
Keep Those Receipts!!

By Robert D. Kaplow, Esq.

As tax return filing time is upon us, we are all gathering information in order to file our income tax returns. You probably have numerous letters and receipts from charitable institutions acknowledging your gift. Do you really need to keep all of those pieces of paper? A recent United States Tax Court case indicated how important it is to receive the receipt timely from the charity.

Congress was concerned about taxpayers fraudulently reporting charitable gifts. Therefore, they provided in Internal Revenue Code Section 170(f)(2)(8) that no deduction is allow for any charitable contribution of \$250 or more **unless** the taxpayer substantiates the contribution by a “contemporaneous written acknowledgment” of the contribution by the charity. Furthermore, that section provides requirements for the acknowledgment itself.

One of the most important of those requirements is that the acknowledgment must be contemporaneous. This means that it must be obtained by the taxpayer on or before the earlier of 1) the date on which the taxpayer files the return for the taxable year in which the contribution was made, or 2) the due date for filing such return, including extensions. This requirement had an immensely drastic and draconian effect on a company, 15 West Seventeenth Street, LLC. In the recent United States Tax Court case of *15 West Seventeenth Street, LLC v. Commissioner*, 147 T.C. No. 19 (December 22, 2016), the Tax Court denied a charitable income tax deduction of \$64,490,000 (Yes, over \$64 million dollars). This charitable deduction arose from a donation to a qualified historic trust of a historic preservation deed of easement on a building in New York City.

The LLC’s contribution of the easement to the charity was completed for federal tax purposes in 2007. The charity sent a letter to the taxpayer on May 14, 2008 acknowledging receipt of the deed of easement. However, the acknowledgment did not meet the requirements of the Internal Revenue Code according to the Internal Revenue Service. It did not state whether the charity had provided any goods or services to the LLC or whether the charity had given anything to the taxpayer of value in exchange for the charitable easement. Thus, the taxpayer did

not have a qualified contemporaneous written acknowledgment by the time it filed its income tax return for 2007.

At the Tax Court, the taxpayer presented an amended tax return that was filed by the charity which included the required language which would be in the contemporaneous written acknowledgment. The Tax Court held that the filing of the information on the charity's tax return (whether or not timely) did not meet the requirements of the Internal Revenue Code. Therefore, because the taxpayer did not receive the correct written acknowledgment prior to filing its tax return, the Tax Court denied the entire \$64,490,000 deduction to the taxpayer!

While most of us will not have such large charitable deductions, it is important to make sure that you do have the contemporaneous written acknowledgment for any charitable contributions you have made for \$250 or more and make sure that it contains the following:

1. The amount of cash and a description of any property other than cash contributed. The value of property other than cash does not need to be included in the acknowledgment;
2. Whether the donee organization provided any goods or services in consideration in whole or in part for the contribution; and
3. A description and good faith estimate of the value of any goods or services which may have been provided to the taxpayer. If such goods or services consist solely of intangible religious benefits, a statement to that effect.

Therefore, it is incumbent on you as the taxpayer to make sure that you receive the contemporaneous written acknowledgement for each charitable contribution of more than \$250, and that it contains the above required language. **DON'T LOSE YOUR DEDUCTION BECAUSE YOU DID NOT RECEIVE A PIECE OF PAPER!**

If you should have any questions regarding tax or estate planning issues, please **contact your attorney at Maddin Hauser.**