

Don't Alienate Donors by Giving them Improper Receipts

By Doug Roberts

Do you know all the rules surrounding tax deductions for donations? If not, you may end up with very unhappy donors.

Ask yourself these questions:

Do your fundraising and financial staff know which contributions are deductible?

Do they understand how to acknowledge donations? Do they know the legal requirements and time limits for such acknowledgments?

Such basic knowledge is essential if your organization is to stay in good stead with your donors and the IRS.

Section 170 of the Internal Revenue Code allows taxpayers a deduction if they have the necessary substantiation. Both donors and nonprofit organizations have a part to play:

- **The donors' responsibility is to ensure they have the necessary substantiation** required to claim their deductions.
- **The nonprofit's responsibility is to provide donor acknowledgments** for contributions received. Courts consistently deny people their deductions if the organization gives insufficient acknowledgments — or doesn't do so in a timely way. Good intentions are insufficient. Ignorance of substantiation requirements is not a valid defense.

Donors without proper acknowledgments may receive penalties from the IRS. You're likely to upset donors if they're punished due to your negligence. Not only will such angry donors stop supporting you, they may spread the word and ruin your reputation. After all your hard work attracting supporters, that's the last thing you want to happen.

What Are the Rules for Donation Receipts?

To deduct their charitable contributions, donors need an acknowledgment for any gift of cash or property of \$250 or more, any gifts of currency no matter the amount, and any gifts of \$75 or more

when the donor receives something in return for the contribution (called a quid pro quo contribution; see below for more about such donations).

This acknowledgment must be:

- **contemporaneous** (received by the donor by the date the return is filed or the due date of the return, whichever is earlier)
- **from a qualified** nonprofit organization
- **in writing** (either on paper or in electronic form).

For donations less than \$250 other than currency and quid pro quo contributions, donors need not have acknowledgments. In the interest of donor relations, however, it's wise for your organization to acknowledge *all* gifts.

If a donor has contributed multiple times, you can provide a separate acknowledgment for each donation, or you can provide a summary of all donations within the year. Acknowledgments should be provided by January 31.

Although there is no prescribed form for the acknowledgment, the following elements must be present:

- **the name** of the nonprofit organization
- **the date** of the contribution
- **the amount of cash** or a description of the property contributed
- **a statement** of whether goods or services were provided in exchange for the contribution or whether only "intangible religious benefits" were provided. When you provide goods or services (which may include cash, property, benefits, or privileges) in exchange for a contribution, you must give a description and good faith estimate of the fair market value of the goods or services. If you don't provide any goods or services, it's important that you include a statement such as, "We haven't provided any goods or services in consideration of your contribution. Therefore, your entire contribution is deductible as a charitable donation for federal income tax purposes." Without such a declaration, the IRS will disallow the deduction.

“It is wise for your organization to acknowledge *all* gifts.”

You should provide a similar acknowledgment if you receive contributions through payroll deductions. However, if the payroll deduction passes through an intermediary organization (such as the Combined Federal Campaign), you needn't acknowledge it.

For contributions of property, it's the responsibility of the donor, not your organization, to value the property. But you would be wise to describe the condition of the property, since deductions for goods like household items and clothing are allowed only if they're in good condition. It's also good practice for you to tell donors that they may have to file Form 8283 for their non-cash contributions.

What Should You Do about Non-Deductible Donations?

Not every contribution is deductible. Take care when you receive something of value that isn't tax-deductible. Your thank-you letters to such donors shouldn't suggest that the gift is a tax-deductible contribution. You would be well-advised to include a note clearly explaining that the contribution isn't deductible for federal income tax purposes.

Examples of common non-deductible contributions include:

- **time and services** provided by a donor (although unreimbursed expenses incurred by the donor in providing the services may be deductible and are mentioned later)
- **contributions given with a restriction** that it be given to, or for the benefit of, a specific individual
- **the purchase price** of raffle, bingo, or lottery tickets
- **certain contributions of a partial interest**, such as the rent-free use of an office building or vacation property.

IRS Publication 526 provides additional information on non-deductible contributions. If in doubt as to whether a contribution is deductible, consult a tax expert.

What Special Circumstances Should You Keep in Mind?

Here are a few additional requirements that occur in certain cases.

QUID PRO QUO CONTRIBUTIONS

When you provide goods and services in exchange for a contribution of \$75 or more, your acknowledgments should:

- **give** the contribution amount
- **estimate** the fair market value of the goods or services provided
- **state** that the amount the donor may deduct for federal income tax purposes is limited to the excess of the contribution over the value of the goods or services provided.

Note that it's the *value* of the product or service that you must give the donor, not your cost to provide it. Fair market value is the price that a knowledgeable, willing, and unpressured buyer would probably pay to a knowledgeable, willing, and unpressured seller. That value may be quite different from what it costs your organization.

When you solicit such donations, your solicitation materials must clearly declare the value of the goods or services you're providing and the amount of the contribution that will be deductible. The statement

provided with the solicitation satisfies your acknowledgment requirements.

There are two times when the entire contribution is deductible and you needn't state the value of goods or services you provide:

1. The first exception occurs when you provide "insubstantial" goods or services. Goods or services are insubstantial in the following cases:

- **The fair market value of the product or service is less than 2% of the contribution** or \$102, whichever is less.
- **The contribution is for at least \$51, and the goods bear the organization's name or logo** and are valued at \$10.20 or less (for instance, coffee mugs, address labels, t-shirts, or calendars).
- **Free, unordered goods included with a solicitation request are valued at \$10.20 or less**, and recipients are informed they may keep the gift even if they don't make a donation.

(These dollar limits are indexed annually for inflation. Revenue Procedures 90-12 and 92-49 and the inflation adjustment in Revenue Procedure 2010-40 can be used to determine dollar limits in future years.)

2. The second exception is when you provide membership benefits under the following conditions:

- **The membership benefits are given in exchange for donations of \$75 or less.**
- **The benefits include privileges** (other than the right to purchase tickets to athletic events) that can be used frequently as a member (for example, free or discounted parking or discounts on services).
- **You offer member-only events that cost your organization less than \$10.20 per person** (adjusted annually for inflation).

In the following cases, you *do* need to provide a statement about member benefits in your acknowledgment:

- **If members can't use their benefits frequently** (because, for example, there are a limited number of member events), let them know that they must report the value of the benefits.
- **For contributions that include the right to purchase tickets to an athletic event**, let donors know that they can deduct only 80% of the contribution. If the contribution includes the purchase of tickets as well, the acknowledgment should indicate the fair market value of the tickets.

Fines for failure to provide required written statements to donors are \$10 per statement up to a maximum of \$5,000 per mailing or fundraising event.

VEHICLES

It's the donor's responsibility, not yours, to find someone to assess the value of donated vehicles (including cars, boats, and airplanes). If the assessed value is less than \$500, acknowledge it as a property donation as discussed above. For values greater than \$500, your acknowledgment must include the following:

- **the donor's** tax identification number
- **the vehicle's** identification number
- **a statement certifying** what your organization intends to do with the vehicle.
- **If you sell the vehicle**, your receipt must include the proceeds from the sale and a statement that the taxpayer's deductible amount can't exceed the gross proceeds from the sale.
- **For vehicles not intended for resale**, your statement should state the intended use and duration of such use.

“It's up to volunteers to keep track of their expenditures.”

“Ensure that auction bidders intend to make a contribution above fair market value.”

- **If you give the vehicle to a needy individual** (or sell it to such a person for significantly below its market value), your acknowledgment should certify that the sale or gift furthered your organization's charitable purpose.

You must also file Form 1098-C by February 28 (March 31 if filing electronically) of the year following the vehicle donation. In lieu of a written acknowledgment, you can provide the donor with a copy of form 1098-C (no later than 30 days after the sale date if you sell the vehicle or 30 days after the contribution date otherwise).

Note that vehicles donated by car dealers would be considered a donation of inventory and would be acknowledged as contributions of property. For further guidance on vehicle donations, see IRS Publication 4302, "A Charity's Guide to Vehicle Donations."

VOLUNTEER SERVICES

The donation of someone's time isn't deductible. But volunteers may be able to deduct the expenses they incur in providing services to your organization.

It's up to volunteers to keep track of their expenditures and decide if they're deductible. It's up to you to provide an acknowledgment following the guidelines of non-cash contributions. On your acknowledgment, include:

- **dates** of the volunteer services
- **description** of the services provided
- **statement** of whether you did or didn't provide any goods or services in exchange for the volunteer work.

AUCTION DONATIONS AND PURCHASES

A number of special rules surround auctions. Here are the major ones to remember:

- **Acknowledge goods donated to be auctioned as property contributions.** Describe the property donated, but don't state any value.
- **Donated services and the use of a donor's property** (such as a week's use of a beach house) aren't deductible, and you shouldn't provide any receipt for such donations. You may, of course, send thank-you letters, but don't imply that such donations may be tax deductible.
- **If a donor purchases a service or pays for the use of someone's property, and donates this,** that is deductible. Acknowledge it as a non-cash contribution.
- **Auction bidders are allowed a deduction** if their payment is greater than the fair market value of the item purchased — but only if they intend part of the payment to be a contribution. To ensure bidders intend to make a contribution above fair market value, you must communicate the value of each item to potential bidders, and let them know that winning bids are deductible to the extent the bid exceeds the fair market value of the item. Receipts for winning bids should include:
 - **the amount** the bidder paid
 - **the estimated fair market value** of the items
 - **a statement** that the deductible amount is the excess of the amount paid over the fair market value.

The Power of the Receipt

Your acknowledgment is more than a legal duty. It can be a tool to draw donors closer to your organization. For more on the in's and out's of donor acknowledgments, see these articles at NonprofitWorld.org/members:

Can You Acknowledge Donors Via E-Mail? (Vol. 19, No. 4)

Tax Court: No Mercy for Donors with Inadequate Receipts (Vol. 31, No. 1)

Going, Going, Gone! How Much Can Charity Bidders Deduct? (Vol. 19, No. 5)

Need a CPA at Little or No Cost? Five Ways to Find Help (Vol. 28, No. 2)

Are You Giving Donors Proper Receipts? (Vol. 17, No. 6)

Can Property-Use Donors Claim Deductions? (Vol. 26, No. 2)

Looking a Gift Horse in the Mouth: Gifts of Property (Vol. 16, No. 1)


Are Bazaar Payments Deductible? (Vol. 16, No. 1)

How Much Detail Is Needed in a Thank-You Letter? (Vol. 27, No. 1)

OTHER REPORTING REQUIREMENTS

Form 8283. Non-cash donors may be required to file Form 8283. In certain situations, someone in your organization will need to complete and sign a portion of the form. This is commonly the case with vehicle donations with values greater than \$500 and other property donations valued over \$5,000. Completion of the form verifies that your organization received the goods described and certifies what the organization intends to do with the contributed property but doesn't verify amounts claimed by the donor. The form must be signed by an officer of your organization or someone specifically designated as authorized to sign the form. For donations requiring donors to obtain appraisals, it's important to note that no one affiliated with the organization can ever appraise any property you receive.

Form 8282. You must file Form 8282 for property donations valued over \$500 if you sell, exchange, or dispose of that property, rather than using it for your exempt purpose, within three years of receiving the donation. You must file the form and provide a copy to the donor within 125 days after the sale, exchange, or disposition of the property. Be sure you have a process in place to review copies of Form 8283 and donor acknowledgments to determine when any donated items are sold, exchanged, or disposed of within the three year period. You may incur harsh penalties if you fail to file the form.

Additional requirements may exist depending on the types of contributions. For example, you may need to file certain forms if someone donates intellectual property. For other less common types of contributions consult a tax expert to determine if there are additional reporting requirements. The Charities & Non-Profits page on the IRS' Web site provides other helpful resources at <http://www.irs.gov/Charities-&-Non-Profits>. 

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