

Charitable Contributions

**Substantiation and
Disclosure
Requirements**



INTERNAL REVENUE SERVICE

**Tax Exempt and
Government Entities**

Exempt Organizations



**Are you an organization
that receives contributions
of \$250 or more?**

or

**Are you an organization
that provides goods or
services to donors who
make contributions of
more than \$75?**

or

**Are you a donor who makes
contributions to a charity?**

IRS Publication 1771, *Charitable Contributions–Substantiation and*

Disclosure Requirements, explains the federal tax law for organizations such as charities and churches that receive tax-deductible charitable contributions and for taxpayers who make contributions.

There are recordkeeping and substantiation rules imposed on donors of charitable contributions and disclosure rules imposed on charities that receive certain *quid pro quo* contributions.

- a donor must have a **bank record** or **written communication** from a charity for any monetary contribution before the donor can claim a charitable contribution on his/her federal income tax return
- a donor is responsible for obtaining a **written acknowledgment** from a charity for any single contribution of \$250 or more before the donor can claim a charitable contribution on his/her federal income tax return
- a charitable organization is required to provide a **written disclosure** to a donor who receives goods or services in exchange for a single payment in excess of \$75

More on recordkeeping, written acknowledgments and written disclosures is addressed in this publication.

The rules in this publication do not apply to a donated motor vehicle, boat, or airplane if the claimed value exceeds \$500. For information on vehicle donations, see IRS Publication 4302, *A Charity's Guide to Vehicle Donations*, and IRS Publication 4303, *A Donor's Guide to Vehicle Donations*.

For information about organizations that are qualified to receive charitable contributions, see IRS Publication 526, *Charitable Contributions*. Publication 526 also describes contributions you can (and cannot) deduct, and it explains deduction limits. For assistance about valuing donated property, see IRS Publication 561, *Determining the Value of Donated Property*.



Recordkeeping Rules

Requirement

A donor cannot claim a tax deduction for any contribution of cash, a check or other monetary gift unless the donor maintains a record of the contribution in the form of either a bank record (such as a cancelled check) or a written communication from the charity (such as a receipt or letter) showing the name of the charity, the date of the contribution, and the amount of the contribution.

Payroll Deductions

For charitable contributions made by payroll deduction, the donor may use both of the following documents as written communication from the charity:

- a pay stub, Form W-2, Wage and Tax Statement, or other employer-furnished document furnished by the employer that shows the amount withheld and paid to a charitable organization, and
- a pledge card prepared by or at the direction of the charitable organization.

However, if a donor makes a **single contribution of \$250 or more by payroll deduction**, see **Payroll Deductions** under **Written Acknowledgment** for what information the pledge card must include.



Written Acknowledgment

Requirement

A donor cannot claim a tax deduction for any single contribution of \$250 or more unless the donor obtains a contemporaneous, written acknowledgment of the contribution from the recipient organization. An organization that does not acknowledge a contribution incurs no penalty; but, without a written acknowledgment, the donor cannot claim the tax deduction. Although it is a donor's responsibility to obtain a written acknowledgment, an organization can assist a donor by providing a timely, written statement containing the following information:

1. name of organization
2. amount of cash contribution
3. description (but not the value) of non-cash contribution
4. statement that no goods or services were provided by the organization in return for the contribution, if that was the case
5. description and good faith estimate of the value of goods or services, if any, that an organization provided in return for the contribution
6. statement that goods or services, if any, that an organization provided in return for the contribution consisted entirely of intangible religious benefits (described later in this publication), if that was the case

It is not necessary to include either the donor's social security number or tax identification number on the acknowledgment.



A separate acknowledgment may be provided for each single contribution of \$250 or more, or one acknowledgment,

such as an annual summary, may be used to substantiate several single contributions of \$250 or more. There are no IRS forms for the acknowledgment. Letters, postcards, or computer-generated forms with the above information are acceptable. An organization can provide either a paper copy of the acknowledgment to the donor, or an organization can provide the acknowledgment electronically, such as via an e-mail addressed to the donor. A donor should not attach the acknowledgment to his or her individual income tax return, but must retain it to substantiate the contribution. Separate contributions of less than \$250 will not be aggregated. An example of this could be weekly offerings to a donor's church of less than \$250 even though the donor's annual total contributions are \$250 or more.



Contemporaneous

Recipient organizations typically send written acknowledgments to donors no later than January 31 of the year following the donation. For the written acknowledgment to be considered contemporaneous with the contribution, a donor must receive the acknowledgment by the earlier of: the date on which the donor actually files his or her



individual federal income tax return for the year of the contribution; or the due date (including extensions) of the return.

Goods and Services



The acknowledgment must describe goods or services an organization provides in exchange for a contribution of \$250 or more. It must also provide a good faith estimate of the value of such goods or services because a donor must generally reduce the amount of the contribution deduction by the fair market value of the goods and services provided by the organization. Goods or services include cash, property, services, benefits or privileges. However, there are important exceptions as described below:

Token Exception — Insubstantial goods or services a charitable organization provides in exchange for contributions do not have to be described in the acknowledgment.

Good and services are considered to be insubstantial if the payment occurs in the context of a fund-raising campaign in which a charitable organization informs the donor of the amount of the contribution that is a deductible contribution, and:

1. the fair market value of the benefits received does not exceed the lesser of 2 percent of the payment or \$96, or
2. the payment is at least \$48, the only items provided bear the organization's name or logo (e.g., calendars, mugs, or posters), and the cost of these items is within the limit for "low-cost articles," which is \$9.60.

Free, unordered low-cost articles are also considered to be insubstantial.



Example of a token exception: If a charitable organization gives a coffee mug bearing its logo and costing the organization \$9.60 or less to a donor who contributes \$48 or more, the organization may state that no goods or services were provided in return for the \$48 contribution. The \$48 is fully deductible.

The dollar amounts are for 2010. Guideline amounts are adjusted for inflation. Contact IRS Exempt Organizations Customer Account Services at (877) 829-5500 for annual inflation adjustment information.

Membership Benefits Exception — An annual membership benefit is also considered to be insubstantial if it is provided in exchange for an annual payment of \$75 or less and consists of annual recurring rights or privileges, such as:



1. free or discounted admissions to the charitable organization's facilities or events
2. discounts on purchases from the organization's gift shop
3. free or discounted parking
4. free or discounted admission to member-only events sponsored by an organization, where a per-person cost (not including overhead) is within the "low-cost articles" limits



Example of a membership benefits exception; If a charitable organization offers a \$75 annual membership that allows free admission to all of its weekly events, plus a \$20 poster, a written acknowledgment need only mention the \$20 value of the poster, since the free admission would be considered insubstantial and, therefore, would be disregarded.

Intangible Religious Benefits Exception – If a religious organization provides only “intangible religious benefits” to a contributor, the acknowledgment does not need to describe or value those benefits. It can simply state that the organization provided intangible religious benefits to the contributor.

What are “intangible religious benefits?” Generally, they are benefits provided by a tax-exempt organization operated exclusively for religious purposes, and are not usually sold in commercial transactions outside a donative (gift) context. Examples include admission to a religious ceremony and a *de minimis* tangible benefit, such as wine used in a religious



ceremony. Benefits that are not intangible religious benefits include education leading to a recognized degree, travel services, and consumer goods.

Payroll Deductions

When a donor makes a **single contribution of \$250 or more by payroll deduction**, the donor may use both of the following documents as the written acknowledgment obtained from the organization:



- a pay stub, Form W-2, *Wage and Tax Statement*, or other document furnished by the employer that sets forth the amount withheld by the employer and paid to a charitable organization, and
- a pledge card that includes a statement to the effect that the organization does not provide goods or services in consideration for contributions to the organization by payroll deduction.

Each payroll deduction amount of \$250 or more is treated as a separate contribution for purposes of the \$250 threshold requirement for written acknowledgments.

Unreimbursed Expenses

If a donor makes a single contribution of \$250 or more in the form of unreimbursed expenses, e.g., out-of-pocket transportation expenses incurred in order to perform donated services for an organization, then the donor must obtain a written acknowledgment from the organization containing:

- a description of the services provided by the donor
- a statement of whether or not the organization provided goods or services in return for the contribution
- a description and good faith estimate of the value of goods or services, if any, that an organization provided in return for the contribution

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- a statement that goods or services, if any, that an organization provided in return for the contribution consisted entirely of intangible religious benefits (described earlier in this publication), if that was the case

In addition, a donor must maintain adequate records of the unreimbursed expenses. See Publication 526, *Charitable Contributions*, for a description of records that will substantiate a donor's contribution deductions.

Example of an unreimbursed expense: A chosen representative to an annual convention of a charitable organization purchases an airline ticket to travel to the convention. The organization does not reimburse the delegate for the \$500 ticket. The representative should keep a record of the expenditure, such as a copy of the ticket. The representative should obtain from the organization a description of the services that the representative provided and a statement that the representative received no goods or services from the organization.

Examples of Written Acknowledgments

- “Thank you for your cash contribution of \$300 that (organization's name) received on December 12, 2009. No goods or services were provided in exchange for your contribution.”
- “Thank you for your cash contribution of \$350 that (organization's name) received on May 6, 2009. In exchange for your contribution, we gave you a cookbook with an estimated fair market value of \$60.”



- “Thank you for your contribution of a used oak baby crib and matching dresser that (organization’s name) received on March 15, 2010. No goods or services were provided in exchange for your contribution.”

The following is an example of a written acknowledgment where a charity accepts contributions in the name of one of its activities:

- “Thank you for your contribution of \$450 to (organization’s name) made in the name of its Special Relief Fund program. No goods or services were provided in exchange for your contribution.”



Written Disclosure



Requirement

A donor may only take a contribution deduction to the extent that his/her contribution exceeds the fair market value of the goods or services the donor receives in return for the contribution; therefore, donors need to know the value of the goods or services. An organization must provide a written disclosure statement to a donor who makes a payment exceeding \$75 partly as a contribution and partly for goods and services provided by the organization. A contribution made by a donor in exchange for goods or services is known as a *quid pro quo* contribution.

Example of a *quid pro quo* contribution: A donor gives a charitable organization \$100 in exchange for a concert ticket with a fair market value of \$40. In this example, the donor's tax deduction may not exceed \$60. Because the donor's payment (*quid pro quo* contribution) exceeds \$75, the charitable organization must furnish a disclosure statement to the donor, even though the deductible amount does not exceed \$75.

A required written disclosure statement must:

- inform a donor that the amount of the contribution that is deductible for federal income tax purposes is limited to the excess of money (and the fair market value of property other than money) contributed by the donor over the value of goods or services provided by the organization
- provide a donor with a good-faith estimate of the fair market value of the goods or services



An organization must furnish a disclosure statement in connection with either the solicitation or the receipt of the *quid pro quo* contribution. The statement must be in writing and must be made in a manner that is likely to come to the attention of the donor. For example, a disclosure in small print within a larger document might not meet this requirement.

Exception

A written disclosure statement is not required:

- where the goods or services given to a donor meet the “token exception,” the “membership benefits exception,” or the “intangible religious benefits exception” described earlier
- where there is no donative element involved in a particular transaction, such as in a typical museum gift shop sale

Penalty

A penalty is imposed on charities that do not meet the written disclosure requirement. The penalty is \$10 per contribution, not to exceed \$5,000 per fundraising event or mailing. An organization may avoid the penalty if it can show that failure to meet the requirements was due to reasonable cause.



Further Information

written acknowledgment – Detailed rules for contemporaneous written acknowledgments are contained in Section 170(f)(8) of the Internal Revenue Code and Section 1.170A-13(f) of the Income Tax Regulations. The “low-cost article” rules are set forth in Section 513(h)(2) of the Code. This information can be found on the IRS Web site at www.irs.gov.

written disclosure – Detailed rules for written disclosure statements are contained in Section 6115 of the Internal Revenue Code and Section 1.6115-1 of the Income Tax Regulation. The penalty rules are contained in Section 6714 of the Code. This information can be found on the IRS Web site at www.irs.gov.

IRS publications – Order publications by calling the IRS at (800) 829-3676. Download IRS publications at www.irs.gov.

IRS customer service – Telephone assistance for general tax information is available by calling IRS customer service toll-free at (800) 829-1040.

EO customer service – Telephone assistance specific to exempt organizations is available by calling IRS Exempt Organizations Customer Account Services toll-free at (877) 829-5500

EO Web site – Visit Exempt Organizations Web site at www.irs.gov/eo.

EO Update – To receive IRS Exempt Organization’s EO Update, a regular e-mail newsletter with information for tax-exempt organizations and tax practitioners who represent them, visit www.irs.gov/eo and click on “EO Newsletter.”

Stay Exempt (www.stayexempt.org) – An IRS interactive web-based training program covering tax compliance issues confronted by small and mid-sized tax-exempt organizations.

