

Charitable Contribution and Donor Relation Considerations for 501(c)(3) Organizations

July 29, 2022 – Dorsey Health Law
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Donors that make contributions to charitable organizations recognized under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), may claim an individual income tax deduction under Section 170 (all subsequent references to “Section” shall mean Sections of the Code). For donors, this is often a persuasive factor in deciding whether to donate to a particular charitable organization. However, in order for donors to be eligible for a charitable deduction and for the recipient organizations to avoid penalties, certain requirements must be met depending on the amount and character of the contributed property. Section 501(c)(3) organizations should remain mindful of these requirements to ensure their donors are allowed the deductions they expect and to maintain donor relations. The following is an overview of important considerations for Section 501(c)(3) organizations to consider when pursuing fundraising initiatives or accepting charitable contributions.

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What is required of a Section 501(c)(3) organization if a donor makes a monetary or non-monetary contribution of \$250 or more?

Under Section 170(f)(8), for any single contribution of \$250 or more, a donor must attach a contemporaneous written acknowledgement (“CWA”) from the Section 501(c)(3) organization to their income tax return. Although the donor is ultimately responsible for obtaining the CWA, Section 501(c)(3) organizations should maintain a CWA practice or policy for contributions of \$250 or more.

Any such practice or policy should ensure that the CWA includes the organization’s name and the amount of money or a description of the non-monetary property donated. The CWA must also contain a statement of whether the Section 501(c)(3) organization provided any good or service in return for the contribution as well as a description and estimated value of any such good or service. Recently, in *Albrecht v. Commissioner*,^[1] the U.S. Tax Court reemphasized this “strict” requirement. The taxpayer, who donated Native American jewelry and artifacts to a museum, was ineligible for a deduction because the CWA failed to clarify whether the museum provided any goods or services

in return for the donation. While an implicit statement (for example, “this donation is unconditional”) may be sufficient, the best practice is to include an explicit statement: “No goods or services were provided to you in return for your contribution.”

The donor must receive the CWA by the date they file their tax return or the due date of the return, whichever is earlier. As such, a Section 501(c)(3) organization’s practice or policy should be to give the donors a CWA as soon as possible after the gift, but no later than by January 31 of the year following the contribution.^[2]

What about requirements for a monetary or non-monetary contribution of less than \$250?

Although a CWA is not required for contributions of less than \$250, Section 501(c)(3) organizations should consider maintaining a CWA practice or policy for all contributions, regardless of the amount. At a minimum, the organization should provide an acknowledgement expressing gratitude and giving the organization’s name, the date of the contribution, whether the recipient organization provided any goods or services in return for the donation, and the amount donated. Not only can a “thank you” make a positive impact on individual donors as well as build long-lasting donor relationships, donors also need a record of each contribution in order to be eligible for a deduction.



What should a Section 501(c)(3) organization consider if a donor makes a non-monetary contribution valued over \$5,000?

Under Section 170(f)(11), if a donor contributes non-monetary property valued over \$5,000, they must attach a signed and dated qualified appraisal and a Form 8283 to their tax return. This requirement applies to collections of similar goods, such as books, coins, or jewelry. Although the donor is solely responsible for obtaining the appraisal, Section 501(c)(3) organizations should maintain a practice or policy of reminding their donors to obtain a qualified appraisal prior to their contribution (but no earlier than 60 days prior to their contribution). In addition, the receiving organization and any of its employees must decline to be the qualified appraiser, even if they would otherwise be a qualified appraiser.

Can a Section 501(c)(3) organization provide any good or service in return for donations?



It depends. Section 501(c)(3) organizations may solicit donations through fundraising events such as a gala or a golf tournament, or show gratitude through branded items such as a mug.

Under Section 6115, if a donor contributes over \$75 and receives

any goods or services in exchange for their contribution (a “quid pro quo” contribution), the Section 501(c)(3) organization must provide a written disclosure to the donor. A failure to do so, or a failure to meet the requirements for a written disclosure, may result in monetary penalties on the Section 501(c)(3) organization. Therefore, Section 501(c)(3) organizations should maintain a written disclosure practice or policy for quid pro quo contributions. The written disclosure must inform the donor that their deduction is limited to the amount of their contribution less the value of the good or service received and provide an estimated valuation of any good or service. For example, a table at a charitable gala may require a minimum contribution of \$10,000, but the price of the ticket also includes the cost of the gala dinner (\$1,000). The ticket should explicitly state that the individual donor will receive food and entertainment valued at \$1,000, and is therefore only entitled to a \$9,000 charitable income tax deduction.

However, a Section 501(c)(3) organization may not need to provide a written disclosure for certain types of goods or services. For example, if a donor contributes at least \$56.50, the organization may provide branded items with their name or logo, such as a mug or a keychain, without a disclosure, as long as the item is valued at or below \$11.30. There are also exceptions for: pre-paid return envelopes in donation solicitations, as long as the total for the calendar year is at or below \$11.30; membership benefits to purchase tickets or attend low-cost, member-only events, as long as the membership fee is \$75 or less; and other goods or services, as long as they are valued at or below 2% of the contribution, up to \$113.^[3]

If you have any questions regarding your charitable contribution practices or policies, please contact the author or your regular Dorsey attorney.

Summer Associate Laura C.S. Newberry provided substantial assistance researching and drafting this blog post.

^[1] *Albrecht v. Commissioner*, T.C. Memo. 2022-53.

^[2] IRS Publication 1771, *Charitable Contributions-Substantiation and Disclosure Requirements*.

^[3] The \$11.30, \$56.50, and \$113 amounts are current for 2021 but are annually adjusted for inflation. Rev. Proc. 2020-45 § 3.34.