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CHARITABLE CONTRIBUTIONS BASICS

JOHN R. BARRETT
JODI R. KESSLER

Authors' Contact Information:

John R. Barrett
University of California System
Oakland, CA
John.barrett@ucop.edu
510/987-0903

Jodi R. Kessler
Massachusetts Institute of Technology
Boston, MA
Kesslerj@mit.edu
617/324-8969

SAMPLE EXCERPTS FROM A UNIVERSITY CHARITABLE GUIDELINE

ACCEPTING, ACKNOWLEDGING, AND DOCUMENTING THE RECEIPT OF GIFTS

Accepting Gifts. When a gift is given to the University, it is not considered legally consummated until the University agrees to the conditions and notifies the donor of acceptance of the gift. If a gift or bequest is received without disclaimer by the University, the University assumes the legal obligation to administer the gift or bequest in a manner consistent with the terms specified by the donor. This obligation arises under an area of the law known as the law of charitable trusts.

The notification to the donor should indicate the date of receipt of the gift and the amount (if cash) or a description of the gift sufficient to link it to the donor's records (*e.g.*, check for $1,000; 100 shares of Apple Inc.; autographed manuscript of D.H. Lawrence's *Sons and Lovers*). It may be either in the form of a letter or in the form of a receipt from a person who has been delegated the authority to accept gifts on behalf of the University.

Acknowledging Gifts. An acknowledgment provides timely confirmation to a donor that a gift has been received, and may or may not also constitute acceptance of a gift. If an acknowledgment letter is signed by a person authorized to accept gifts on behalf of the University, and includes a description of the gift and the date of receipt, it constitutes legal acceptance of the gift (see above). Letters of acknowledgment from persons other than those with delegated acceptance authority do not constitute legally recognized acceptance and should not state or imply that a gift has been accepted.

In the case of gifts other than cash, care should be exercised so that the acknowledgment and/or acceptance letters do not indicate a value for the gift that could be construed in any way as an endorsement of its value for tax purposes.

Documenting Receipt of the Gift. In order to protect the tax-deductibility of a donor's gift for a given year, it is important that the University be able to provide concrete evidence that the donor relinquished possession of the gift before the end of the year. Therefore, it is especially important during the last few days of the year that all gift mail be date-stamped when received. For a gift received after December 31 that was mailed before that date, it is important to retain the envelope bearing the postal cancellation date. It is not necessary that the gift be deposited or accepted by December 31. If the donor has taken all steps necessary to irrevocably tender the gift, then upon acceptance by the University, the date of the gift is deemed for tax purposes to be the date of tender.

QUID PRO QUO GIFTS

A quid pro quo gift is a gift for which a donor receives something in return (*e.g.*, in exchange for a donation, the donor receives a ticket for admission to a concert). The circumstances under which such donations are tax-deductible charitable contributions vary; the basic principle is that the payment, or a portion of the payment, is tax deductible only if the donor intended to make a gift and contributed more than the value received in return.

Information is provided here that may be useful in determining whether a quid pro quo gift is tax-deductible; if there is any doubt about the tax-deductibility of a specific quid pro quo gift, the university gift reporting department will assist in making a determination. In addition, the IRS (http://www.irs.gov/charities) has more information on the subject on its website.

The Theory: What is the Donor's Intent? One of the criteria used by the IRS in determining whether a quid pro quo gift constitutes a tax-deductible charitable contribution is the principle of "detached and disinterested generosity": the donor's primary intent must be to make a gift, not to receive a benefit. If a donor receives something in return for a gift, it may cast doubt upon the donor's charitable intentions.

As an extension of this principle, the IRS focuses on the FMV of the item or privilege that the donor receives in exchange for a gift. The cost of the item to the charity is not an issue in determining the tax-deductibility of the contribution. For example, if a benefit concert is performed for which all goods and services were donated, and the ticket price is equal to the "going rate" for such functions, a donor would not be allowed a tax deduction for the cost of the ticket, despite the fact that presenting the concert cost the charity nothing. If the fair market value is greater than or equal to the amount of the gift, the IRS holds that the transaction is a purchase, not a gift.

Partial Deductibility. There are cases in which gifts may be partially tax-deductible. For example, if donors receive an item as a gratuity that is otherwise available for purchase, and the amount of the gift exceeds the fair market value of the item, that portion of the payment in excess of the FMV will usually constitute a tax-deductible gift (*e.g.*, in exchange for a gift of $150, donors receive a book that sells in the campus bookstore for $50; $100 of their gift would be tax-deductible). In showing that a gift has been made, an essential element is proof that the portion of the payment claimed as a gift represents the excess paid over the value of the item received.

If, however, a donor declines the item that is offered in return for the gift (*e.g.*, the donor refuses the book), the full amount of the donation would likely be tax-deductible.

Title search: Charitable Contributions Basics

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2017 Higher Education Taxation Essentials eConference

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2017 Higher Education Taxation Essentials session
"Charitable Contributions Essentials"