

Rules for Deducting Charitable Gifts

Documentation requirements vary based on the size and type of gift involved.

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Making a donation to a charitable organization can be personally rewarding but also offers the benefit of a tax deduction for the value of the gift. In order to ensure the deductibility of the donation, it's important to follow the IRS rules regarding substantiating charitable deductions and properly valuing gifts, as well as knowing when a gift is considered completed.

DOCUMENTATION RULES: CASH DONATIONS

In order to claim a charitable contribution deduction for cash gifts, taxpayers must maintain either:

- A bank record, such as a cancelled check or account statement, or
- A receipt, letter or other written communication from the charity stating:
 - The name of the charity
 - The date of the contribution
 - The amount of the contribution
 - A description and good-faith effort at valuing any goods or services the charity provided in return for the contribution (applies to single gifts over \$250 only – multiple gifts are not aggregated for this requirement).
- For donations made via payroll deduction:
 - A pay stub, W-2 or other record provided by the employer, and
 - A pledge card or other documentation prepared by or for the charity showing the name of the organization

In the past, donors were able to maintain their own contemporaneous written records of cash charitable gifts under \$250, but that no longer applies; all cash contributions must be substantiated. Proposed Regulations issued in 2008 reaffirm that there is no de minimus exception to this requirement.

DOCUMENTATION RULES: NONCASH DONATIONS

The documentation rules for property donations are much more stringent than for cash donations.

- For gifts valued at less than \$250, taxpayers must obtain a receipt from the recipient organization (and maintain reliable written records) that contains the following information:
 - The name of the donee charity

- The date and location of the contribution
- A reasonably detailed description of the property that was donated (but not necessarily the value)

You are not required to have a receipt where it is impractical to receive one, such as leaving items at an unattended drop box. You must also maintain written records for each donated item that includes:

- The name and address of the donee charity
 - The date and location of the donation
 - A description of the property with a reasonable level of detail
 - The market value of the property and how you determined that value, and how much you are claiming as a deduction
 - The cost basis of the property
 - Any terms or conditions attached to the property
- For gifts worth at least \$250 but not more than \$500, you must receive the same documentation from the charity and maintain the same personal records as are required for gifts less than \$250. The charity's acknowledgement must also contain a description of what was given and good-faith effort at valuing any goods or services the charity provided in return for the contribution.
 - For gifts valued at more than \$500 but less than \$5,000, you must obtain the same written acknowledgement as is required for gifts valued between \$250 and \$500. In addition, your personal records must include the following:
 - How and when you acquired the property
 - The cost basis of the property (doesn't apply to publicly traded securities)
 - For gifts valued at over \$5,000, you will need all the documentation required for other property gifts. In general, you must also obtain a written appraisal of the item from a qualified appraiser. More information on the appraisal requirements can be found in IRS Publication 561, Determining the Value of Donated Property, which is available at www.irs.gov.

ADDITIONAL CONSIDERATIONS FOR ALL PROPERTY DONATIONS:

All acknowledgements from charities must be in writing, such as a letter, fax or e-mail. You must have this receipt for your donation by the earlier of the due date for filing your tax return (including any extensions you have received) or by the date you actually file your return. If you do not receive a timely receipt, your deduction could be denied.

A letter from a third party that helps facilitate the gift is not likely to meet the IRS requirements, unless that third party is acting as an agent for the recipient. For example, a letter from a brokerage firm indicating shares of stock have been transferred to a charity is not sufficient documentation, unless that brokerage firm also acts as an agent for the charity.

REPORTING REQUIREMENTS

If your total deduction for all noncash contributions for the year is over \$500, you must complete Section A of Form 8283, and attach it to your Form 1040. If you make any single gift that is valued at more than \$5,000 (other than publicly traded securities), you must complete Section B of Form 8283, rather than Section A. Part III of Section B is the Declaration of Appraiser, which the appraiser must complete. Part IV of that section is the Donee Acknowledgment, and this must be signed by an authorized representative of the charity.

WHEN IS A DONATION CONSIDERED COMPLETE?

The IRS considers a gift to be completed the date the recipient "receives" the gift. If the gift is a check that is being mailed, the gift is complete on the date it is mailed. Charges to credit cards are considered complete at the time of the charge, even though the credit card bill may not be paid until later.

If the donation is of real property, such as a car or land, the gift is considered complete when legal title to the

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property passes to the charity, such as when the deed to the property is delivered.

In the case of donations of stock, hand-delivered certificates are completed gifts at the time of delivery. If they are mailed, the gift is complete at the time of mailing. However, if the donor delivers the stock to a third party, such as their broker or the issuing company's transfer agent, to deliver to the charity, the stock must be transferred on the books of the issuing company in order to be complete.

GIFTING PUBLICLY TRADED SECURITIES

In the case of publicly traded securities, the valuation issues are easier to manage. The value of the gift is not necessarily what the security was sold for, if it was sold on the date of the gift. Instead, the gift is valued at the average of the highest and lowest selling prices on that date, assuming there is an active market for the security on the date the gift is completed. If there are no sales on the date of the gift, but there are sales within a reasonable time period before and after the gift, the value of the gift is based on a weighted average of the average values on the most recent trading days before and after the date the gift is complete.

If you plan to make a substantial gift and want to avoid a possible market decline on the valuation of your gift while your stock is being transferred from brokerage account to the charity, encourage the charity to which you are making the gift to open an account at the same firm. When the stock is transferred from your account to the charity's account, the date and value of the gift will be known to both parties and should reduce any chance of confusion over those items.

OTHER GIFT TYPES

For other types of gifts, such as real estate, non-public securities, business interests, etc., a qualified appraiser may be required to determine the actual value of the gift. More information on the valuation of charitable gifts may be found in IRS Publication 561, Determining the Value of Donated Property, which is available at www.irs.gov.

Additional information on the rules regarding charitable contributions can be found in IRS Publication 526, Charitable Contributions, which is available at www.irs.gov.