

The following overview covers the topic of Non-Cash Charitable Contributions and the general provisions regarding their deductibility when made to a qualifying organization. This material has been prepared for informational purposes only and should not be relied upon for, tax, legal or accounting advice. Tax laws and regulations change frequently, and their application can vary widely based on the specific facts and circumstances involved for each taxpayer. Be sure to consult with your tax advisor concerning your specific situation.

## **26 U.S. Code § 170 – Charitable Contributions and Gifts**

“There shall be allowed as a deduction any charitable contribution payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary. A charitable contribution is deductible if it is a contribution or gift to a corporation, trust, or community chest, fund, or foundation, created or organized in the United States or a possession or under the law of the United States, a possession, a state, or the District of Columbia, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.”

### **Corporations**

The deduction by a corporation for charitable contributions is limited to 10 percent of its taxable income for the year, computed without regard to:

- the deduction for the charitable contributions
- the corporate deductions for dividends received and for dividends paid on certain preferred stocks
- the limitation on the deduction for bond premium
- any net operating loss carryback to the tax year
- the deduction for domestic production activities
- any capital loss carryback to the tax year

Any contribution made by a corporation in excess of the 10 percent deductible amount for a given year can be carried forward for the 5 succeeding years.

A corporation reporting its taxable income on the accrual basis may be allowed a deduction if the board of directors authorizes a charitable contribution during the tax year, and the contribution is made by the 15th day of the third month following the close of the corporation’s tax year.



C corporations, other than personal service corporations and closely held corporations, must file Form 8283 only if the amount claimed as a deduction is more than \$5,000.

### **Pass Through Entities - Partnerships and S corporations**

A partnership or S corporation that claims a deduction for noncash gifts of more than \$500 must file Form 8283 with Form 1065, 1065-B, or 1120S

For Pass Through Entities, each Shareholder of an S Corporation, Partner of a partnership or Member of an LLC must account separately for his or her distributive share any charitable contribution, made by the respective entity, in the manner appropriate for their specific circumstances.

### **Reporting, Recordkeeping & Substantiation**

#### Fair Market Value (FMV)

Although the amount of your deduction determines if you have to file Form 8283, you also need to have information about the FMV of your contribution to complete the form. FMV is the price a willing, knowledgeable buyer would pay a willing, knowledgeable seller when neither is compelled to buy or sell. IRS Publication 561 – Determining the Value of Donated Property covers the various considerations for determining a fair value of contributed property.

Noncash Donations of Less than \$250 For each noncash donation of less than \$250 that is claimed, a taxpayer generally must obtain a receipt from the donee. This should be in the form of a letter or other written communication from the donee indicating:

- the donee's name
- the date and location of the donation
- a detailed description, but not the value, of the donated property

Reg. §1.170A-13(b)

Contributions of \$250 or More Charitable contributions of \$250 or more must be substantiated by a contemporaneous written acknowledgment from the donee organization unless the donee files a return with the IRS reporting the information that would be included in the written acknowledgment.



Generally, the acknowledgment must include:

- the amount of cash contributed and a description of any property contributed;
- a description and good-faith estimate of the value of any goods or services with more than "insubstantial value" received in exchange for the contributions

Reg. §1.170A-13(f)

Noncash Donations of More than \$500 For property contributions for which a deduction of more than \$500 is claimed, the taxpayer must include with its return for the tax year of the contribution:

- a written description of the donated property
- any other required information as the IRS may prescribe by regulation.

If the documentation requirement is not met, the deduction will be denied unless the failure is due to reasonable cause.

Noncash contributions over \$5,000 for C corporations must be described in Section A of Form 8283, which is attached to the taxpayer's return. A noncash contribution that exceeds \$5,000 must also be appraised and described in the instructions for Section B of *Form 8283*. Reg. §1.170A-13(c)

### **IRS Forms & Instructions**

- Form 8283 Instructions (<http://goo.gl/6zJqhq>)
- Publication 561 – Determining the Value of Donated Property (<http://goo.gl/Tw5U5>)

*This material has been prepared for informational purposes only and should not be relied upon for, tax, legal or accounting advice. Tax laws and regulations change frequently, and their application can vary widely based on the specific facts and circumstances involved for each taxpayer. Be sure to consult with your tax advisor concerning your specific situation.*

