

How Important Are a Few Little Words on a Receipt?

By Dan Busby

THE CHARITABLE CONTRIBUTION DISCLOSURE RULES are certainly not new, but two recent Tax Court cases make it abundantly clear the court expects churches (and other charities) to comply with the charitable contribution disclosure rules. These cases show just how important that little phrase (“no goods or services were provided in exchange for this gift”) really is!

The case involving Betty Kendrix (TC Memo 2006-9) is one of my all-time favorites. Betty was an employee of the IRS for more than 30 years—even worked in its Criminal Investigation Division for 11 years.

Betty was unable to meet the substantiation requirements for certain cash and noncash contributions she claimed on her Federal income tax returns. Yet, she took the IRS to court to try to prove her point—even with all her background of working with the IRS!

Betty claimed certain cash contributions to two churches. Even though she had a year-end receipt from the churches, according to the court, the receipts did not state whether the church provided any goods or services in consideration, in whole or in part, for those contributions. Therefore, all single contributions of \$250 or more were considered nondeductible.

In another recent case (TC Memo 2005-58), a taxpayer claimed a charitable contribution deduction on his tax return for donating a “garage full” of obsolete computer equipment to a church. Included in the court’s ruling was the finding that the receipt did not state whether the church provided goods or services to the donor.

When are churches required to provide written disclosure statements? A church (or other charity) must provide a written disclosure statement to the contributor in connection with the solicitation or receipt of a quid pro quo contribution (part sale/part gift transaction) in excess of \$75. The IRS may penalize churches that do not meet this disclosure requirement.

The disclosure statement must inform the contributor that the part of the payment that is deductible for Federal income tax purposes is limited to the excess of any money, and the value of any property other than money, contributed above the value of goods or services provided by the

church, and provide the contributor with good faith estimates of the value of the goods or services furnished to the contributor.

Relating to gifts of cars, boats or airplanes to churches, the Gulf Opportunity Zone Act of 2005 requires that the “no goods or services” terminology be added to Form 1098-C (soon to be revised).

When are written disclosure statements not required by the church but are required for the donor? A church is not required to provide written disclosure statements for single gifts of \$250 or more, whether in cash or property. However, unless the contributor has a contemporaneous written acknowledgment for such gifts from the charity by the date his or her Federal income tax return is filed, no charitable deduction is allowed. The acknowledgement must include a description and the good faith estimate of the fair market value of any goods or services provided to the contributor. If the contributor received nothing in return for the contribution, the written statement must say so.

When are written disclosure statements not required by the church and not required for the donor?

Disclosure statements are not required:

- if there is not a donative or gift element of a transaction. The rental of space in a church for a wedding is an example of a transaction without a donative element; it is not a quid pro quo contribution.
- when goods or services given to contributors by a church have an insubstantial or de minimis value. Examples of items bearing the name or logo of the church that often qualify as “insubstantial” are coffee mugs, key chains, bookmarks and calendars. The IRS annually adjusts the dollar amount it considers insubstantial or de minimis.
- where there is only an intangible religious benefit provided to contributors. An example of an intangible religious benefit is admission to a religious ceremony. This exception includes de minimis tangible benefits, such as wine or wafer, provided in connection with a religious ceremony.

That little phrase (“no goods or services were provided in exchange for these gifts”) seems so simple, but applying the tax rules can be rather imposing. The two Tax Court cases underscore just how important it is to fully understand the disclosure rules to protect both the church and donors.

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