Charitable Giving and Substantiation Requirements

Each year as a group, Americans donate almost $500 billion dollars to charitable causes. The Tax Code encourages philanthropy by allowing charitable deductions for gifts made to qualified charitable organizations.

In order for a donor to claim a charitable deduction, though, there are strict substantiation rules that must be followed. It is the donor's responsibility to retain evidence of the gift and failure to follow the substantiation rules may result in the denial of a charitable deduction.

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

CASH DONATIONS

For any cash donation less than $250, the donor must retain a bank record or written communication from the charity showing (1) the name of the charitable organization, (2) the date of the contribution, and (3) the amount of the contribution. Separate cash contributions of less than $250 each are not aggregated during the year, even if the annual total exceeds $250.

For cash donations of $250 or more, the donor must retain a contemporaneous written acknowledgement which is a receipt from the charitable organization showing the amount of the contribution, the date of the contribution and a statement by the charitable organization as to whether the charitable organization provided any goods or services in consideration for the contribution (and a value of those services). *A cancelled check or bank statement will not suffice* for donations of $250 or more.

NON-CASH DONATIONS

For donations of non-cash items valued less than $250, the donor must retain a receipt indicating (1) the name of the charitable organization, (2) the date of the contribution, and (3) a description of the items donated in sufficient detail.

For donations of non-cash items valued at $250 to $500, the donor must obtain a contemporaneous written acknowledgement which is a receipt from the charitable organization showing a description (but not the value) of the contribution, the date of the contribution and a statement by the charitable organization as to whether the charitable organization provided any goods or services in consideration for the contribution (and a value of those services).

For donations of non-cash items valued at $501 to $5,000, the donor must obtain a contemporaneous written acknowledgement. In addition, the donor must file IRS Form 8283 with his/her income tax return providing additional information about the donated asset(s) including the fair market value of the donated property, the tax basis of the donated property, and a description of how the donated asset was acquired.

For donations of non-cash items valued at $5,001 or more, the donor must obtain a contemporaneous written acknowledgement. In addition, the donor must file IRS Form 8283 with his/her income tax return providing additional information about the donated asset(s) including the fair market value of the donated property, the tax basis of the donated property, and a description of how the donated asset was acquired. Also, for donated items other than publicly traded securities, a vehicle for which the donor's deduction is limited to the gross proceeds from its sale, or inventory held by the donor for sale to customers, a qualified appraisal must be submitted with the donor's income tax return in order to claim a charitable deduction.

YOUNG MOORE ATTORNEYS

Date of Donation

At year end, the date of the gift can become significant for determining whether the gift was made at the end of one year or the beginning of the next year. See below for guidelines on determining the date of donation.

CASH AND CHECKS

- For cash and checks, the date of mailing if mailed through the United States mail or the date of delivery to the charitable organization if sent via a private delivery service (such as FedEx or UPS).
- For credit card payments, the date the credit card company charges the donor's credit card.

STOCK

- If the donor delivers stock through the donor's bank or broker, the contribution is made on the date the books of the corporation reflect the transfer.
- If the donor delivers an endorsed stock certificate, the date of mailing if mailed through the United States mail or the date of delivery to the charity if sent via a private delivery service.

OTHER NON-CASH ITEMS

- The date the charity receives title to and possession of the items.

PLEDGES

- Pledges are not treated as deductible until the donor fulfills the pledge.

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Sue Haberberger concentrates her practice in the areas of estate planning and administration and wealth transfer. She assists individuals with the preparation, revision and updating of estate planning documents including wills, revocable living trusts, irrevocable life insurance trusts (ILITs), charitable trusts (CRATs, CRUTs, CLATs), spousal lifetime access trusts (SLATs), dynasty trusts, trusts for children, grantor retained income trusts (GRITs, GRATs), qualified personal residence trusts (QPRTs), premarital agreements, powers of attorney (for both asset management and health care), and living wills. Sue also advises individuals on planning for and minimizing estate taxes and generation skipping taxes, and counsels clients on the development of gifting strategies, including annual exclusion gifting, charitable gift planning and the formation of private and family foundations. Sue also counsels clients on asset protection and probate avoidance issues and modification of irrevocable trusts.

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