

Subject: Stancil Tax News -Charitable Receipts

Dear Friends,

At this time of year, many of you are receiving receipts from your church or other charities for who you have made charitable contributions during 2012. The statutory rules for charitable receipts are very strict, and it seems in recent years, the IRS has become much tougher in auditing charitable receipts. We have seen a lot of audits in the last 5 years where the IRS audits only one's charitable deduction. If all your receipts are in order, the audit is usually just as simple as sending copies of the charitable receipts.

However, there was one Tax Court ruling this year which denied a taxpayer's entire \$22,200 charitable donations to his church which was simply astonishing. While the IRS position and the Tax Court ruling were technically correct, the outcome was in no way fair, and we want to make sure none of our clients end up in the same situation.

The Internal Revenue Code has the following requirements with regards to charitable receipts.

1. A written receipt is required for any single contribution of \$250 or more.
2. The receipt must disclose the amount of cash contributed, or have a description of other property contributed.
3. Whether the done organization provided any goods and services in consideration for the gift. If anything was received, the receipt must give a good faith estimate of the value of goods or services received, or **if such goods or services consisted entirely of "intangible religious benefits", a statement to that effect.**
4. The receipt must be received by the earlier of the date the tax return is filed, or the due date of the return.

In the 2012 Tax Court case, the taxpayer had a receipt from his church, but it did not contain the statement highlighted in #3 above. When audited, the taxpayer went to his church and had the proper language added to his receipt. But the IRS and the court disregarded that receipt because it did not meet the date requirements in #4 above. The result is that the taxpayer lost the entire charitable deduction even though nobody disputed whether he had actually made the contributions.

Here is the danger in this matter. Tax law consists of several sources. The fundamental source is the Internal Revenue Code (IRC). This is the actual law written by Congress. The Treasury Department then issues regulations to elaborate on the IRC that is much more detailed than the actual code. Regulations can be disputed as an improper interpretation of the law. But the IRC is the law of the land. The Tax Court said it has no right to disregard the law – it is part of the judicial branch, not the legislative branch. The charitable receipt requirements above are in the Internal Revenue Code, so taxpayers must be careful to comply.

Please check your charitable receipts, especially the one you just received from your church, to make sure it has a statement such as "no goods or services were received as consideration for these donations other than intangible religious benefits".

Ken Martin

Stancil & Company

Certified Public Accountants

919 872-1260 (ph) 872-6182 (fax)

If the above contains tax advice, it is not intended or written to be used and it cannot be used for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions.

The information contained in this electronic document is privileged and confidential information intended for the sole use of the addressee. If the reader of this communication is not the intended recipient, or the employee, or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the person listed above and discard the original.