



IRS Laws on Deductibility of Payments Made for Charitable Fund-Raising Events

The Congress and the IRS have become concerned over the failure of many charitable organizations to properly inform their contributors about the tax deductibility of payments made in connection with fund-raisers such as sports/cultural events, banquets or sale of merchandise.

An IRS publication No. 1391 was written to explain to charitable organizations about the law concerning the deductibility of these types of contributions. **Please Note** - the law is the same for contributors to charitable or religious organizations.

The following memo is a summary of the salient points of this IRS memo. If you have questions regarding this organization, please consult your attorney or call

The Law

Section 170 of the Internal Revenue Code allows a taxpayer to take a deduction for making a contribution to a federally tax exempt charitable (educational, religious etc.) organization. In order for a contribution to qualify for a deduction, a taxpayer must transfer money or property to an organization without receiving property or benefits in return. If a taxpayer receives property of value in return for a contribution to the organization, the taxpayer is only entitled to a tax deduction in the amount that the contribution exceeds the fair market value of the property or benefits received by the taxpayer.

Examples & Analysis

A. Sports/ Cultural Events - If an organization offers two ballet tickets worth \$50 each to any person who contributes \$100 to the organization, no tax deduction is allowed because the payment will be treated as the purchase price for the tickets rather than a contribution. If the organization furnishes a contributor with two tickets worth \$25 each in exchange for \$100, the contributor would be entitled to a \$50 tax deduction - the extent to which the contribution exceeds the fair market value of the tickets.

B. Banquets - This same analysis applies to annual fund-raising dinners (i.e. some part of the dinner is not deductible). The charitable organization must make a good faith effort to determine a "fair market value" of the dinner etc.

C. Auctions - Any moneys paid for merchandise at an auction would most likely be considered the "fair market value" of the merchandise - in other words any amount paid for an item at an auction may not be tax deductible. At the very most, if an item has a set price (from a store etc.) only the amount above the price would be deductible. Any "bargain" prices would definitely not be deductible.

D. Raffles - Any amounts paid to participate in raffles, drawings, or other contests or games of chance are not considered contributions for tax purposes. The taxpayer is "purchasing an opportunity" and the price of the chance or opportunity equals the fair market value.

Note: The above analysis applies regardless of whether: (a) the taxpayer actually uses the benefits received in exchange for the contribution (i.e., whether or not the taxpayer attends the event); (b) the taxpayer and the organization intend that the payment should be treated as a contribution; (c) the organization uses the payment

exclusively for charitable purposes; or (d) the organization bears no cost in sponsoring the event (i.e., the ballet company donated the tickets to the organization).

Notification Duties of Organizations

A taxpayer bears the burden of proving the deductibility of payments to an organization for such fund-raising events. However, the IRS has indicated that organizations have a duty not to mislead taxpayers regarding the amount of tax deductions in connection with these payments. Organizations should not promote ticket sales stating the amount paid for tickets or merchandise is "tax deductible", categorize the payments as a "donation" or even merely state that "all contributions are tax deductible to the limits set by law".

The IRS urges all organizations which plan to solicit payments consisting in part of a contribution and in part the purchase price for a benefit received to follow the procedures contained in Revenue Ruling 67-246: (a) determine in advance of the solicitation the amount attributable to the purchase price and the amount which is considered a contribution, (b) furnish the potential contributors with this information during the course of the solicitation, and (c) clearly indicate this information on any ticket or receipt issued to the contributor in connection with the payment.

Organizational Concerns

Failure to provide the taxpayer with this type of specific information relating to the availability and the amount of a tax deduction may adversely affect a taxpayer's ability to prove the validity of the deduction in the case of an audit by the IRS. In the absence of this information, the IRS will presume that no tax deduction would be available to the taxpayer.

There are currently no penalties that can be imposed against an organization which fails to comply with these procedures. The IRS instituted a special program to ascertain the extent to which charities do provide accurate information to taxpayers regarding the deductibility of contributions.

While religious organizations do not generally file with the IRS and would probably not become subject to much if any of this oversight process, there is the problem of not providing accurate information to your contributors whose tax returns may well become subject to much closer scrutiny. Not providing such information for your contributors could prove to be very painful and embarrassing for them, if they are audited and cannot prove their deductions. It will probably not be helpful to your organization's fund-raising efforts in the long run. Following the above suggestions would be advisable.