

When is a Charitable Contribution Deductible?

*Are Churches Legally Required to Issue Statements for Every Contribution?
What are the Rules for Receipting Year End Gifts?*

Churches and other charities typically face questions about receipting gifts and/or the deductibility of certain gifts in January when donors are looking to receive their annual statements of donations. But they may also encounter it throughout the year.

No law (state or federal) requires a charity to issue the donor a receipt. The receipt is issued as a courtesy to the donor in order to allow them the potential ability to deduct the contribution on their annual tax returns.¹ If the charity does issue a receipt however, it needs to meet all the current tax requirements to allow the donor to deduct the contribution.

Basically, donors cannot deduct a cash contribution to a church or charity, regardless of the amount, unless they keep one of the following:

- A bank record of the transaction showing the charity's name, date of the contribution, and the amount of the contribution²; or
- A written communication from the charity that includes the specific information required by law about the donation and the charity³.

No other form of record keeping can be used to meet the substantiation requirements.

Most tax experts recommend charities provide charitable contributions statements that meet substantiation requirements for all contributions of \$250 or more.

When is a Charitable Contribution Deductible?

Section 170 of the Internal Revenue Code permits deductions for charitable contributions or gifts made "...to or for the use of" organizations described in Section 170(c). A gift to a qualified organization that is specifically earmarked for the benefit of an individual (not previously approved by a valid and objective process) generally will not qualify as a charitable deduction. Likewise gifts made to one charity but funneled through another generally will not qualify to be receipted as a charitable donation by the funneling organization. This is because it is not considered to have been donated "...to or for the use of" the recipient charity. (It should go without saying that gifts to non-qualifying organizations are also ineligible for a deduction).

In looking to determine whether a contribution has been made "...to or for the use of" a qualified charity, the IRS will look to see whether the qualified charity had *control* of the donated funds and whether it exercised true and actual *discretion* in spending the funds in a manner that helps to further its exempt purpose. *Revenue Ruling (Rev. Rul.) 62-113, 1962-2 C.B. 10* provides guidance here stating that the test of whether a gift is intended by a donor for the use of the organization and not as a gift to an individual or

¹ Churches and charities should also be aware that due to changes in tax law, effective for years beginning after 12/31/2017, there is no longer an incentive for the majority of donors to itemize deductions.

² Under a current recordkeeping rules effective for all cash, check, electronic funds transfers, credit card charges, or other monetary contributions of any amount made in taxable years beginning after August 17, 2006, the donor must obtain and keep a bank record or a written communication from the donee as a record of the contribution. Written records prepared by the donor (such as check registers or personal notations) are no longer sufficient to support charitable contributions. *Bank records* for this recordkeeping requirement include bank or credit union statements, canceled checks, or credit card statements. They must show the date paid or posted, the name of the charity, and the amount of the payment.

³ For more information, see IRS [Publication 1771](#) *Charitable Contributions Substantiation and Disclosure Requirements* and [Publication 526](#), *Charitable Contributions*.

other entity is whether “*...the organization has full control of the donated funds, and discretion as to their use, so as to insure that they will be used to carry out its functions and purposes.*”

Most IRS challenges to the deductibility of a contribution will hinge upon the control factor. The most compelling evidence of control is affirmative Board action over the budget process and financial policies that dictate how fund received by the Charity will be spent.

Year End Gifts

Year-end gifts can often present some challenging issues as the donor and charity must sometimes evaluate the exact timing of the gift in order to determine what year the gift is eligible to be treated as having been donated.

Unfortunately, the rules vary depending on the nature of the gift. For cash donations made by check there are a couple of things to consider.

- A check made out to a local charity is deemed to be paid when the donor unconditionally delivers the check to the charity. Of course, the check must carry a date that falls within the calendar year for which the deduction is given. Meaning, predating a check because your bank account will not have the funds until some later time nullifies the control factor, as the monies cannot come under the control of the charity until some later date.
- A check dropped into a U.S. Postal Service mailbox or Post Office is considered to have been donated at the time the mail is dropped off, not the actual date of delivery by the Post Office. Generally, the date stamped on the enveloped accompanying the check should be used to substantiate the date of the donation. Donors who wish to ensure the date of donation reflects the date of their choosing should request a receipt from the Post Office or the Charity itself, at the time the donation is dropped off.

But what about credit cards donations, electronic fund transfers, gifts of stock, gifts from retirement accounts, donor advised funds, gifts of real estate, or other tangible property?

All of these gift forms come with some of their own sets of rules. So, the donor and charity need to be aware of what they are and, in some cases, give themselves plenty of time to complete the transaction before the year ends.

To learn more about some of the “best practices” your charity can put in place to help your donors and you most effectively complete their gifting to your charity in a timely and compliant manner, click [HERE](#) to view slides from a seminar previously presented. If you have any questions about the material or you need assistance understanding how to deal with a particular gift or donation, please contact our office for assistance.

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