



Tax-Exempt Organizations Alert: **Requirements for Acknowledging Charitable Donations**

I. Introduction

Under Section 170 of the Internal Revenue Code, donors may deduct contributions made to a Section 501(c)(3) organization. In order to qualify for the deduction, the nonprofit must be a U.S. organization.¹ In addition, a donor must itemize his or her deductions in order to claim a charitable deduction.

II. Acknowledging Contributions

With a few exceptions, an organization is not responsible for providing the donor with an acknowledgment of his or her donation. It is the donor's responsibility to substantiate the donation in a manner which varies depending on the type of donation made.

A. Cash Donations

If a donor makes a cash donation of less than \$250, in order to claim a deduction, the donor must have a record of the donation, such as a bank record, credit card receipt or written acknowledgement from the organization.

If a donor makes a single cash donation of \$250 or more, the donor must have a

contemporaneous written acknowledgement of the donation from the organization.

The acknowledgement must include:

- The name of organization
- The amount of cash contributed
- One of the following, whichever is applicable:
 - A statement that no goods or services were provided by the organization in return for the contribution;
 - A description and good faith estimate of the value of goods or services that were provided in return for the contribution; or
 - A statement that the goods or services that an organization provided in return for the contribution consisted entirely of intangible religious benefits

Failure to include all of this in a contemporaneous acknowledgement will result in a denial of the deduction

For IRS purposes, an acknowledgement will be "contemporaneous" if the donor has the written acknowledgement as of the date that he or she files the tax return for the year in which the donation is made or the due date for the return, whichever is earlier.

An organization can provide one acknowledgement at year's end for all

¹ In certain cases, contributions to charitable organizations in Canada, Mexico and Israel may be deductible.

donations made by the donor during the year. (Recommended that organization provides by January 31st)

There is no penalty on a charity for failure to provide a receipt if it has not provided any goods or services to the donor in connection with the donation. If goods or services are provided in return for the donation, the rules governing quid pro quo donations apply.

In the interest of good donor relations, it is considered a good practice to provide written acknowledgements for all donations, regardless of the charity's legal obligations. This practice will alleviate any potential problems that a donor may encounter when claiming a tax deduction, and also provides an opportunity for your organization to thank its donors for their valuable contributions.

B. Quid Pro Quo Contributions

When a donor receives goods or services in return for their donation, this is called a "quid pro quo" contribution. In these quid pro quo situations, the amount a donor may deduct is limited to the amount by which a contribution exceeds the fair market value of the goods or services that the donor receives in return. The donor must reduce the deductible amount by the value of the benefit received (even if the benefit was itself donated to the organization).

For example, suppose the donor pays \$85 for a ticket to a church dinner. The fair market value of the dinner is \$25. The deductible contribution is limited to \$60 (\$85 - \$25) even if the cost of the dinner was donated to the church.

If the amount the donor pays (i.e. in an auction) is less than the fair market value of the goods or services received in return, then the donor is not entitled to a deduction.

If an organization receives a quid pro quo payment from a donor—partly as a contribution and partly to pay for goods and services, such as a ticket to a fundraising dinner—and the payment exceeds \$75, the organization must provide a written disclosure to the donor. The written disclosure must:

- Inform the donor that the amount of the payment that is deductible as a contribution for federal tax purposes is limited to the excess of money received by the organization over the value of goods or services given in return; and
- Provide the donor with a good faith estimate of the fair market value of the goods or services.

The disclosure may be made at the time of solicitation or after. In the case of a donation that is \$75 or less, the organization is not required to provide a receipt disclosing the value of what is given to the donor in return, but the rule that limits the deductible amount to the amount by which the donation exceeds the value of what the donor receives still applies.

In our example, suppose the donor pays \$65 for the ticket to the church dinner. The fair market value of the dinner is still \$25, and the deductible contribution is still limited – in this case to \$40 (\$65 - \$25). Under IRS rules, the church does not have to provide the donor with a statement indicating the value of the dinner. It is the donor's responsibility to determine the value of the dinner.

If an organization fails to disclose the value of any property or service given in exchange for a payment of more than \$75, the organization is subject to a penalty of \$10

per contribution, not to exceed \$5,000 per fundraising event or mailing.

There are exceptions to the rule that the amount of a donor's deduction must be reduced by any goods and services received in exchange for the donation:

- Token goods and services.²
- Insubstantial membership benefits.³
- Intangible religious benefits.⁴

² For 2017, a good or service is considered token if:

- the fair market value of the goods or services received does not exceed the lesser of 2 percent of the donation or \$107, or
- the donation is at least \$53.50, the only items provided bear the organization's name or logo (e.g., calendars, mugs, or posters), and the cost of these is \$10.70.

(These dollar amounts are adjusted each year to reflect increases in the cost of living.) Free, unordered low-cost articles, such as labels or greeting cards, are also considered to be insubstantial.

³ A membership benefit is considered insubstantial if the donor gets it in return for an annual payment of \$75 or less and consists of privileges such as:

- Free or discounted admissions to the charitable organization's facilities or events.
- Discounts on purchases from the organization's gift shop.
- Free or discounted parking.
- 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.

⁴ Intangible religious benefits are benefits provided by an organization operated exclusively for religious purposes that are not usually sold in commercial transactions. 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 include education leading to a recognized degree, travel services, and consumer goods.

As an example of the application of these rules, suppose Donor A buys a \$200 ticket to a fundraising dinner for Charity X. The cost of the dinner to Charity X is \$20 per person, but the dinner has a fair market value of \$50. At the dinner, the guests receive a "goodie" bag which includes a mug, t-shirt and umbrella. The mug and t-shirt have Charity X's logo on them and cost \$4 and \$5 respectively. The umbrella costs \$6.50 and has a FMV of \$20.00. The amount that Donor A may deduct is \$130. The \$200 is reduced by the FMV of the dinner (\$200-\$50) and the FMV of the umbrella (\$150-\$20) because it does not bear Charity X's logo, meaning that it cannot be considered a token good. The t-shirt and mug bear the logo and are low cost articles. Their value may be disregarded.

C. Volunteer Services

Only donations of cash or property are tax-deductible. The value of services contributed to a charity is not deductible by the donor. This rule applies even to the donation of professional services. The charity may want to thank the individual or organization for providing the services, but such acknowledgement should not be in the form of a receipt. (The charity may need to obtain an estimated value of professional services donated to the charity for financial accounting purposes.)

However, if a volunteer incurs out-of-pocket expenses in providing donated services, such as food purchased for a fundraiser, or telephone charges incurred in making calls on behalf of an organization, those expenditures may be deductible, and a written acknowledgement should be provided to the donor when applicable under the rules described below.

III. Non-Cash Contributions

A. Non-Cash Contributions Under \$250

If a donor makes a non-cash contribution of property with a value of under \$250, the donor must maintain a receipt for that donation from the charity. The receipt must show the name and address of the charity, the date of the contribution, a description of the property in sufficient detail to identify it, and if the property is securities, the name of the issue, type of security, and whether it is publicly traded. The charity is not required to value the donated property and should not include a valuation in the receipt.

If it is impractical for the donor to obtain a receipt for his or her donation, for example, for food dropped off at a collection box, the donor must maintain reliable written records of the date, value, and description of the donated items.

For donations of clothing and household items, the donor may deduct the value of the contribution only if it is in “good used condition” or better. “Household items” does not include contributions of items such as antiques, art, jewelry, or collectibles. (See the exception below for items exceeding \$500 in value.)

B. Non-Cash Contributions of \$250 or More

For any non-cash donation valued at \$250 or more, a donor is required to have a contemporaneous written acknowledgement from the charity in order to claim a tax deduction for the contribution. This rule also applies to any out-of-pocket expenses that a volunteer or donor may incur on behalf of the charity.

Therefore, to assist donors with their tax preparation, and avoid any potential penalties, it is important to provide your donors with a written statement containing the following information:

1. The name and address of your organization;
2. The name of the donor;
3. The date and location of the contribution; and
4. A description of the non-cash contribution sufficient to identify it, but there is no need to indicate the value of the property in this acknowledgement.

If the contribution is valued in excess of \$75 and your organization did not provide any goods or services in exchange for the contribution, the written acknowledgement should include a statement to this effect. There is no required form for such written acknowledgement; therefore, a letter, postcard, or e-mail is sufficient.

Finally, while it is strongly advised to supply the acknowledgement to the donor at the time of, or shortly after, the donation, you must provide this acknowledgement by the earlier of: the date on which the donor actually files his or her federal income tax return for the year of the contribution; or the due date (including extensions) of the return. If acknowledgements are not sent shortly after a gift, they typically are provided by January 31 of the following year.

C. Non-Cash Contributions of Greater than \$500: Form 8283

i. Form 8283: Donor’s Responsibilities

If a donor wants to claim a deduction for a non-cash contribution valued at more than \$500, the donor must file IRS Form 8283 with his or her tax return. The charitable organization does not value the donated

property. The Form 8283 is used by the donor to substantiate the value of the donated property for tax purposes.

The Form requires the donor to describe the donated property and the value of the donation.⁵ For gifts valued over \$500, the donor must also provide additional information, including how the property was acquired by the donor and how much the donor paid for it.

D. Donations in Excess of \$5,000

Publicly traded securities, such as stocks, bonds and exchange traded funds, are valued by on the market value of the securities, as quoted for sale on the date of the donation. In other cases, the donor must obtain a “qualified appraisal” of the property, and attach it to his or her income tax return. It is important to note that the nonprofit organization cannot provide such an appraisal. Under the regulations, a nonprofit cannot be a qualified appraiser for this purpose, even if it has particular experience with the type of items donated.

i. Nonprofit’s Responsibilities

If the value of the property is more than \$5,000, the donor is required to have the nonprofit organization also sign the Form 8283, acknowledging that the charity received the donated property. The charity is not required to sign the Form 8283 for gifts valued at \$5,000 or less.⁶

⁵ As with all contributions over \$250, a charity must provide a contemporaneous written acknowledgement of the donation in order for the donor to claim a deduction.

⁶ Generally, a donor cannot claim a deduction for donated clothing or household items unless they are in good used condition or better. However, a donor may claim a deduction for an item of clothing or a household item that is not in “good used condition”

At the time of signing, the form must be essentially completed by the donor, with the exception of value, appraisal, or cost information; a charity should not sign a blank form.

By signing this section, the nonprofit acknowledges that it:

- is a tax-exempt organization,
- received the specified property on the specified date, and
- understands its reporting requirements if it disposes with the property within three years of the donation, which are discussed below.

By signing the Form 8283, the nonprofit is not indicating that it agrees with the appraised value of the donated property, but it does certify that it received the property on a certain date. As a result, it is important for your organization to keep records of when it received these higher-valued non-cash donations.

One way to fulfill this obligation is to provide the written statement discussed in the previous section to a donor at the time of the donation and retain a copy for your records. Then, if your organization is later presented with a Form 8283 to sign, it will have a description and the date of the donation.

III. Disposing of Non-Cash Contributions of Greater than \$5,000: Form 8282

Since the best way to determine the value of donated property is to see what the charitable organization was able to sell it

or better if the deduction claimed for the single item is more than \$500 and the donor obtains a qualified appraisal of the item. The charitable organization should not provide an appraisal in such situations.

for, the IRS wants the nonprofit to report to the IRS any disposition of the property that occurs within three years of the donation.

If your organization disposes of donated property, it must file an IRS Form 8282, the Donee Information Return, within 125 days of disposing of the property. The nonprofit must also provide a copy of the form to the donor. Failure to do so may lead to penalties for the charity. This requirement also applies if your organization donates the property to another charity.

Form 8282 requires the donee to fill out specific information regarding:

- the original donor,
- the date of the original donation,
- any proceeds from the disposition, and
- other information that can be found on the original Form 8283.

The nonprofit does not have to file the Form 8282 if it sells an individual piece of the donated property valued at \$500 or less. For example, suppose a donor donated to you 20 desks valued at over \$5,000. The donor had to complete a Form 8283 because the total donation of desks exceeded \$5,000. If your organization then sells one of the desks for \$250, you do not have to fill out a Form 8282.

Your organization is not required to file a Form 8282 if the property was used for charitable purposes. For example, suppose a tax-exempt school collected books and computer equipment to be used by the students of a nearby school damaged by a tornado. It is not required to file Form 8282 when it donates the books and computers to the damaged school, even if the organization received its tax-exempt status for a purpose unrelated to aiding disaster victims.

IV. Form 990 Reporting Requirements

In an effort to remind charitable organizations of these reporting requirements for non-cash contributions, the IRS asks specific questions about them in the Form 990.

For example, Schedule M to Form 990 requests information regarding the number of times the organization completed the Donee Acknowledgement section of Form 8283.

Occasionally, donors ask nonprofits to agree not to sell donated property for three years after the donation. The donor hopes to avoid having the nonprofit file a Form 8282 with the IRS, and thereby prevent scrutiny by the IRS if the sale price is less than the amount the donor claimed as a deduction.

To address this, Schedule M asks the nonprofit to disclose whether, during the year, it agreed not to sell donated property for at least three years from the date of the initial contribution. If so, the nonprofit must describe the terms of the agreement.

V. Vehicle Donations

Before discussing the reporting requirements for receiving and disposing of vehicle donations, there are two points that charities must consider if they are involved in a vehicle donation program:

- First, if the charity is using a third-party to accept and resell the vehicles, it is very important that the third-party properly acts as an agent of the charity. Any agreement with the third-party should be reviewed by an attorney to

ensure that this relationship is created and implemented. If not, the charity may risk losing its tax-exempt status.

- Second, if the charity decides to take possession of the vehicle and resell it, the charity must be sure that the transfer of title is properly handled. Without a proper transfer of title, the charity may not be able to resell the vehicle and it may become a liability to the charity. Consult the local Department of Motor Vehicles for information about how to properly transfer title to the charity, or if a third-party agency is used, the agent.

In addition to Form 8283, and Form 8282 requirements, if the non-cash contribution of a motor vehicle, boat, or airplane is made to the nonprofit, the IRS imposes further reporting requirements on the nonprofit. Because donations of motor vehicles are the most common, they will be referenced in this discussion, although the requirements discussed are equally applicable to boats and airplanes. The obligations placed on the nonprofit depend on the claimed value of the motor vehicle and what the nonprofit plans to do with it.

A. Vehicles Valued at \$500 or Less

If the donor claims a value for the donated vehicle that is \$500 or less, the nonprofit must provide the donor with a written acknowledgement, as described above, in the same format as the nonprofit would provide for any non-cash donation. However, in addition to these requirements, the nonprofit's acknowledgement must include the donor's name and taxpayer identification number and the vehicle identification number.

To meet these additional requirements, the nonprofit can complete IRS Form 1098-C. For vehicles valued at less than \$500, the

nonprofit must be sure to check the box that states the donor may not claim a deduction of more than \$500 for the donation of the vehicle. Copy C of this form is then given to the donor. The organization does not have to file Form 1098-C with the IRS, but should retain a copy for its records.

B. Vehicles Valued at More Than \$500

For donations of vehicles valued at more than \$500, the nonprofit's obligations depend on what it plans to do with the vehicle. The organization has four options:

- sell the vehicle to a third party in an arm's length transaction,
- significantly use the vehicle to carry out its charitable activities,
- make a material improvement to the vehicle prior to resale, or
- give or sell the vehicle to an individual in need as part of its mission.

1. Charity Sells the Vehicle

If the organization sells the vehicle in an arm's length transaction to someone unrelated to the organization, for more than \$500⁷ it must provide a written statement to the donor that includes the information discussed above for vehicles valued at \$500 or less. In the statement, the organization must also certify that the vehicle was sold in an arm's length transaction, the date the vehicle was sold, and the gross proceeds received from the sale (generally the sales price).

⁷ If the sale of the vehicle is for \$500 or less, your organization should follow the reporting requirements discussed above for vehicles valued at \$500 or less.

This statement must be provided to the donor within 30 days of the sale of the vehicle. The organization may fulfill these obligations by properly filling out Form 1098-C, filing copy A with the IRS, and providing copies B and C to the donor. Your IRS copy must be filed by a specific date in the year following the year in which the charity provides the acknowledgement to the donor; this date is specified by the IRS in its [general instructions for Form 1098](#).

2. Significant Use to Carry Out Charitable Purposes or Material Improvement

If the nonprofit intends to significantly use the vehicle to substantially further its regularly conducted charitable activities, or make a material improvement to the vehicle before it disposes of it, in addition to the information discussed above for vehicles valued at \$500 or less, it must provide the following information to the donor within 30 days of the contribution:

- a statement certifying that the organization intends to make a significant use of the vehicle or make a material improvement to the vehicle;
- a detailed statement of the intended use or material improvement;
- a detailed statement of the duration of the intended use, if applicable; and
- a certification that the vehicle will not be sold before the completion of the intended use or the completion of the material improvement.

Whether a use is significant depends on the nature, extent, frequency, and duration of the use. Some examples of a significant use

are using a donated vehicle to deliver food to the needy every day for a year, and driving a donated vehicle a total of 10,000 miles in a one-year period to deliver meals.

A material improvement includes a major repair that results in a significant increase in the vehicle's value. It does not include painting, removing dents and scratches, cleaning or repairing upholstery, or installation of a theft deterrent device.

An organization can fulfill these obligations by properly filling out Form 1098-C (except for Question 4), filing copy A with the IRS, and providing copies B and C to the donor. It must also file this information with the IRS by the date specified in the IRS's [general instructions for Form 1098](#).

3. Distribution to a Needy Individual

An organization whose mission is to relieve the poor and distressed or underprivileged who are in need of a means of transportation may want to give or sell the vehicle to such person at a price significantly below the fair market value. In such case, in addition to the information discussed above for vehicles valued at \$500 or less, the organization must provide the donor with a certification of this intended distribution of the vehicle within 30 days of the contribution.

The organization also must file this information with the IRS by February 28 (March 31, if filing electronically) of the year following the year in which the charity provides the acknowledgement to the donor. It can fulfill these obligations by properly filling out Form 1098-C (except for Question 4), filing copy A with the IRS, and providing copies B and C to the donor.⁸

⁸ The requirements that the IRS places on a charitable organization when receiving motor vehicle donations are highlighted in the Form 990. Specifically, in Question 7(h) of Part V it asks if the nonprofit

accountant if you have questions regarding the contents of this communication.

VI. Additional Resources

Although the law places the burden of substantiation of non-cash gifts on the donor, the charity also must provide timely written acknowledgement of gifts that meet the legal requirements. Although for many gifts, this obligation is not yet a legal requirement, it nevertheless ought to be viewed as a strategic imperative for all gifts. A donor's loss of a deduction can mean the charity's loss of a donor.

If you have further questions about non-cash charitable donations, you may find the following resources to be helpful:

- IRS Publication 1771: Charitable Contributions: Substantiation and Disclosure Requirements
<http://www.irs.gov/pub/irs-pdf/p1771.pdf>
- IRS Publication 4302, A Charity's Guide to Vehicle Donation
<http://www.irs.gov/pub/irs-pdf/p4302.pdf>
- IRS Website for Charities and Nonprofits <http://www.irs.gov/charities>

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organization filed a Form 1098-C as required. Your organization should monitor these donations and abide by the requirements to avoid potential penalties in the future.