

Henderson Caverly & Pum LLP

NONPROFIT ORGANIZATIONS NEWSLETTER May 2019

SUBSTANTIATING CHARITABLE CONTRIBUTIONS AND WRITTEN ACKNOWLEDGMENTS



Many charitable organizations described in Internal Revenue Code (“Code”) section 501(c)(3), other than organizations that have as their charitable purpose testing for public safety, are eligible to receive tax-deductible contributions in accordance with Code section 170. Most eligible organizations are listed in the [Tax Exempt Organizations Search](#) tool located on the IRS website.

A charitable organization must provide a written disclosure statement to donors of a quid pro quo contribution in excess of \$75. A quid pro quo contribution is a payment made to a charity by a donor partly as a contribution and partly for goods or services provided to the donor by the charity. For example, if a donor gives a charity \$100 and receives a concert ticket valued at \$40, the donor has made a quid pro quo contribution. In this example, the charitable contribution portion of the payment is \$60. Even though the part of the payment available for deduction does not exceed \$75, a disclosure statement must be filed because the donor's payment (quid pro quo contribution) exceeds \$75. The required written disclosure statement must:

1. Inform the donor that the amount of the contribution that is deductible for federal income tax purposes is limited to the excess of any money (and the value of any property other than money) contributed by the donor over the value of goods or services provided by the charity, and
2. Provide the donor with a good faith estimate of the value of the goods or services that the donor received.

The charity must furnish the statement in connection with either the solicitation or the receipt of the quid pro quo contribution. If the disclosure statement is furnished in connection with a particular solicitation, it is not necessary for the organization to provide another statement when the associated contribution is actually received.

No disclosure statement is required when:

1. The goods or services given to a donor meet the standards for insubstantial value set out in [Revenue Procedure 90-12](#) and [Revenue Procedure 92-49](#);
2. There is no donative element involved in a particular transaction with a charity (for example, there is generally no donative element involved in a visitor's purchase from a museum gift shop); or
3. There is only an intangible religious benefit provided to the donor. The intangible religious benefit must be provided to the donor by an organization organized exclusively for religious purposes, and must be of a type that generally is not sold in a commercial transaction outside the donative context.

A penalty is imposed on a charity that does not make the required disclosure in connection with a

quid pro quo contribution of more than \$75. The penalty is \$10 per contribution, not to exceed \$5,000 per fund-raising event or mailing. The charity can avoid the penalty if it can show that the failure was due to reasonable cause.

Under a new recordkeeping rule effective for all cash, check, electronic funds transfers, credit card charges, or other monetary contributions of any amount made in taxable years beginning after August 17, 2006, the donor must obtain and keep a bank record or a written communication from the donee as a record of the contribution. Written records prepared by the donor (such as check registers or personal notations) are no longer sufficient to support charitable contributions. Bank records for this recordkeeping requirement include bank or credit union statements, canceled checks, or credit card statements. They must show the date paid or posted, the name of the charity, and the amount of the payment. Taxpayers who claim charitable contributions made by payroll deduction can satisfy the recordkeeping requirement if the donor has (1) a pay stub, W-2, or other document furnished by the employer that states the amount withheld for payment to charity, and (2) a pledge card or other document prepared by or at the direction of the charity that shows the name of a donee. An organization described in Code section 170(c), or a Principal Combined Fund Organization for purposes of the Combined Federal Campaign, will be treated as a donee organization for purposes of the new recordkeeping provision.

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 donee is not required to record or report this information to the IRS on behalf of a donor. The donor is responsible for requesting and obtaining the written acknowledgement from the donee.

The written acknowledgment required to substantiate a charitable contribution of \$250 or more must contain the following information:

- Name of the organization;
- Amount of cash contribution;
- Description (but not value) of non-cash contribution;
- Statement that no goods or services were provided by the organization, if that is the case;
- Description and good faith estimate of the value of goods or services, if any, that organization provided in return for the contribution; and
- Statement that goods or services, if any, that the organization provided in return for the contribution consisted entirely of intangible religious benefits, if that was the case.

In addition, a donor may claim a deduction for contributions of cash, check, or other monetary gifts only if the donor maintains certain written records. A donor may not claim a deduction for any contribution of cash, a check, or other monetary gift made on or after Jan. 1, 2007, unless the donor maintains a record of the contribution in the form of either a bank record (such as a cancelled check) or a written communication from the charity (such as a receipt or a letter) showing the name of the charity, the date of the contribution, and the amount of the contribution. For more information, see [IRS Publication 1771](#) Charitable Contributions Substantiations and Disclosure Requirements.

The contemporaneous written acknowledgment may be contained in the same document as the written communication from the donee used to satisfy the new cash recordkeeping requirement, as long as it contains all information required by both the recordkeeping requirement and the contemporaneous written acknowledgment requirement.

For claimed contributions over \$5,000, generally a qualified appraisal prepared by a qualified appraiser must be obtained. For appraisals prepared in connection with returns or submissions filed after August 17, 2006, see [IRS Notice 2006-96](#).

Household items and clothing contributed to charity after August 17, 2006 must be in at least good used condition to be deductible. This requirement does not apply to contributions of food, paintings, antiques, other art objects, jewelry and gems, or collections, and does not apply to a contribution of an item for which a deduction of more than \$500 is claimed if the taxpayer obtains a qualified appraisal of the item.

Additional substantiation and disclosure rules may apply when a donor contributes a vehicle to a charitable organization and claims the value of the vehicle is more than \$500. See [IRS Publication 4302](#), A Charity's Guide to Vehicle Donations, and [Publication 4303](#), A Donor's Guide to Vehicle

REMINDER FOR EXEMPT ORGANIZATIONS ON A CALANEDER YEAR

Exempt organizations on a calendar year are reminded of the following filing deadlines:

Tax Return Due Dates

California:

California law requires a tax-exempt organization to file either a Form 199 Exempt Organization Annual Information Return, or 199-N (California E-Postcard), depending on the organization's gross receipts in the reporting year. Private foundations must file Form 199 every year, regardless of gross receipts.

Form 199 or Form 199-N must be filed with the Franchise Tax Board by the 15th day of the 5th month after the close of the organization's tax year. Thus, for a calendar year taxpayer, Form 199 or 199-N is due May 15 of the following year. An organization that cannot file by that date may take an additional seven months to file without submitting a written request for extension, as long as its status is in good standing and not suspended. You may check your organization's status by visiting the Franchise Tax Board's [website](#). (If the organization owes any tax for the year, it also may need to file FTB Form 3539, Payment for Automatic Extension for Corporations and Exempt Organizations.)

An organization that fails to file the required Form 199 or Form 199-N for three consecutive years will automatically lose its tax-exempt status in California. The revocation of the organization's tax-exempt status is effective as of the filing due date of the third year. Under existing law, the Franchise Tax Board may also revoke an organization's California tax-exempt status if the IRS suspends or revokes the organization's tax-exempt status.

Federal:

Tax-exempt organizations generally must file an annual information return, Form 990 Return of Organization Exempt Form Income Tax, subject to certain exceptions. Most exempt organizations, including those classified as public charities, file either a Form 990, Form 990-EZ, or Form 990-N, depending on the organization's gross revenues in the reporting year and the organization's total assets. Organizations classified as private foundations or private operating foundations must file a Form 990-PF.

Form 990, 990-EZ, 990-N, or 990-PF must be filed by the 15th day of the 5th month after the end of your organization's accounting period. Thus, for a calendar year taxpayer, Form 990, 990-EZ, 990-N, or 990-PF is due May 15 of the following year. An organization may request an automatic extension of time to file a return by using IRS Form 8868.

If an organization does not file a required return or files late, the IRS may assess penalties. In addition, if an organization does not file as required for three consecutive years, it automatically loses its federal tax-exempt status.

California Attorney General Form RRF-1

Every charitable nonprofit corporation, unincorporated association or trustee holding assets for charitable purposes that is required to register with the California Attorney General's Office is also required to file an Annual Registration Renewal Fee Report ([RRF-1](#)). The purpose of the Form RRF-1, as stated on the form itself, is "to assist the Attorney General's office with early detection of charity fiscal mismanagement and unlawful diversion of charitable assets." The Form RRF-1 must be filed four months and fifteen days after the close of the organization's calendar or fiscal year. An entity whose registration is delinquent or has been suspended or revoked is not in good standing with the Registry and is prohibited from engaging in conduct for which registration is required, including solicitation for charitable purposes. Failure to file the Form RRF-1 could result in the loss of California tax-exempt status. Charities previously registered and in good standing with the Attorney General's office may now use the Attorney General's registration [online renewal](#)



system.

Extensions of time for filing the RRF-1 will be allowed if an organization has received an extension from the IRS for filing the IRS Form 990, 990-PF, or 990-EZ. An organization shall file both forms (RRF-1 and IRS Form 990, 990-PF, or 990-EZ) with the Registry of Charitable Trusts at the same time, along with copies of all requests to the IRS for an extension and, where approval of the extension is not automatic, a copy of each approved extension request. The Form 990-N due date cannot be extended.



IRS ANNOUNCEMENT: Group Ruling holders will no longer receive lists of parent and subsidiary accounts from IRS



The IRS sometimes recognizes a group of organizations as tax-exempt if they are affiliated with a central organization. This avoids the need for each of the organizations to apply for exemption individually. A group exemption letter has the same effect as an individual exemption letter except that it applies to more than one organization. In order to keep a group exemption ruling active, a central organization is required to submit an annual update to the IRS.

In a recent Exempt Organizations Update, the IRS announced that as of January 1, 2019, the IRS stopped mailing lists of parent and subsidiary accounts to central organizations (group ruling holders) for verification and return. Central organizations must still comply with the annual reporting requirements in Section 6 of [Revenue Procedure 80-27](#).

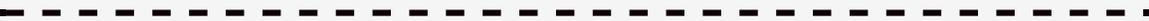
As noted in Revenue Procedure 80-27, the required information must be submitted at least 90 days before the close of the central organization's annual accounting period. So, for example, a central organization with a June 30, 2019 year end would submit its update by April 1, 2019. The required information includes the names, addresses, and employer identification numbers of subordinate organizations that have terminated, disaffiliated from the group, been added to the group, or changed names or addresses. If there are no changes, the central organization must submit a statement to that effect.

If your organization needs assistance with meeting the annual reporting requirements for a group ruling, please [contact](#) us.



We are proud to announce the release of our new Nonprofit Organizations Group website, designed with a fresh new look!

<https://www.californianonprofitlaw.com/>



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