

The Norton Tax Bulletin

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This Issue:
Charitable Contributions

Dear Clients, family and friends,
Happy Holidays!

As we come to the end of 2013, taxpayers begin to focus on last minute options to reduce their tax liability. Frequently, they turn to the area of charitable contributions. Cleaning out the closets to make room for the new clothes – and at the same time get a deduction for the fair market value of the stuff to be discarded - is a favorite pastime. However, the rules concerning charitable contributions are important to understand. So, before you start bagging up the stuff to take to Salvation Army, DMV, Goodwill or any other charity, it would be wise to read the following from the IRS.

IR-2013-98, Dec. 16, 2013

WASHINGTON — Individuals and businesses making contributions to charity should keep in mind several important tax law provisions that have taken effect in recent years. Some of these changes include the following:

Special Tax-Free Charitable Distributions for Certain IRA Owners

This provision, currently scheduled to expire at the end of 2013, offers older owners of individual retirement arrangements (IRAs) a different way to give to charity. An IRA owner, age 70½ or over, can directly transfer tax-free up to \$100,000 per year to an eligible charity. This option, first available in 2006, can be used for distributions from IRAs, regardless of whether the owners itemize their deductions. Distributions from employer-sponsored retirement plans, including SIMPLE IRAs and simplified employee pension (SEP) plans, are not eligible.

To qualify, the funds must be transferred directly by the IRA trustee to the eligible charity. Distributed amounts may be excluded from the IRA owner's income — resulting in lower taxable income for the IRA owner. However, if the IRA owner excludes the distribution from income, no deduction, such as a charitable contribution deduction on Schedule A, may be taken for the distributed amount.

Not all charities are eligible. For example, donor-advised funds and supporting organizations are not eligible recipients.

Amounts transferred to a charity from an IRA are counted in determining whether the owner has met the IRA's required minimum distribution. Where individuals have made nondeductible contributions to their traditional IRAs, a special rule treats amounts distributed to charities as coming first from taxable funds, instead of proportionately from taxable and nontaxable funds, as would be the case with regular distributions. See Publication 590, Individual Retirement Arrangements (IRAs) (*available on the www.irs.gov website*), for more information on qualified charitable distributions.

Rules for Charitable Contributions of Clothing and Household Items

To be tax-deductible, clothing and household items donated to charity generally must be in good used condition or better. A clothing or household item for which a taxpayer claims a deduction of over \$500 does not have to meet this standard if the taxpayer includes a qualified appraisal of the item with the return.

Donors must get a written acknowledgement from the charity for all gifts worth \$250 or more that includes, among other things, a description of the items contributed. Household items include furniture, furnishings, electronics, appliances and linens.

[NOTE: the requirement to establish good, usable condition generally requires photographs or videos of the products that are being donated. Lay them out and take some digital photos – print the photos and put them in a folder for the tax year of donation. Further, you need to make a detailed listing of each item you are donating. You can use an Excel spreadsheet – they work well for this task. As for determining the value of the items, the IRS generally accepts the Salvation Army thrift store guide. You can find it here: <http://satruck.org/donation-value-guide>. If your TOTAL property donations for the calendar year exceed \$500, you need to complete a more detailed form as part of your return. The form 8283 is available on the www.irs.gov website. Lastly, be sure to get a receipt from the charity that documents the date of the contribution and the name of the entity receiving your items.]

Guidelines for Monetary Donations

To deduct any charitable donation of money, regardless of amount, a taxpayer must have a bank record or a written communication from the charity showing the name of the charity and the date and amount of the contribution. Bank records include canceled checks, bank or credit union statements, and credit card statements. Bank or credit union statements should show the name of the charity, the date, and the amount paid. Credit card statements should show the name of the charity, the date, and the transaction posting date.

Donations of money include those made in cash or by check, electronic funds transfer, credit card and payroll deduction. For payroll deductions, the taxpayer should retain a pay stub, a Form W-2 wage statement or other document furnished by the employer showing the total amount withheld for charity, along with the pledge card showing the name of the charity.

These requirements for the deduction of monetary donations do not change the long-standing requirement that a taxpayer obtain an acknowledgment from a charity **for each deductible donation (either money or property) of \$250 or more**. However, one statement containing all of the required information may meet both requirements.

Reminders

To help taxpayers plan their holiday-season and year-end giving, the IRS offers the following additional reminders:

- Contributions are deductible in the year made. Thus, donations charged to a credit card before the end of 2013 count for 2013. This is true even if the credit card bill isn't paid until 2014. Also, checks count for 2013 as long as they are mailed in 2013.
- Check that the organization is eligible. Only donations to eligible organizations are tax-deductible. Exempt Organization Select Check, a searchable online database available on IRS.gov, lists most organizations that are eligible to receive deductible contributions. In addition, churches, synagogues, temples, mosques and government agencies are eligible to receive deductible donations, even if they are not listed in the database.
- For individuals, only taxpayers who itemize their deductions on Form 1040 Schedule A can claim deductions for charitable contributions. This deduction is not available to individuals who choose the standard deduction, including anyone who files a short form (Form 1040A or 1040EZ). A taxpayer will have a tax savings only if the total itemized deductions (mortgage interest, charitable contributions, state and local taxes, etc.) exceed the standard deduction. Use the 2013 Form 1040 Schedule A to determine whether itemizing is better than claiming the standard deduction.
- For all donations of property, including clothing and household items, get from the charity, if possible, a receipt that includes the name of the charity, date of the contribution, and a reasonably-detailed description of the donated property. If a donation is left at a charity's unattended drop site, keep a written record of the donation that includes this information, as well as the fair market value of the property at the time of the donation and the method used to determine that value. Additional rules apply for a contribution of \$250 or more.
- The deduction for a car, boat or airplane donated to charity is usually limited to the gross proceeds from its sale. This rule applies if the claimed value is more than \$500. Form 1098-C or a similar statement, must be provided to the donor by the organization and attached to the donor's tax return.
- If the amount of a taxpayer's deduction for all noncash contributions is over \$500, a properly-completed Form 8283 must be submitted with the tax return.

- And, as always it's important to keep good records and receipts.

Church/Temple Contributions

There was a recent Tax Court decision that drives home the requirement that the letter received from the church must be very specific in its content. **These taxpayers LOST their deduction for a \$25000+ donation** because the letter from their church failed to include some language required by the Internal Revenue Code. So – when you get your letter from your church or temple, read it carefully!!! Make sure you do not lose your deduction over a technicality.

Here is the U.S. Tax Court Case excerpt:

Durden v. Commissioner, T.C. Memo. 2012-140 (May 17, 2012), involved a Texas couple who claimed a deduction of \$25,171 for cash contributions to their church. The church sent a letter of acknowledgement in January of 2008, but that receipt lacked a statement of whether any goods or services were provided to the Durdens in exchange for their contributions. Obviously trying to make up for the error, the church provided a second acknowledgement in **June of 2009**, which did include the proper statements.

Nevertheless, the **IRS denied the deduction** because the Durdens failed to get a proper receipt from their church. In the IRS's view, the first acknowledgement was lacking a statement of whether goods or services were provided by the church, and the second acknowledgement was not a "contemporaneous" receipt, because it was **not received by the Durdens by the due date for filing their original return** for the year. Because the Durdens did not have proper receipts, the judge agreed with the IRS that the Durdens failed to comply with the substantiation requirements of IRC 170(f)(8).

If you have any questions about these or other federal tax developments that may impact you or your business, please let me know.

Sincerely yours,

Dick Norton

newsletter is not intended or written by me to constitute written advice that you may rely upon, and that you should seek professional advice regarding the selection of a tax entity may have consequences beyond simply its tax treatment. Therefore, I advise clients to always first consult with a professional who is intimately familiar with business forms and their relevance to potential future tax issues.