



Stories from the Trenches

Troublesome gifts and the IRS

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NATIONAL ASSOCIATION of
Charitable Gift Planners

Education is the renewed focus

Council Summit June 11-13



Real life gift planning scenarios

- Fact pattern
- Dilemmas and opportunities
- Impact on the donor and the charity
- Why the tax law matters

Gift Agreements

and Appraisals

and Receipts

– Oh My!



University of Chicago President Robert Zimmer, Thomas Pearson and Timothy Pearson in 2015, after an announcement of a \$100 million gift to establish the Pearson Institute for the Study and Resolution of Global Conflicts at the university.

Challenging a Deduction – Old IRS

When IRS thought a charitable deduction was overstated:

- IRS appraiser came up with a lower value
- Parties negotiated, then ended up in court
- Court “split the baby”
- Parties left unsatisfied and poorer

Challenging a Deduction – New IRS

When IRS thinks a charitable deduction is overstated:

- IRS examines receipt and appraisal
- If defective, no deduction at all
- If sufficient, revert to Old IRS method

Elements of a Receipt (a “CWA”)

Tax Code requirements:

- Contemporaneous (in hand when return filed)
- Written (no particular form or format)
- Acknowledgment
 - Charity name
 - Gift date
 - Cash value or property description
 - Goods and services statement

Elements of a Qualified Appraisal

Treasury Regulations requirements:

- Qualified appraiser
 - Experience and training
 - Not disqualified by prior relations
- Qualified appraisal report
 - Addresses 11 elements listed in regs
 - Fee not contingent
- Completed appraisal summary (Form 8283)



No Receipt

Villareale v. Commissioner, T.C. Memo 2013-74

Founder / sole officer of animal rescue charity failed to write herself a receipt for her gifts; bank statements and checks were insufficient



Try to Save a Few Bucks

Mohamed v. Commissioner, T.C. Memo 2012-152

Appraisal submitted by a licensed appraiser
disregarded because the appraiser was also the donor



Substantiation Requirement and Appraisal

Ohde v. Commissioner, T.C. Memo 2017-137

Donors provided TurboTax spreadsheet but no appraisals or detailed receipts for claimed gifts of clothes and household items

Who Benefits?

- Generous Professor
- Supports a Fund in his department
- He created that fund
- He has expenditure control

A gift embedded with a private benefit



Good Teacher/Bad Lawyer

- Charitable trust
- Most wealth in her home
- Adds addendum - No legal advice
- A flawed life estate agreement

How do we bail?

Timing and the Fine Print

- Bequeathed partnership interest
- Land speculation for future shopping center
- Timing - late 2001
- Fine print - partnership rules

Disclaimed Gift

Sell it to My Guy

- Donate shares of closely held business
- Nonprofit can own shares
- Negotiated terms of sale prior to donation

Prearranged sale ----- did not accept the gift

Who is the Pledge With?

- Donor makes campaign pledge
- Wants to use her (fill in the blank)
 - Corporate matching gift
 - Donor Advised Fund
 - Private Foundation

Can't bind another legal entity plus IRS prohibited benefit rules

Ignore the Rules

RERI Holdings v. Commissioner, 249 T.C. No.1 (2017)

Required Form 8283 was insufficient because it failed to disclose the donor's cost basis in the gift property.



Memo Uncovered

MEMORANDUM

TO: JOINT COMMITTEE ON TAXATION
FROM: CONGRESSIONAL BUDGET COMMITTEE STAFF
DATE: OCTOBER 10, 2017

Smoke

It has come to our attention that recent hearings on the administration's "Unified Framework" for tax reform have substantially depleted your committee's budget for smoke. In light of that situation and in accordance with governmental efforts to create a smoke-free zone on Capitol Hill, please be advised that all future tax reform in this biennium must be accomplished using mirrors only.



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