

IRS FOCUSED ON CHARITABLE DONATION SUBSTANTIATION COMPLIANCE

Recent Tax Court cases have demonstrated the Internal Revenue Service's (IRS) increase in strict compliance with the substantiation requirements for charitable donations. For example, a \$64.5 million charitable contribution was recently disallowed because there was no written acknowledgment from the recipient at the time the return was filed. After the donation was made and prior to the return filing, the charity sent the taxpayer a letter acknowledging receipt of a donated facade easement. Unfortunately, this letter did not state whether the charity had provided any goods or services to the taxpayer, or whether the charity had otherwise given the taxpayer anything of value, in exchange for the easement. The taxpayer did include a copy of the appraisal report for the amount of the donation, a copy of the charity's letter, and Form 8283, *Noncash Charitable Contributions*, executed by the appraiser and by a representative of the charity with the return. The only item missing was the statement "No goods or services were provided in exchange for your donation" on the acknowledgement letter. (15 West 17th Street LLC v. Commissioner, 147 T.C. No 19, December 22, 2016). These eleven missing words caused the disallowance of the \$64.5 million contribution. Only \$5.8 million per missing word.

A similar result was recently provided in the donation of an aircraft on an amended return. Notably, the taxpayer didn't attach a Form 1098-C, Schedule B to his return. And while he did include a copy of a "potential" acknowledgement letter, that letter didn't acknowledge his gift and omitted the other mandatory information required. He did include a Form 8283, *Noncash Charitable Contributions*, executed by the appraiser and by a representative of the charity along with a copy of the appraisal.

The taxpayer also included a copy of a donation agreement that contained some required information, but it didn't include his and the other partner/donor's signature, his TIN, or certification of the organization's intended use for the aircraft, and so couldn't serve as de facto contemporaneous written acknowledgement. (Joe A. Izen v. Commissioner, 148 T.C. No. 5, March 1, 2017)

As these cases illustrate, it is important for nonprofit organizations to ensure that written acknowledgement letters they provide contain all the necessary requirements to substantiate a charitable donation. The contemporaneous written acknowledgment required to substantiate a charitable contribution of \$250 or more must contain the following information:

- Name of the organization;
- Amount of cash contribution;
- Description (but not value) of non-cash contributions;
- Statement that no goods or services were provided by the organization, if that is the case;
- Description and good faith estimate of the value of goods or services, if any, that the organization provided in return for the contribution; and
- Statement that goods or services, if any, that the organization provided in return for the contribution consisted entirely of intangible religious benefits, if that was the case.

In addition, a donor may claim a deduction for contributions of cash, check or other monetary gifts only if the donor maintains certain written records.

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