Charitable Giving

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Checklist for Receiving Donations

- **Gift Acceptance Policy.** A gift acceptance policy is a written summary of guidelines an organization will follow in determining whether to accept a gift of money or property. The guidelines should address considerations such as the impact of acceptance on the organization's reputation, any ongoing legal or financial responsibilities involved in accepting the gift, and the effect accepting the gift would have on the organization's mission and programming.
- **Board Approval.** The gift acceptance policy should require board approval for significant donations. What type of donation is "significant" will vary by organization. Generally, gifts of real estate and other large assets should be

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always be pre-approved by the board to ensure the organization does not end up with responsibilities that distract from the mission or deplete the organization's resources.

- **Form Acknowledgment Letter.** Every charitable organization should have a standard form letter which should be promptly completed and sent to donors to thank them for their gifts. These letters are not just a courtesy; the IRS requires donors to obtain these letters if the donor wishes to receive a deduction for donations of cash over $250 or of property.
- **Quid Pro Quo Disclosure.** Sometimes, organizations give donors something in return for their donations. For example, a dinner served at a fundraising event may have a value of $50 per attendee, while event tickets are sold at $200. With a few exceptions, the donor can only deduct the amount given in excess of the value received. In such cases, the organization should indicate in an acknowledgement letter how much of the donation is deductible. Continuing the example, the deductible amount for the fundraising tickets would be $200-$50, or $150.
- **Records.** Although donors are responsible for working with accountants to properly claim tax deductions, organizations should be aware of the filings involved. For donations over $5,000, organizations should receive copies of the IRS form required and keep such copies in the corporate records.

- **Re-Gifting Reporting**. When a charitable organization disposes of donated property within three years of the donation, the organization must complete a special IRS Form to report the transaction.

Introduction

Charitable donations benefit both the recipient charitable organization and the donors. For the organizations, donations provide tax-free revenue to fund programming and services. For the donor, donations provide an opportunity to engage with important initiatives and, from a practical standpoint, to take an income tax deduction for the amount donated.

To take advantage of these benefits and create positive interactions with donors, charitable organizations should educate themselves on the following basic principles and best practices for receiving charitable donations.

Gift Acceptance Policy

Every organization should adopt a list of decision-making principles which the organization can use to assess whether accepting a gift is in the best interests of the organization. When put into writing and officially adopted by the board of directors, these decision-making guidelines are called "gift acceptance policies." Adopting and implementing a gift acceptance policy is a best practice for nonprofits.

A gift acceptance policy helps an organization consider how accepting a gift might impact the organization's reputation, values, and independence, as well as the impact of the practical burdens that accompany certain types of gifts. For example, a donor may offer real estate which comes with considerable upkeep costs and perhaps even legal obligations. Some gifts of closely-held stock may also have legal restrictions. Additionally, the gift acceptance policy should be designed to prevent the organization from accepting gifts which contradict its mission. For example, some issue advocacy organizations have special restrictions related to gifts from foreign organizations or countries, if accepting such gifts might make the organization appear to be inappropriately influenced by outsiders or conflicted parties.

Example policies can be viewed on the internet.[2] However, these are samples only; a gift acceptance policy should be specifically tailored for the organization and aligned with its needs.

Board Approval

The gift acceptance policy should identify when board pre-approval will be required before a gift can be accepted. In general, board approval should be obtained before accepting large gifts, gifts of real estate, gifts which involve legal obligations to third parties, and gifts which might impact the organization's reputation. In some cases, additional diligence may be needed to determine whether the gift will be in the best interests of the organization. For

[2]https://www.councilofnonprofits.org/sites/default/files/documents/SAMPLE%20Gift%20Acceptance%20Policies.pdf; https://jjco.com/wp-content/uploads/2016/04/SampleGiftAcceptancePolicy.pdf.

example, accepting donations heavily indebted property or buildings in violation of local building code may not be in the best interests of the organization.

Charitable Gifts in Action: A Case Study

Emily is the Executive Director of Sonbeams, an afterschool Bible study for elementary school students. Sonbeams is exempt from federal income tax under Sec. 501(c)(3). Giving to Sonbeams is always at its peak between Thanksgiving and New Year's Day. On December 06, Emily receives the following two letters:

1. Dear Emily,
   Thank you very much for the wonderful work done by Sonbeams. Please accept this check for $300 to be used for Sonbeams' excellent programs.
   God Bless, Karen Cash.

2. Dear Emily,
   Enclosed please find my cash contribution of $200 to attend the gala fundraiser for Sonbeams on December 20, 2019.
   Sincerely, Tom Tickets.

Emily vaguely recalls that her father, a tax attorney, once mentioned to her that donors receive tax deductions for their donations to tax-exempt organizations. She also remembered him saying that donors cannot take such deductions for their donations without certain paperwork. The idea seems important – Emily certainly wants to support and encourage donors. Emily also recalls that Sonbeams is not supposed to accept donations without creating a record. But she does not remember the specifics. What should Emily do?

Form Acknowledgement Letter

Legally, the donor is responsible for obtaining a written acknowledgment of his or her donations. However, as a courtesy, an organization should assist its donors by providing this statement voluntarily. Donation acknowledgement letters are especially important when a donor has given a monetary gift of more than $250 or a gift of property.[3] In such cases, without an acknowledgment letter, the donor cannot claim a tax deduction for the gift.

The IRS requires acknowledgement letters to be written and contemporaneous. "Contemporaneous" is a technical word which the IRS uses to describe the timing of the acknowledgement. The required timing is the earlier of: (1) the date the taxpayer files a return for the year the contribution was made, or (2) the due date (including extensions) for filing such return. In practice, this generally means the acknowledgement letters should be sent at least a few weeks before the annual April 15 filing deadline. However, the best approach is to send the acknowledgement as promptly as possible after the gift is accepted.

[3] I.R.C. § 170(f)(8)(A).

The IRS has outlined certain information which must be contained in the written statement.[4] This information includes:

a. **Name and EIN.** The name of organization and its employer identification number.
b. **Amount.** The amount of cash contribution or a description (but not the value) of non-cash contribution.[5]
c. **Description and Statement of Value.** A statement that no goods or services were provided by the organization in return for the contribution, if that was the case.[6] Or, if the donor received goods or services in exchange for the donation, the value of the goods and services received. (See the next section, "Acknowledging Quid Pro Quo Donations.)"
d. **Religious Benefits.** A statement that goods or services, if any, that an organization provided in return for the contribution consisted entirely of intangible religious benefits, if that was the case. An intangible religious

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[4] https://www.irs.gov/charities-non-profits/charitable-organizations/charitable-contributions-written-acknowledgments.
[5] I.R.C. § 170(f)(8)(B)(i).
[6] I.R.C. § 170(f)(8)(B)(ii).

benefit is a benefit provided by a tax-exempt organization operated exclusively for religious purposes and are not usually sold in commercial transactions outside a donative context. If a religious organization provides only intangible religious benefits to a contributor, the acknowledgment does not need to describe or value those benefits. It can simply state that the organization provided intangible religious benefits to the contributor.[7]

[7] I.R.C. § 170(f)(8)(B)(iii); IRS Publication 1771 p. 2-4.

Charitable Gifts in Action: A Case Study

For Karen, Emily creates a simple acknowledgment form letter, addressing each of the five points above.

> *Dear Karen,*
>
> *Thank you for the monetary gift of $300 to Sonbeams (EIN:41-384950) which you made via check on December 04, 2019. Sonbeams did not provide any goods or services in exchange for this gift.*
>
> *Under the Internal Revenue Code, this monetary contribution is fully tax-deductible.*
>
> *Blessings,*
>
> *Emily*

Emily then emails the letter to Karen and adds a copy to Sonbeams' corporate records. Karen puts the acknowledgment letter in her income tax file to provide proof of the charitable income tax deduction that will be taken on her personal income tax return.

Acknowledging Quid Pro Quo Donations

A donor can only receive a tax deduction for the value of his or her contribution minus the value of the goods or services provided.[8] When organizations provide a good or service to donors in exchange for a donation of more than $75, the organization should provide the donor with a good faith estimate of the value of the goods or services provided.

For example, many organizations host formal charity dinners. The tickets are usually sold at a premium to help fundraise. For example, tickets may be sold at $200 per person. The cost of the ticket includes a meal, which may be valued at $50.

The organization should provide an acknowledgement statement, following the guidelines described above. This statement can be a written on the ticket, listing the value of the meal and the amount that is deductible. Continuing with the previous example, if tickets cost $200 for a meal worth $50, the deductible portion would be $150.

The IRS allows an exception if the item or service received in exchange for the donation is below a certain threshold.[9] This threshold changes each year. For 2019, the threshold was

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[8] I.R.C. § 6115(a).
[9] I.R.C. § 513(h)(2).

$11.20.[10] Because of this exception, donors who receive t-shirts for a walkathon or other marketing items can still fully deduct their donations.

Records

Although donors themselves are responsible for properly claiming tax deductions, charitable organizations should be aware that donors have additional filing obligations for donations.

When a donor contributes property or a monetary donation over $250, the donor must complete a special form called "IRS Form 8283: Noncash Charitable Contributions."[11] In some cases, the donors may need representatives of the charitable organization to sign this form. In that context, the donor must also provide a copy of the signed form to the charitable organization.

The IRS requires the charitable organization to keep a file of all such forms in the corporate records.[12] If the donated property is passed on to another exempt organization within three

[10] Rev. Proc. 2019-44, §3.34(1).
[11] https://www.irs.gov/pub/irs-pdf/f8283.pdf; https://www.irs.gov/pub/irs-pdf/i8283.pdf.
[12] §1.170A-13(c)(4) for contributions made on or before July 30, 2018 and §1.170A-16(d)(3) for contributions made after July 30, 2018.

years of the donation, the signed form will likely need to accompany the property, as described in the next section.

Charitable Gifts in Action: A Case Study

Emily wonders whether she should complete any paperwork acknowledging Tom Ticket's purchase of admission tickets for the gala. She steps into the program accountant's office and asks.

The Sonbeams program accountant, Amy, tells Emily the following:

"The value of the dinner is estimated to be $50. The amount that Tom can deduct for Federal income tax purposes is $200 ($250 - $50)."

"Okay, that's helpful. But, what should we *do*?" says Emily.

"Well," Amy continues, "Sonbeams should send its form acknowledgement letter thanking Tom for his contribution of $250 on December 05, 2019 and stating that the estimated value of goods provided in return for the contribution is $50."

Using the organization's standard acknowledgment letter form, Emily writes the following message to Tom:

> *Dear Tom,*
>
> *Thank you for the monetary gift of $200 to Sonbeams (EIN:41-384950) which you made in cash on December 04, 2019. In exchange for your donation, Sonbeams is providing a ticket to our annual gala, valued at $50.*
>
> *Under the Internal Revenue Code, $150 of this $200 monetary contribution is tax-deductible.*
>
> *Blessings,*
>
> *Emily*

Disposing of Donated Property

Organizations which receive donated property may not always keep the property in the long term. If an organization disposes of donated property within three years of receiving it, the IRS requires additional paperwork.[13]

Disposing of donated property may occur in a variety of circumstances. For example, an organization may re-donate property to another exempt organization. Alternatively, an organization may sell donated property if the organization finds the proceeds are more valuable than the property in pursuing the organization's mission.

The specific form required by the IRS is called the "IRS Form 8282: Donee Information Return."[14] The form is two pages of basic questions about the donated property and how it was used. The organization's responses to the questions determines how much of the original deduction the donor may retain and how much the donor must repay. The organization must provide a copy of the form to the donor, who must use the information in preparing his or her own tax returns.

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[13] I.R.C. § 6050L(a)(1); Treas. Reg. § 1.6050L-1(b).
[14] https://www.irs.gov/pub/irs-pdf/f8282.pdf.

If the charitable organization transfers donated property to another charity, both organizations must complete the IRS Donee Information Return Form.[15]

There are two exceptions in which organizations need not file IRS Form 8282 to report disposing of a donated item within three years of the original donation. Organizations which provide charitable relief, such as Red Cross and homeless shelters, may dispose of donated property by distributing it to people in need in the course of carrying out their mission to serve.[16] Additionally, if donated property was appraised and assigned a value of less than $500 at the time the property was donated, the recipient organization need not file the IRS Form 8282 to report the disposal.[17]

Conclusion

Organizations should adopt a gift acceptance policy and board approval process to makes sure that major gifts are accepted only after diligence is conducted to make the organization does not end up with responsibilities which distract from its mission.

[15] Treas. Reg. § 1.6050L-1(c).
[16] Treas. Reg. § 1.6050L-1(a)(3).
[17] Treas. Reg. § 1.6050L-1(a)(2)(i).

Once an organization has accepted a donation, whether of money or property, the organization should provide donors with an acknowledgment letter. Donors can then use this letter as a record to support the donor's claim of tax deduction.

If an organization provides donors with a good or service in exchange for a donation, the organization should provide an estimate of the value of the good or service provided, so that donors can identify the portion of the donation which is deductible.

In certain circumstances, the IRS requires donors to provide additional documentation to recipient organizations. This information should be saved in the corporate files.

If an organization disposes of donated property within three years of its donation, the organization and, if applicable, the successor organization, should complete the appropriate information return, submit the filing to the IRS, and provide a copy to the original donor.

With these basic tools and guidelines in place, organizations can effectively receive and process donations in a way which best furthers the organizational mission.