payments need not be combined to require the written acknowledgement from the church (unless, of course, they are made in currency). The donor can utilize the bank or credit card statements as substantiation.

Noncash Contributions. For noncash contributions, Congress and the IRS have come up with what is essentially a three-tier system for donors to substantiate their claims for deductions. The valuation

breakpoints are generally gifts worth \$500 or less, gifts between \$500 and \$5000, and gifts for which a deduction is claimed for more than \$5000. There are also special rules for gifts of certain types of property for which it is widely perceived that inflated contribution deductions have been claimed in the past.

The basic rule for noncash gifts of less than \$250 is that the donor must obtain a written receipt from the charity containing the name of the charity, the date and location of the gift, and a “reasonably detailed description” of the property. The IRS says the donor doesn’t have to obtain the receipt if it isn’t practical to do so, such as for a gift left in a collection box in a shopping center. The receipt need not be as elaborate as the acknowledgment and need not contain a statement of whether or not goods or services were received in return for the gift.

In addition, however, the donor must maintain reliable written records for each item given, including the cost basis of the property, the estimated value, a statement of the method used to determine the value, and a statement of any conditions that may have been applied to the gift. For securities, the donor must also have the name of the issuer, the type of security, and whether it is regularly traded on an exchange or over the counter market.

For gifts with a value of at least \$250 but not more than \$500, the donor needs the records previously required and must obtain the contemporaneous written acknowledgement from the charity describing the property and stating whether any goods or services were received in return. Note that the acknowledgment need not put a value on the noncash gifts and a charity will not normally set the value of such gifts. Valuation is normally left to the donor and an appraiser where necessary. (The charity may use the donor’s value for the charity’s bookkeeping and reporting if the charity deems the value reasonable, but it has no obligation to do so.)

In determining the value of gifts, all items of similar property given to charity must be aggregated to determine the reporting requirements. A donor who gives a lot of books, for example, that have an aggregate value of more than \$250 will be required to report based on the aggregate value of all the books given away, even though none of the individual items is worth \$250, and even though the gifts are split among multiple organizations.

For gifts of property valued over \$500 but not more than \$5000 (including all publicly traded securities even if valued at more than \$5000), the donor must file a Form 8283 with the tax return claiming the deduction. The Form must describe the property given, but does not require an acknowledgment of receipt by the charity. In addition, the donor must have records showing how the property was acquired (by purchase, gift, inheritance, etc.), the approximate date of acquisition, and the cost basis of the property.

For gifts of property worth more than \$5000 (except for publicly traded securities and privately traded stock worth \$10,000 or less), the Form 8283 must contain a summary of a “qualified appraisal” and an acknowledgment by the charity that it has received the items. The acknowledgment does not represent an agreement by the charity with the valuation claimed by the donor. The actual appraisal report must normally be attached to a claim of more than \$500,000.

C corporations, other than personal service corporations and closely held corporations, are required to file Form 8283 only if claiming deductions of more than \$5000. S corporations and partnerships must file the Form 8283 with their own S corporation or partnership returns if they claim more than \$500 in deductions.

The IRS has the authority to deny *any* deduction, even up to \$500, if a donor fails to file an accurate Form 8283 when claiming a deduction for which the Form is required. The IRS has been inconsistent on administering the rule, but the Courts have upheld the total denial in many cases.

Qualified Appraisals. Congress also tightened the rules for qualified appraisals and appraisers in the Pension Protection Act and increased the penalties for knowingly participating in a claim for an excessive deduction. ([See Ready Reference Page: “Congress Passes Charitable Reforms”](#))

A qualified appraisal must be made and signed by a qualified appraiser and must be made in accordance with generally accepted appraisal standards not more than 60 days before the date of the contribution. It must include a description of the property, its physical condition if tangible personal property, its estimated value, and a statement of the basis for the determination.

A qualified appraiser is a person who has earned an appraisal designation from a recognized society, regularly performs such appraisals for compensation, can demonstrate verifiable education and experience in the type of property being appraised, has not been prohibited from practicing before the IRS within the last three years, and is not excluded by Treasury regulations. The appraiser cannot be the donor or taxpayer claiming the deduction, the donee, a party to the transaction in which the donor acquired the property, an employee of any of these, or an appraiser who regularly performs appraisals for any of these persons and does not do a majority of his or her work for others.

Generally no part of the fee arrangement can be based on the amount of the appraised value or the amount of the deduction ultimately allowed by the IRS.

The “Squeal Rule”. Normally a donor may claim a deduction only for the lower of cost basis or fair market value for a gift of tangible personal property to a charity, and may not claim an appreciated fair market value deduction for property held more than a year unless the property is actually used by the charity within its charitable purpose. Therefore, if the organization sells, exchanges, or otherwise disposes of property (other than publicly traded securities) valued on a Form 8283 at more than \$5000 within three years of receipt of the gift, the organization is required to file a Form 8282 with the IRS (and give a copy to the donor) disclosing the disposition. The time period was increased by a year under the Pension Protection Act. For tangible personal property for which the donor claimed an appreciated fair market value deduction, the property will be considered not used in the charitable operation. The donor will have to reverse the claim and include the difference between the cost basis of the property and claimed deduction as income in the tax return for the year of the disposition. ([See Ready Reference Page: “Congress Passes Charitable Reforms”](#)) For other types of property, the report will give the IRS an opportunity to see whether the claimed deduction seems reasonable.

Special Rules for Certain Types of Gifts.

Cars, boats and planes. In 2004, Congress changed the rules for deductions for gifts of automobiles, boats and airplanes. Because Congress was convinced that many donors deducted inflated amounts for such gifts, it provided that a donor may deduct only an amount equal to the gross proceeds of the sale of such property when the charity disposed of it after acquisition, usually for cars at auction. (The normal deduction rules apply if the charity uses the vehicle in its program or substantially repairs the vehicle.) The donor must file a Form 1098-C with the return claiming the deduction. The charity should supply the Form with a statement of the gross proceeds of sale. Generally the form must be

dated within 30 days after the sale. ([See *Nonprofit Issues*[®], Tax Matters, 10/16/04.](#))

Clothing and household items. In the Pension Protection Act of 2006, Congress substantially tightened the rules for deducting gifts of clothing and household items. A donor may not deduct anything for the value of clothing or household items unless they are in “good used condition or better,” and, if the donor claims a deduction, the donor must have all of the records required for noncash gifts for the level of deduction. The Secretary of Treasury has been authorized to deny, by regulation, deductions for contributions of “minimal value” but has not yet done so.

A donor may deduct for gifts of lesser quality, but only if the donor claims a deduction of more than \$500 for a single item and includes a qualified appraisal of such item with the return. ([See Ready Reference Page: “Congress Passes Charitable Reforms”](#))

Household items include furniture and furnishings, electronics, appliances, linens and similar items. They do not include food, paintings, antiques and other artistic items, jewelry and collections.

Out-of-pocket expenses for volunteer services. No deduction is available for the value of services contributed to a charity, but volunteers may deduct their out-of-pocket expenses incurred in rendering volunteer services. To claim a deduction for out-of-pocket costs, a volunteer must have adequate records to substantiate the expenses, and for expenses of \$250 or more, must obtain a written acknowledgment from the charity.

For more detailed information, see [IRS Publication 526 on Charitable Contributions](#), and [IRS Publication 561, Determining Value of Donated Property](#).