

Charitable Giving and Substantiation Requirements

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Each year as a group, Americans support charitable causes to the tune of more than \$400 billion dollars, with giving by individuals comprising more than two-thirds of that total (corporate giving accounts for only about five percent of the total). According to a recent report by Giving USA, in 2017 the nine largest charitable sectors receiving charitable gifts and their respective percentage of charitable dollars received were:

Religion	31%	Public-Society	7%
Education	14%	International Affairs	6%
Human Services	12%	Arts, Culture, Humanities	5%
Foundations	11%	Environment/Animals	3%
Health	9%		

The Tax Code encourages philanthropy by allowing charitable deductions for gifts made to qualified charitable organizations that are operated exclusively for these types of exempt purposes. In order for a donor to claim a deduction, though, there are strict substantiation rules that must be followed.

Failure to follow the substantiation rules may result in the denial of a charitable deduction. In fact, just earlier this year in two separate cases, the Tax Court denied taxpayers' charitable contributions for inadequate substantiation. In one case, a taxpayer was denied a charitable deduction for gifts of \$20 per week because the donor failed to retain records proving that the gifts had been made. The Tax Court also denied a deduction for a \$400 gift to another charity because the donor did not obtain a contemporaneous written acknowledgement.



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The rules apply not only to large donations, but to small ones too. So, you may ask, what are the rules?

Proof of Cash Contribution (of any amount)

In order to claim a charitable deduction for cash, you must maintain proof of the contribution. That proof must take one of the following forms:

- A cancelled check, bank record or credit card statement that shows the date paid, the name of the charity, and the amount of the; **or**
- A receipt from the charitable organization showing the name of the organization, the date of the contribution and the amount of the contribution (a letter containing those details is sufficient for this purpose); **or**
- Payroll deduction records (pay stub, W-2, or other employer document showing the date and amount of the contribution) and a pledge card or other document that shows the name of the organization.

Proof of Noncash Contribution

In order to claim a charitable deduction for a contribution not made in cash, you must retain a receipt from the charitable organization showing:

- Name of the organization,
- Date and location of the contribution, and
- A reasonably detailed description of the items donated.

Clothing & Household Items

When clothing and household items are donated, the same rules apply.

Only clothing and household items in good condition or better qualify for a deduction, unless the deduction is for more than \$500 and a qualified appraisal is included with the tax return on which the deduction is claimed.

Contributions of \$250 or More

In order to claim a charitable deduction for a contribution of \$250 or more (determined by each donation rather than the aggregate of multiple contributions to the same organization), in addition to the proof of contribution (outlined above), the IRS requires a contemporaneous written acknowledgement of the donation from the charity (a receipt or a letter) which must include:

- Name of the organization,
- Date of the contribution (proof of contribution as described above will suffice),
- Description of what was donated. For cash contributions, the organization must indicate the dollar amount that was donated. For non-cash gifts, the organization needs to describe the property donated, but does not have to provide a value of the donation, *and*
- A statement of whether the donor received the value of any benefit in return for the donation or, alternatively, whether nothing was received in return for the donation. (If the donor receives goods or services of value from the charity in return for a contribution, the charitable organization must report the value of goods or services received, which will reduce the amount of the charitable deduction. For example, if a donor contributes \$100 to a charitable organization and receives a commemorative book valued at \$40 in return, the donor may only deduct \$60 as a charitable donation.)
- *For contributions of non-cash items when a deduction of more than \$500 is claimed, donor records must also include the origin of the item (purchase, gift, inheritance), the date the item was acquired and the cost or tax basis of the item.*
- *Additionally, for non-cash contributions in excess of \$5,000 of one or more similar items to the same organization in a calendar year, generally a qualified appraisal must be obtained.*

To be contemporaneous, the donor must generally receive the acknowledgement no later than the date that the donor files an income tax return for the year the contribution is made.

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Out-of-Pocket Expenses

When services are provided to a charitable organization and unreimbursed out-of-pocket expenses related to those services are incurred, the donor must:

- Maintain adequate records to prove the amount of the expenses and
- If any of those unreimbursed expenses exceed \$250, the charity must provide an acknowledgement that contains a description of the services provided and a statement of whether goods or services were provided (and a statement of their value).

Car Expenses

When a donor desires to claim expenses directly related to the use of a car in providing services to a charity, the donor must keep reliable written records of those expenses. The determination of what is "reliable" is not hard and fast, but is generally satisfied if the record is made at or near the time the expense is incurred and the record shows:

- Date the expense was incurred,
- Name of the organization, and
- Mileage driven (when the standard mileage rate is deducted) or the actual expenses incurred (if actual expenses are deducted rather than the standard mileage rate).

Given the recent cases in which donors have been denied a charitable deduction for not complying with substantiation requirements, strict compliance with these rules is critical. If you would like to discuss substantiation requirements for specific gifts, please let us know.

The information contained in this article is of a general nature and is not intended as, nor should it be relied upon for, legal advice. No action should be taken in reliance upon the information contained in this article without obtaining the advice of an attorney.

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