

When Should You Report a Contribution?

By Dennis Walsh CPA

If you find this question confusing at times you're not alone. Nonprofit managers and tax practitioners alike need to frequently refer to the evolving rules in this area. The purpose of this article is to review situations where the receipt, or disposition, of cash and other charitable property requires reporting to the donor or to the IRS. Learn the basic rules and avoid headaches with donors and Uncle Sam.

An individual claiming a tax deduction for a cash contribution of \$250 or more to a charitable organization must obtain written confirmation prior to filing their tax return. With the exception of a *quid pro quo* contribution (discussed later), it is the responsibility of the donor to request and obtain this information. Practically speaking, however, most donors will expect you to supply this information without first making a request. Best practices of financial management suggest including the information donors will need for income tax purposes as part of a personalized thank you letter. This also provides an opportunity to build donor loyalty through updates on your activities, without incurring the time and cost of another mailing.

If it is not your policy to confirm donations at the time received, written confirmation should be sent no later than January 31 of the year after the donation. Sending confirmations by email is acceptable.

Donors need the following for federal tax purposes:

- The name of your organization
- The amount of cash contributed
- A description, but not the value, of non-cash property contributed
- A statement that no goods or services were provided by the organization in return for the donation, if that was the case
- A statement that any goods or services provided in return for the contribution consisted entirely of intangible religious benefits, if that was the case

You must also include the standard North Carolina solicitation licensing disclosure, conspicuously placed in the statement, if you are required to hold a charitable solicitation license (most organizations receiving at least \$25,000 in donations).

For contributions made in 2007 and later, donors will need this confirmation for contributions of less than \$250 as well, unless they have a cancelled check or other proof of payment. Many donors make contributions in currency or may not retain the required proof of payment, and may therefore lack the required substantiation unless you confirm such smaller contributions also. Donors are generally appreciative of assistance in tracking their donations and it is in your best interest to confirm all contributions to the extent practical, regardless of amount.

Quid pro quo contributions

If you provide any goods or services to a donor in return for a contribution of more than \$75 (i.e. a "*quid pro quo*") you must provide the donor certain information at the time of the donation. A common example of such a giving incentive is the value of dinner provided as part of admission to an annual fundraising banquet. If admission is \$100 and you determine your cost of providing dinner is \$30 per person, \$70 is eligible for deduction by the donor. You must disclose certain information at or near the time of the event, in either the solicitation, printed program, or in other written communication provided to the donor. Specifically, you must give the donor:

- A description and good faith estimate of the value of the goods or services provided, and
- A statement that the donor's tax deduction is limited to the amount of cash and value of any property contributed, reduced by the value of any goods or services received in return

However, there are two exceptions for items of insubstantial value. If either the low-cost items or *de minimus* value exception applies, the full amount of the contribution is eligible for deduction by the donor. In this case, you should not supply the information above and should state that no goods or services were provided in return for the contribution. These exceptions are as follows:

- The contribution is \$44.50 or more and only token items bearing your organization's name or logo (e.g. pens, mugs, etc.) with a cost to you of \$8.90 or less are provided in return (low-cost items exception), or
- The fair market value of the goods or services provided in return is not more than 2% of the amount of the contribution or \$89, whichever is less (*de minimus* value exception)

These amounts are applicable for 2007 and are updated annually in IRS Publication 1771. The IRS may impose a penalty of \$10 for each statement not provided, up to a maximum of \$5,000 per fundraising event.

You're not in the appraisal business

You should be careful to avoid making an appraisal or other representation to donors as to the value of non-cash property. It is the responsibility of the donor to substantiate the value of donated property for tax purposes. Instead, advise donors to consult their tax advisor or refer to IRS Publication 526 – Charitable Contributions and Publication 561 - Determining the Value of Donated Property relative to these matters.

Additionally, it is wise to avoid making blanket statements about the deductibility of gifts to your organization. Statements such as “Contributions to XYZ Charity are fully tax deductible” should be avoided. Because federal tax law for individuals may treat the deductibility of the same donation differently from donor to donor, a preferable statement for your fundraising materials might be “XYZ Charity is recognized as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code and contributions are deductible to the extent allowed by law.”

Expenses of volunteers

Volunteers may be able to deduct their out of pocket expenses incurred in performing services for your nonprofit, such as expenses of operating their personal vehicle and costs associated with overnight travel while serving as a representative of your organization (e.g. cost of meals, purchased transportation and lodging). While volunteers may never deduct the value of their time or service, you can help them substantiate their deductions by confirming to them in writing items such as:

- A description of how the volunteer used their vehicle for your organization. It is the volunteer’s responsibility to log details such as mileage, dates, and beginning/ending destinations.
- A description of the purpose and nature of charitable travel on behalf of the organization, including a statement that the volunteer served as a chosen representative of your nonprofit
- A statement as to whether you reimbursed any expenses incurred by the volunteer

Donations of vehicles, boats and aircraft

If you receive the donation of a vehicle, boat, or aircraft with a value of more than \$500 you must, within 30 days after selling the property, provide the donor with a written acknowledgment that includes the amount of the sale proceeds. See IRS Form 1098-C and the accompanying instructions for specific requirements. Failing to file, or filing a false Form 1098-C, may result in a penalty equal to the

larger of the sale price of the property or 35% of the sale price reported on Form 1098-C. Other penalties for failing to correctly file forms in the 1099 series may apply as well.

Contributed property disposed of within 3 years

If you sell, exchange, or otherwise dispose of donated real estate or personal property having a donated value of more than \$5000 within 2 years after donation (3 years for returns filed after September 1, 2006), you must file IRS Form 8282, "Donee Information Return," within 125 days of the disposition. The reporting of such later sale information helps the IRS identify inflated valuations of property donated to charity. This reporting is not required if:

- You did not sign IRS Form 8283 "Non-cash Contributions" for the donor at the time you received the donation (for property with a value of more than \$5,000) or
- the property was part of a group of donated items, and was identified on Form 8283, at the time of donation, as having a value of under \$500, or
- The property is consumed or distributed in furtherance of your exempt activities.

Also effective for returns filed after September 1, 2006, the information included on Form 8282 must include a description of your use of the property and a statement indicating whether such use was related to the purpose or function constituting the basis for your tax exempt status. Certain exceptions to these requirements apply as explained in the instructions to Form 8282. Failure to timely file a complete and accurate Form 8282 may result in a penalty of \$50.

Income from donations of intellectual property

If you receive or accrue net income from a donation of certain types of intellectual property (e.g. a patent, copyright, trademark or other specified property) you must file IRS Form 8899. The form must be filed for any tax year that includes any part of the 10-year period beginning on the date of contribution. However, you do not have to file for any tax year in which the legal life of the intellectual property has expired or the property failed to produce net income.

For more information

This article covers the most common contribution-related reporting issues you will encounter, but it is not exhaustive. You may wish to refer to IRS Publication 1771, Charitable Contributions-Substantiation and Disclosure Requirements, for more information including references to applicable IRS authority on these issues.

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