



March 2009

### **Legal Alert: Substantiation of Charitable Donations**

Organizations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code are qualified to receive tax-deductible charitable contributions. Nonprofit organizations need to be aware of some general rules regarding documentation of contributions, in order to meet requirements for federal income tax reporting and, importantly, to keep donors happy. Below, we have summarized rules relating to charitable donations.

**Cash Donations.** Individual donors may deduct monetary contributions of under \$250 only if they maintain a written record, and that record is either “a bank record or written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution” (*The Pension Protection Act of 2006, Section 1217*).

For donations in excess of \$250, the donor is entitled to a deduction only if he/she obtains a contemporaneous written acknowledgment from the exempt organization that received the donation.

**Noncash Donations:** While there are exceptions, donors are permitted to take a deduction on the fair market value of goods (e.g., office equipment, cleaning supplies) at the time of contribution. If the items are under \$250 in value, donors are required to obtain a receipt from the charitable organization showing the recipient, date and location of the contribution and a reasonably detailed description of the property in order to claim a deduction. If the goods are valued in excess of \$250, donors may deduct the value of the contribution only if they receive a written acknowledgment.

- For donations of clothing, donors may not take a deduction unless the clothing is “in good used condition or better” (*The Pension Protection Act of 2006, Section 1216*).
- Special rules apply to donations of food/inventory. *The Emergency Economic Stabilization Act of 2008* (H.R. 1424) extended the enhanced charitable deduction for all business taxpayers donating food and grocery products from December 31, 2007 to December 31, 2009.
- Donors are not entitled to take a deduction for the value of their time spent volunteering for an exempt organization. However, donors may be able to deduct certain unreimbursed out-of-pocket expenses (e.g., gas expenses that are directly related to the donor’s use of a vehicle in giving services to a charitable organization).

### **Written Acknowledgment**

While it is the donor’s responsibility to obtain the written acknowledgment and exempt organizations will not be penalized for failure to provide such an acknowledgment, it is a good idea for nonprofits to acknowledge all donations in order to develop strong donor relationships. The acknowledgment does *not* need to place an estimated value on the donated goods – a description of the property is sufficient. The acknowledgment must state whether the charitable organization gave the donor any goods or services in exchange. The acknowledgment may be sent as a paper copy in the mail or electronically by email. We have enclosed sample acknowledgement letters for your reference.

*This alert is meant to provide general information only, not legal advice. Please contact Gail Bayarin at 212-219-1800, ext. 279 or Lindsey Jones at ext. 228 if you have any questions about this alert.*

**Attachments:**  
**Sample acknowledgement letter (cash donation)**

DATE

NAME

ADDRESS

ADDRESS

Dear \_\_\_\_\_ :

On behalf of the Board and staff of Do Gooders, Inc., it is my pleasure to acknowledge your generous contribution of \$xxx received on (DATE). No goods or services were provided by Do Gooders, Inc. in exchange for this donation.

The success of our organization depends on the ongoing support and dedication of sponsors like you, who care deeply about our mission to \_\_\_\_\_.

Thank you once again for your support.

Sincerely,

\_\_\_\_\_

Executive Director

**Sample acknowledgement letter (donation in-kind)**

DATE

NAME

ADDRESS

ADDRESS

Dear \_\_\_\_\_ :

On behalf of the Board and staff of Do Gooders, Inc., it is my pleasure to acknowledge your generous contribution of [a copy machine and fax machine (include make and model of equipment, if known)][\_\_\_\_ gallons of fruit juice /\_\_\_\_ pounds of canned goods/[number] of plastic grocery bags/[number] of boxes of macaroni and cheese dinners] on (DATE). No goods or services were provided by Do Gooders, Inc. in exchange for this donation.

The success of our organization depends on the ongoing support and dedication of sponsors like you, who care deeply about our mission to \_\_\_\_\_.

Thank you once again for your support.

Sincerely,

\_\_\_\_\_

Executive Director