Gotcha! This Missing Sentence Can Cost Your Clients A Lot of Money



If you advise charitable clients in your practice, you are no stranger to the IRS's requirements for substantiating charitable deductions.

In some cases, however, tax advisors and their clients are so focused on valuing the gift and filing the Form 8283 that they overlook the requirement for a "contemporaneous written acknowledgment." And this can derail the deduction! It sure was for the taxpayers in *Wells v. Commissioner*, T.C. Memo. 2026-49, involving a claimed charitable deduction carryover stemming from a gift of Mississippi real estate to a nonprofit organization.

The property had been appraised at $4.42 million. And there was plenty of documentation surrounding the gift. The taxpayers had an appraisal. The property was transferred by deed. The charity's president sent a letter thanking the donors and referencing the property's appraised value. The taxpayers also filed a Form 8283.

So what went wrong?

The charity's acknowledgment letter did not state whether the organization had provided any goods or services in exchange for the contribution. You know the rule:

A donor claiming a deduction of $250 or more is also required to obtain and keep a contemporaneous written acknowledgment for a charitable contribution. To be contemporaneous, the written acknowledgment must generally be obtained by the donor no later than the date the donor files the return for the year the contribution is made. The written acknowledgment must state whether the donee provides any goods or services in consideration for the contribution.

Specifically, Internal Revenue Code Section 170(f)(8)(C) requires the donor to obtain the acknowledgment by the earlier of (1) the date the donor actually files the tax return for the year of the gift or (2) the return's due date, including extensions.

In the *Wells* case, the contemporaneous written acknowledgment was missing a critical required statement. Although the taxpayers argued that their various documents, considered together, were enough to substantiate the contribution, the Tax Court disagreed. The statutory acknowledgment requirement had not been satisfied, and the charitable deduction carryovers were disallowed.

For advisors, *Wells* is a valuable reminder that the mechanics of charitable giving deserve just as much attention as the strategy. This is especially important when clients are giving real estate, closely held business interests, or other noncash assets where the deductions can be substantial and additional substantiation requirements may apply.

When you're helping a client make a significant charitable gift, don't assume that a deed, appraisal, Form 8283, or friendly thank-you letter necessarily checks every box. Make sure the client is paying close attention to the specific documentation requirements—and involve the charitable organization early enough to correct any problems before the applicable deadline.

The defect in *Wells* was fixable, but only if someone had caught it in time. Again, Internal Revenue Code Section 170(f)(8)(C) says that the donor must obtain a compliant acknowledgment by the earlier of (1) the date the donor actually files the tax return for the year of the gift or (2) the return's due date, including extensions.

So imagine that Wells's tax advisors had reviewed the charitable-gift file while preparing the 2016 return and noticed that the nonprofit's letter didn't say whether goods or services had been provided in exchange for the property. The solution to this particular problem may have been straightforward: contact the nonprofit and obtain a corrected or supplemental written acknowledgment containing the missing statement before filing the return.

As always, the Chester County Community Foundation is happy to let you know about tax rulings and updates that offer insight into charitable planning techniques. We are also happy to serve as a sounding board as you work with clients on charitable giving strategies, including gifts of complex assets into a client's donor-advised or other type of fund. We look forward to our next conversation!

For more information, contact the Chester County Community Foundation:
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