General Guidelines on Quid Pro Quo Contributions

THE GENERAL RULE

A quid pro quo contribution is a payment made partly as a contribution and partly in consideration for goods or services provided to the donor by a charity. Generally, if a donor receives items from a charity in exchange for a donation, the donor may deduct as a contribution only the difference between the value of what he gives and the value of the items he receives in exchange.

THE TOKEN ITEMS EXCEPTION

However, the IRS allows the donor to deduct the full amount of the contribution, without reduction for the value of the items he receives in exchange, if the items received are considered “token” items by the IRS. There are two ways that items (“premiums”) provided to a donor by a charity in exchange for a contribution may be treated as token items – and thus ignored in determining the deductible amount of the donor’s contribution. For 2017, premiums received by a donor are considered by the IRS to be token items if:

1. The fair market value of all items received by the donor does not exceed the lesser of $107 or 2% of the contribution amount, OR

2. The payment to the charity is $53.50 or more, the premiums provided to the donor in connection with the contribution bear the charity’s name or logo, and the cost to the charity of all such items sent to a single donor during a one-year period does not exceed $10.70. Examples of items falling within this category are bookmarks, calendars, key chains, mugs, posters, t-shirts, etc. (assuming that these items bear the charity’s name or logo and cost less than $10.70).

(The amounts listed above are adjusted annually for inflation.) If the items received by the donor meet one of the two exceptions listed above, then the donor may deduct the full amount of the contribution, rather than reducing the contribution amount by the value of the items he received in connection with the donation.

ACKNOWLEDGMENT OF THE DONATION BY THE CHARITY

1. Quid pro quo donations that do not qualify for the token items exception:

Generally, if a donor makes a donation of more than $75 and receives items in exchange for the donation (other than “token” items, which may be disregarded as described above), the charity must provide a written statement, in connection with soliciting or receiving the contribution, that (1) informs the donor that the amount of the contribution that is deductible for federal income tax purposes is limited to the excess of the amount contributed by the donor over the value of goods or services provided by the charity, and (2) provides the donor with a “good faith estimate” of the value of those goods or services. Separate payments are not aggregated in determining whether the $75 level is reached, unless separate payments are made at the same time with the intent of avoiding these rules. The value of items given in exchange may be determined by the price generally charged for the item when offered for purchase in a commercial transaction. A good faith estimate of the value of goods and services that aren't commercially available can be determined by reference to the fair market value of similar or comparable goods or services. Goods or services may be similar or comparable even though they don't have the unique qualities of the goods or services that are being valued.
Sample wording that should be incorporated into the receipt letter for a quid pro quo donation is as follows:

Federal tax law permits you to deduct as a charitable contribution only the excess (if any) of the donation you made to [name of charity] over the estimated fair market value of the items you received in exchange. The estimated fair market value of the items received by you in connection with your donation is $___________________.

Failure to comply with the quid pro quo contribution disclosure requirements may result in the assessment of penalties of $10 per contribution, with a maximum penalty of $5,000 per fundraising event or mailing. We recommend that a charity not report quid pro quo contributions in a periodic (monthly, quarterly or annual) statement to donors unless all of the required information is included. Improper reporting of quid pro quo contributions will likely be considered a violation of the law.

2. Contributions that qualify for the token premium exception:

If the items received by the donor in connection with the donation meet the criteria for the token premium exception as described above, then the quid pro quo disclosure requirements described in item 1 above will not apply, and the donation is treated as if no goods or services were provided in exchange. In this case, the acknowledgment rules described in item 3 below will apply.

3. Non-quid pro quo donations:

If no items are received by the donor in connection with a donation, then the donation is not a quid pro quo donation, and the charity is not required to provide the written disclosure outlined in item 1 above.

However, in order for charitable contributions to be tax deductible, a donor must have a bank record or a written communication from the charity showing the name of the charity and the date and amount of the contribution. Acceptable bank records include canceled checks or bank or credit union statements containing the name of the charity, the date and the amount of the contribution.

In addition, for individual contributions in the amount of $250 or more, the donor is responsible for obtaining a written acknowledgment containing certain information from the charity before the donor files his or her federal income tax return. The acknowledgment issued by the charity in this situation should include a statement with wording such as:

No goods or services were provided by [name of charity] in exchange for the contribution(s) listed above.

4. General requirements for written acknowledgments:

It should be noted that all receipts provided to donors should contain certain common information, regardless of whether the receipts are for quid pro quo contributions or not. This information should include the legal name of the charity, name of the donor, the date and amount of the each contribution, and a description (but not the value) of any non-cash contributions.

Additionally, appropriate disclosures regarding items provided to the donor in exchange for the contribution must be included. For quid pro quo contributions that don't qualify for the token premium exception, the disclosure should be made in accordance with the guidance described in item 1 above. For other contributions, the disclosure should be made in accordance with the guidance in item 3 above.

**EXAMPLES**

**Example 1 – Donation of $100 in exchange for token items whose aggregate cost is less than $10.70**

If a donor makes a donation of $100 and receives a t-shirt, bumper stickers and license plates bearing the name and/or logo of the charity with an aggregate cost to the charity of less than $10.70, then the donation is fully deductible by the donor. The donation is not considered a quid pro quo contribution because it meets the 2nd exception to the quid pro quo rules. The charity is not required to send an acknowledgment for this donation, since it is not considered a quid pro quo contribution.
Example 2 – Donation of $30 in exchange for token items whose aggregate cost is less than $10.70

Assume the same facts as example 1, but the donation amount is $30 rather than $100. In this case, the 2nd exception is not met, because the donation is not more than $53.50. The 1st exception is not met either, unless the fair market value of all items received by the donor is less than $0.60 (2% of the contribution amount). Therefore, the donor may only deduct the excess of the amount donated over the value of the items received. However, the charity is not required to send an acknowledgment for this donation, since the donation amount is less than $75.