

CaseStudy

DEDUCTING DONATED SERVICES AND OUT-OF-POCKET EXPENSES

A TAXPAYER WHO HAS LIMITED resources but wants to make a deductible charitable contribution has limited options. While a deduction is not allowed for the value of charitable volunteer work, unreimbursed expenses may be deductible. As noted in the following paragraphs, a common issue with charitable contributions is whether the taxpayer received some benefit in return. Furthermore, the donation cannot be made directly to the needy individual(s) and qualify for a charitable deduction; there must be a charitable organization involved.

Donating Services

A charitable deduction is not allowed for services performed by a taxpayer on behalf of a charity or for a taxpayer's time expended doing charitable work (Regs. Sec. 1.170A-1(g); *Grant*, 84 T.C. 809 (1985), *aff'd* 800 F.2d 260 (4th Cir. 1986)). Thus, a volunteer's charity work is a nondeductible contribution of personal services (*Taylor*, T.C. Memo.

1992-174). However, a charitable deduction is available for unreimbursed expenses, including automobile expenses the taxpayer incurs while rendering services to a charitable organization (*Rockefeller*, 676 F.2d 35 (2d Cir. 1982); Rev. Rul. 84-61).

A taxpayer who directs that compensation for services rendered be paid directly to a charitable organization is allowed a charitable deduction for the gift. However, the amount must also be included in the taxpayer's gross income; the taxpayer cannot assign his or her compensation to another. Although the income and deduction amounts are the same, the income increases adjusted gross income (AGI), which could affect other deductions and credits claimed by the taxpayer.

Whether a contribution is characterized as services or property is often subject to IRS interpretation. For example, charitable contributions of newspaper advertising space and radio broadcast time were not deductible because they involved a contribution of services by the donor (Rev. Ruls. 57-462 and 67-236). Conversely, the charitable contribution by a radio station of third-party lodging and airfare it received in exchange for radio advertising time (and included in income) was deductible as a property contribution. The property contribution was in the form of a contract right to receive purchased services (Rev. Rul. 84-1).

Example 1: K paid \$500 for dance lessons for her daughter, J. However, J's after-school activities will result in her missing over half the lessons. K subsequently discovered that the lessons are nonrefundable. K could donate the right to receive the lessons to a charitable organization and obtain a charitable deduction for her gift.

A taxpayer who receives services in exchange for a contribution to a charitable organization is entitled to a deduction to the extent that the taxpayer intended to benefit charity and the contribution exceeded the fair market value (FMV) of services received (Regs. Sec. 1.170A-1(h)). Thus, a contribution deduction is available to a taxpayer who receives incidental benefits (including membership in the organization if the related rights and privileges are incidental) in connection with a charitable gift (Rev. Rul. 68-432).

Conversely, the IRS denied a charitable deduction where it determined that the taxpayers received substantial benefits in return for their charitable gift (Letter Ruling 9423001). In this situation, the taxpayers made a charitable contribution to a qualified retirement community. The payment entitled them to occupy the retirement unit of their choice, and the amount of the payment corresponded to the size of the unit. In addition, there was a refund feature associated with the

This case study has been adapted from *PPC's Guide to Tax Planning for High Income Individuals, 10th Edition*, by Anthony J. DeChellis, Patrick L. Young, James D. Van Grevenhof, and Delia D. Groat, published by Thomson Tax & Accounting, Ft. Worth, TX, 2009 ((800) 323-8724; ppc.thomson.com).

contribution. The presumption was that the taxpayers received substantial benefits and thus the contribution was not deductible.

Deducting Out-of-Pocket Expenses

Although a charitable deduction is not allowed for a contribution of services, unreimbursed out-of-pocket expenditures made in connection with rendering gratuitous services to a charitable organization may be deductible (Regs. Sec. 1.170A-1(g)). The expenses are treated as direct payments to the charity rather than for the organization's use (Rev. Rul. 84-61), so they are subject to the 50% of AGI limitation (30% if made to other than a 50% charity). The expenses must be nonpersonal, directly connected with, and solely attributable to the rendition of such services (Rev. Rul. 69-473). Thus, expenditures incurred in connection with a charitable purpose but that primarily benefit the taxpayer are not deductible as charitable contributions (*Saltzman*, 54 T.C. 722 (1970)).

Example 2: *T*, the leader of his son's Boy Scout troop, takes the group on a weekend camping trip. Provided he is on duty in a genuine and substantial sense throughout the trip, he can claim his out-of-pocket travel expenses as a charitable contribution even though he enjoys the trip.

If *J*, *T*'s brother, goes on the trip to help out (and has only nominal duties or is not required to render services for significant portions of the trip), his travel expenses are not deductible.

Examples of unreimbursed expenses deductible as charitable contributions include uniforms unsuitable for everyday use, equipment, copying charges, office supplies, long-distance phone charges, postage, transportation, or other travel incurred while rendering services for a qualified organization. Travel expenses incurred while away from home, such as meals (subject to the 50% limitation) and lodging are deductible only if (1) there is no significant personal pleasure, recreation, or vacation in the travel (Sec.

170(j)) and (2) the performance of services is substantial.

Note: The rule that the taxpayer derive no significant pleasure, recreation, or vacation from charitable travel applies whether the taxpayer directly pays the expenses or makes a contribution to the charity, which in turn pays for the expenses.

The cost of child care while performing services for a charitable organization is not deductible, even if the volunteer could not perform the work without the expense (Rev. Rul. 73-597).

The use of an automobile for charitable purposes is deductible as a charitable contribution at the rate of \$.14 per mile (the rate is not indexed for inflation) (Sec. 170(i)). Alternatively, the cost of gas and oil directly related to the use of the auto in giving services to a charitable organization is deductible; general expenses such as license and registration fees, depreciation (or lease payments), and insurance are not deductible (Rev. Proc. 2008-72). Parking fees and tolls incurred are deductible whether the standard rate or actual expense method is used.

The cost of tickets to a charitable event is eligible for a contribution deduction to the extent the purchase price exceeds the FMV of admission and privileges associated with the event. Unused tickets qualify as charitable contributions if returned to the organization (Rev. Rul. 74-348). However, raffle, bingo, or lottery tickets are not charitable contributions.

A special exception exists for sports fans. They can deduct 80% of donations to colleges or universities for the right to buy tickets to an athletic event in the institution's stadium, regardless of whether the tickets would have been readily available without the payment (Sec. 170(l)).

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EditorNotes

Albert Ellentuck is of counsel with King & Nordlinger, L.L.P., in Arlington, VA.