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Wealth Strategy Report

Charitable Gifts — Recordkeeping Requirements

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INTRODUCTION

Gifts to qualified charities[1] are deductible for federal income tax purposes, subject to many rules and limitations. One such set of rules is the recordkeeping requirements, sometimes called "substantiation" requirements. That is, you must retain in your records certain paperwork to support your deduction. In some cases you will also be required to file a particular form or statement with your federal income tax return. The particular requirements for a particular charitable gift will depend on (i) the type of property gifted, and (ii) the value of the gift. This Wealth Strategy Report will give a general overview of these requirements.

This Wealth Strategy Report does not discuss the many rules for determining the amount of your charitable income tax deduction, nor does it discuss the reporting/disclosure rules that may apply to the charity itself.

CASH CONTRIBUTIONS

Though loosely referred to as "cash contributions," it is rare that you would literally donate currency to a charity (and if you do, it is likely to be of an amount you're not planning to deduct). More likely your "cash contribution" would take the form of a check, electronic transfer (e.g., Paypal), debit/credit card payment, or payroll deduction. For any of these, you cannot deduct your contribution unless you retain in your records one of the following three records:

- A bank record that shows the name of the charity, the date of the gift, and the amount of the gift. Examples include a cancelled check, a bank statement or a credit card statement. These are only examples, not an exhaustive list.
- A receipt, letter or other written document from the charity showing the name of the charity, the date of the gift, and the amount of the gift.
- For a payroll deduction gift, you need a document from your employer showing the date and amount of the gift (e.g., pay stub or Form W-2), and you need a document prepared by or for the charity (e.g., a pledge card) showing its name.

[1] Only gifts to certain charitable organizations will entitle you to a charitable income tax deduction. Most organizations should be able to tell you whether gifts would qualify. You can also confirm a charity's qualification via the IRS website at https://www.irs.gov/charities-non-profits/exempt-organizations-select-check.

CASH CONTRIBUTIONS $250 OR MORE

For each cash contribution of $250 or more, in addition to the records discussed above, you must receive from the charity and retain in your records a written acknowledgement that sets forth (i) the amount of cash contributed; (ii) whether the charity gave you any non-token goods or services in return for your gift; (iii) if applicable, a description and estimated value of any such goods or services (other than intangible religious benefits); and (iv) if applicable, a statement that the only benefit you received was an intangible religious benefit. This acknowledgment does not have to include your Social Security number.

In determining whether the $250 threshold has been exceeded, you do not have to combine separate contributions. For example, if you donate $10 at your church weekly, that would be $520 for the year. However you do not have to combine these $10 gifts, and so the $250 threshold has not been exceeded. Similarly, in the case of a gift made via payroll deduction, each paycheck's deduction is a separate gift for purposes of determining whether this $250 threshold has been exceeded.

For each cash contribution of $250 or more, you must receive the written acknowledgement from the charity by the earlier of (i) the date you actually file your tax return, or (ii) the due date for filing (including extensions).

NON-CASH CONTRIBUTIONS

Charitable gifts are often made other than in cash. This can include donating books to a library, furniture to a homeless shelter, your used car to a public radio station, or appreciated stock to your alma mater. The substantiation rules for non-cash gifts depend on the value of the gift, resulting in four sets of rules for (i) gifts of less than $250; (ii) gifts of at least $250 but not more than $500; (iii) gifts of more than $500 but not more than $5,000; and (iv) gifts of more than $5,000.

Unlike cash gifts, which do not have to be combined for purposes of determining whether the $250 threshold is exceeded, non-cash gifts do indeed have to be combined with gifts of similar items donated during the year to a charity. For example, making a gift of $100-worth of books three times during the year to the local library would exceed the $250 threshold.

Non-cash contributions of less than $250

If you make a non-cash contribution of less than $250, you will need to retain in your records two items to substantiate a charitable income tax deduction: a proper receipt from the charity and proper additional records that you can create.

Receipt. If you make any non-cash contribution, you must obtain and retain in your records a receipt from the charity showing (i) the name of the charity; (ii) the date and location of the charitable contribution; and (iii) a reasonably detailed description of the property. A letter or other written communication from the charity acknowledging receipt of the contribution and containing this information will suffice. You are not required to obtain a receipt if it is impractical to get one, such as if you leave property at a charity's unattended drop site.

Additional records. For each item donated you must also retain written records which have the following information: (i) the name and address of the charity; (ii) the date and location of the gift; (iii) a description of the gifted property "in reasonable detail";[2] (iv) the value of the property and how that value was determined; (v) your basis, if your deduction was for less than fair market value; and (vi) the terms of any conditions attached to the contribution of property.

In addition, if you donate less than your entire interest in property, your records must include (i) the amount you claim as a deduction; (ii) the amount you claimed as a deduction in any earlier years for donations of other interests in the same property; (iii) the name and address of each organization to which you donated the other interest; (iv) the place where the property is located or kept; and (v) the name of the person in possession of the property, if not the organization to which you donated.

Non-cash contributions of at least $250 but not more than $500

If you make a non-cash contribution of at least $250 but not more than $500, you will need the same records as listed above for non-cash contributions of less than $250. In addition, the receipt you receive from the charity must include (i) a description of the property; (ii) whether the charity gave you any non-token goods or services in return; and (iii) if applicable, a description and estimated value of any such goods or services (other than intangible religious benefits). If the only benefit you received was an intangible religious benefit that generally is not sold in a commercial transaction outside charitable giving, the receipt from the charity must say so.

You must receive the receipt described above from the charity by the earlier of (i) the date you actually file your tax return or (ii) the due date for filing (including extensions).

Non-cash contributions over $500 but not more than $5,000

If you make a non-cash contribution over $500 but not more than $5,000, you will need the same records as listed above for non-cash contributions of at least $250 but not more than $500. In addition, your retained records must contain the following additional information: (i) how you acquired the donated property (i.e., purchase, gift, inheritance, etc.); (ii) the approximate date you acquired the property or, if you created the property, the approximate date it was substantially completed; and (iii) your basis in the property. A non-cash contribution over $500 will also require that you file Form 8283 with your federal income tax return, and that form requires you to provide this additional information. If you don't have this information and you have a

[2] For a security, IRS Publication 526 states that it will suffice to keep the name of the issuer, the type of security, and whether it is regularly traded on a stock exchange or in an over-the-counter market.

reasonable cause for not being able to provide this information, you should attach a statement of explanation to your tax return.

Non-cash contributions over $5,000

If you make a non-cash contribution over $5,000, you will need the same records as listed above for non-cash contributions of at least $500 but not more than $5,000. In addition, you must meet the following requirements: 1) you must get a written, qualified appraisal from a qualified appraiser; 2) the appraisal must be signed and dated by the appraiser not earlier than 60 days before the date you contribute the property; and 3) you must receive the appraisal before the due date (including extensions) of the return of which you first claim a deduction of the property.

The above additional requirements do not apply to gifts of: 1) those securities listed on an exchange for which market quotations are readily available; 2) qualified vehicles, if the deduction is limited to the gross proceed from its sale; 3) certain intellectual property; or 4) inventory or property held primarily for sale to customers in the ordinary course of a trade or business.

OUT-OF-POCKET EXPENSES

If you perform services for a charity and have unreimbursed expenses, those are deductible as a charitable gift, subject to the following requirements.

- You must retain adequate records that prove the amount of the expense. In the case of car expenses, you must keep reliable written records. Generally this would be satisfied by a contemporaneous mileage log showing dates, mileage and purpose.
- For an unreimbursed out-of-pocket expense of $250 or more, you must obtain from the charity and retain in your records a written acknowledgment that sets forth (i) a description of your services; (ii) whether the charity gave you any non-token goods or services in return; (iii) if applicable, a description and estimated value of any such goods or services (other than intangible religious benefits); and (iv) if applicable, a statement that the only benefit you received was an intangible religious benefit. This acknowledgement must be received from the charity by the earlier of (i) the date you actually file your tax return, or (ii) the due date for filing (including extensions).

VEHICLE DONATIONS

If you donate a vehicle to charity, your recordkeeping requirements will depend on (i) the amount of your deduction, and (ii) how the charity sells the vehicle.

All gifts of more than $500

For any vehicle contribution generating a deduction of more than $500, you must obtain from the charity and retain in your records a written acknowledgment that states (i) your name and taxpayer identification number; (ii) the vehicle identification number; and (iii) the date of the contribution. In addition, the charity's written acknowledgement must state one of the following: (i) that no goods or services were provided by the charity in return for the donation, if that was the case; or (ii) a description and good faith estimate of the value of goods or services, if any, that the charity provided in return for the donation; or (iii) a statement that goods or services provided by the charity consisted entirely of intangible religious benefits, if that was the case.

Sales for more than $500 — general rule

Generally, if the charity sells your vehicle, your deduction is limited to the gross proceeds the charity receives from its sale. In addition to the records discussed above for any vehicle contribution generating a deduction of more than $500, the charity's written acknowledgment must contain (i) a statement certifying that the vehicle was sold in an arm's length transaction between unrelated parties; (ii) the date the vehicle was sold; (iii) the gross proceeds received from the sale, and (iv) a statement that your deduction may not exceed the gross proceeds from the sale. You must obtain the written acknowledgment from the charity within 30 days from the date of the vehicle's sale.

Sales for more than $500 — exception to the general rule

You may be able to deduct your vehicle's fair market value on the date you donated it (rather than the gross proceeds from sale), if the donee charity does one of the following and the charity's written acknowledgement states one of the following:

- The charity intends to make a significant intervening use of the vehicle. The acknowledgement must contain a detailed description of the intended use, the duration of that use, and a certification that the vehicle will not be sold before completion of the use.
- The charity intends to make a material improvement to the vehicle. The acknowledgement must contain a detailed description of the intended material improvement and a certification that the vehicle will not be sold before completion of the improvement.
- The charity intends to give or sell the vehicle to a needy individual at a price significantly below fair market value and that the gift or sale is in direct furtherance of the charity's charitable purpose of relieving the poor and distressed or the underprivileged who are in need of a means of transportation. This exception will not apply if the charity merely applies the proceeds from the sale of the vehicle to a needy individual for any charitable purpose.

To satisfy these requirements, the charity can use IRS Form 1098-C as its acknowledgment, or it can create its own statement containing the information described above.

If one of the exceptions described above applies, you must obtain the written acknowledgment from the charity within 30 days of your donation.

Less than $500

If you are claiming at least $250 but not more than $500 as the value of your vehicle, the charity's written acknowledgment must contain the name of the charity, a description (but not value) of your vehicle, and one of the following: (i) a statement that no goods or services were provided by the charity in return for the donation, if that was the case; (ii) a description and good faith estimate of the value of goods or services, if any, that the charity provided in return for the donation, or (iii) a statement that goods or services provided by the charity consisted entirely of intangible religious benefits, if that was the case.

For any vehicle contribution generating a deduction of less than $500, you must obtain the written acknowledgment on or before the earlier of (i) the date you actually file your tax return, or (ii) the due date for filing (including extensions).

IRS PUBLICATIONS

The IRS has several Publications providing information on the record-keeping required for charitable donations, available online at http://www.irs.gov/Forms-&-Pubs. These include:

- Publication 526 *Charitable Contributions*
- Publication 561 *Determining the Value of Donated Property*
- Publication 1771 *Charitable Contributions — Substantiation and Disclosure Requirements*
- Publication 4303 *A Donor's Guide to Vehicle Donations*

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Important Disclosures