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**DONOR CARE KIT:**  
**Meeting IRS Compliance Rules for You and Your Donors**

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Although not as exciting as contemplating thank-you gifts for your donors, complying with the federal income tax rules can help you and your organization distinguish yourself from other nonprofit organizations. Congress added more compliance obligations for donors in the Pension Protection Act of 2006. Further, the IRS is enforcing these rules, as well as the existing record-keeping rules. You can help your donors ensure that they can claim a charitable deduction for the contributions that they give you by providing proper and timely written acknowledgements. This outline discusses the technical requirements that you and your donors must meet and provides an example of an appropriate written acknowledgement.

**I. Quid Pro Quo Contributions of \$75 or More.**

- A. General Rule. If a gift is made in consideration of goods or services, the donor may NOT receive a deduction unless the donor intends to make a gift AND the gift exceeds the fair value of the goods or services received by the donor. I.R.C. §6115.<sup>1</sup>
- B. Specific statutory requirements. Upon receipt of a gift in excess of \$75, a charity must:
  - 1. Inform the donor, in writing, that the amount of the charitable deduction is limited to the amount of money (or the value of any property) contributed MINUS the value of any goods or services received by the donor in connection with the gift; and

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<sup>1</sup> All section references are to the Internal Revenue Code of 1986, as amended (the “Code” or “I.R.C.”), and the regulations promulgated thereunder unless stated otherwise.

2. Provide the donor with a good faith estimate of the value of the goods or services provided the donor by the charity. I.R.C. §6115(a).
- C. *Quid Pro Quo* Definition. A *quid pro quo* contribution means a payment from a donor that is made partly as a gift and partly as consideration for goods or services provided by the charity. For example, if a donor gives \$500 to attend a charity's gala and the cost of the dinner at the gala is worth \$100, the donor has made a *quid pro quo* contribution. The value of the gift is \$400 and the value of the good received in return is \$100.
- D. Token Items. The receipt of *de minimis* goods or services does not trigger the *quid pro quo* rule. Treas. Reg. §1.6115-1(b). Token items include goods or services that have insubstantial value under the guidelines provided in Revenue Procedure 90-12, 1990-1 C.B. 471.
1. Revenue Procedure 90-12 provides that token value occurs where the fair market value of all of the benefits received in connection with the contribution is not more than two percent (2%) of the contribution or \$50, whichever is less or the contribution is \$25 or more and the only benefits received in connection with the contribution are token items (*e.g.*, bookmarks, calendars, key chains, mugs, posters, t-shirts, etc.).<sup>2</sup>
  2. Annual membership benefits in exchange for a payment of \$75 or less, where such benefits may include admission to the charity's facilities or events, free or discounted parking, preferred access to goods or services, or discounts to certain items. Treas. Reg. §1.170A-13(f)(8)(B)(2).
  3. "Intangible religious benefits" for gifts made to religious organizations. I.R.C. §6115(b).
- E. Penalties.
1. The penalties are levied against you, the charitable organization.
  2. A charity that fails to provide the proper written disclosure is subject to a penalty of \$10 per contribution (capped at \$5,000 per fundraising activity). I.R.C. §6714(a).
  3. No penalty will be imposed on the charity if it fails to meet the disclosure required if the charity can show that the failure was due to reasonable cause. IRC §6714(b).

## II. Contributions of \$250 or More

- A. Section 170(f)(8) provides that NO charitable deduction is allowed for any separate contribution of \$250 or more UNLESS the taxpayer substantiates the contribution by a contemporaneous written acknowledgement of the contribution by the donee organization. I.R.C. §170(f)(8)(A). A canceled check is NOT sufficient.

<sup>2</sup>

For 203, the \$50 benefit is increased to \$102 and the \$25 payment is increased to \$50. Rev. Proc. 2012-41, 2012-41 I.R.B. 539 (Sec. 3.14(2)).

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