



Tax Tips for Substantiating Charitable Gifts

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Although the income tax season will not get started in earnest until after the end of the year, a recent tax case highlights the importance of maintaining good records for tax reporting purposes. A couple who made significant cash contributions to their church (approximately \$25,000 throughout the year) were recently denied the charitable contribution deduction on their income tax return because they did not strictly comply with the requirements of the Internal Revenue Code (hereinafter the “Code”) for substantiating charitable gifts over \$250.

In order for a taxpayer to take an income tax deduction for a charitable gift (of cash or property) over \$250, the taxpayer must **DEMAND** that the charity provide *a contemporaneous written acknowledgment* of the gift with the following information:

1. The taxpayer or taxpayers who made the gift;
2. The value or amount of the gift; *AND*
3. The fact that the taxpayer did not receive any goods or services from the charitable organization in exchange for the gift.

Unfortunately, the couple in the case referenced here did not strictly comply with the Code’s requirements, even though they were able to produce cancelled checks for their gifts to the church and a contemporaneous acknowledgment from the church. In disallowing the couple’s charitable contribution deduction the IRS determined that the cancelled checks and the church’s acknowledgment were insufficient to qualify for the deduction because the acknowledgement did not contain a statement as described in item #3 above. The couple even obtained a second letter from the church (dated much later than the contributions were made, and therefore not contemporaneous) which included the statement described in item #3 above, but the IRS still disallowed the couple’s charitable deduction. Ultimately, the court agreed with the IRS and denied the deduction which triggered a significant income tax liability.

About the Author: Mr. Fernandez focuses his practice on structuring and implementing estate and tax planning strategies for individuals and closely held businesses. His work includes assisting clients with all of the legal and tax aspects of the administration of decedent's estates. If you have any questions regarding substantiating your charitable gifts or wish to discuss the establishment of charitable trusts as part of your overall estate plan, please contact Mr. Fernandez (afernandez@wispearl.com) or one of the other attorneys in Wisler Pearlstine's Tax and Estate Planning Practice Groups. We look forward to hearing from you.

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