

Charitable Giving- The Written Acknowledgment Rule

Take-Away: The contemporaneous written acknowledgment that a charity must provide to a donor for the donor's gift to be tax deductible is not like 'horseshoes and hand grenades,' where *close-enough* is the measure of success. Strict compliance is the rule.

Background: Obtaining a written acknowledgment from the charity for the gift that an individual makes to that charity is often viewed as nothing much more than an irritant that the donor's accountant handles. That is a big mistake. The failure to comply with the Tax Code's requirements for the charity's contemporaneous written acknowledgment of the gift will result in the donor not being able to deduct his/her gift to the charity.

The Contemporaneous Written Acknowledgement Rule: The Tax Code imposes strict substantiation requirements when it comes to the charity furnishing to the donor a written acknowledgment of the donor's gift. The Tax Code requires that the deduction will not be allowed for any contribution of \$250 or more unless the donor substantiates his/her contribution by a contemporaneous written acknowledgment from the charity. [IRC 170(f)(8)(A).] The U.S. Tax Court has held that this acknowledgment must state the amount of cash and a description of any property contributed, whether the donee-charity provided any goods or services in consideration for the gift, and a good-faith estimate of the value of the goods and services (if any.) As a result, the Tax Court has concluded that a donor's failure to supply with his/her tax return a satisfactory contemporaneous written acknowledgment from the charity will bar a charitable contribution deduction for income tax purposes. In one case the Tax Code stated: *"If the donee organization provides no goods or services to the taxpayer in consideration of the taxpayer's contribution, the written substantiation **must** include a statement to that effect."* If multiple documents are submitted to substantiate a charitable gift, the Tax Court will examine those multiple documents to determine whether the contemporaneous written acknowledgment includes the equivalent of the required charity statement, but the statement must be acknowledged in writing by the charity. All of which means, in effect, that the IRS and Tax Court will 'flyspeck' the contemporaneous written acknowledgment provided by the donee-charity to determine if 'all the t's are crossed and the i's dotted.'

Which brings us to the most recent example where a charity's contemporaneous written acknowledgment of a substantial gift did not pass muster.

Wells v. Commissioner, Tax Court Memo 2026-49 (June 10, 2026)

Facts: In 2016 Bill and Ruth Wells contributed real property and structures to Chamberlain, LLC, an entity in which Bill held a 50% interest. The property had formerly been operated as Chamberlain Hunt Academy (CHA.) The land had been purchased from French Camp Academy for \$200,000 in 2013. In 2016 Chamberlain LLC gave the land back to CHA using a quitclaim deed. Bill sent a letter to the head of the CHA asserting the value of the donated property was \$4.42 million. In 2017 Bill's accountant (of 30+ years) gave instructions about the need to obtain a contemporaneous written acknowledgment from CHA's president. Apparently, Bill's accountant told him that CHA's president merely needed to write a letter on CHA's letterhead thanking the LLC-donor for the gift and note the \$4.42 million value of the gift. CHA's provided the LLC a letter of acknowledgment, but it was undated and it omitted specific required disclosures regarding goods and services. Consequently, the LLC claimed a \$4.42 million deduction on its Form 1065, which deduction then flowed through to Bill's individual income tax return. Due to the magnitude of the charitable deduction claimed by Bill, the unused charitable deduction amount was carried over and used with Bill's tax returns for 2019, 2020, and 2021.

Dispute: The IRS disallowed the Bill's carryover charitable deductions and assessed accuracy-related penalties. [IRC 6662.] Initially Bill claimed that the burden of proof shifted to the IRS. Rather, the primary focus of the dispute centered on Bill's claim that the Notice of Deficiency was unwarranted because the contemporaneous written acknowledgment requirements were satisfied if Bill's donation letter, the LLC's quitclaim deed, the charity's Form 8283, and the charity's acknowledgment letter were all considered together. Bill further argued that because the claimed charitable deduction precisely equaled the property's claimed value, it inherently demonstrated that CHA had provided no goods or services in consideration for the LLC's gift.

Tax Court: The Court found Bill's documentation to be fatally flawed.

- **Burden of Proof Argument:** The Tax Court did not decide this 'defense' because the preponderance of the evidence favored the IRS on the primary legal issue.
- **The Furnished Documents Did Not Satisfy IRC 170(f)(8):** Out of the four documents that Bill provided as constituting the equivalent of a 'contemporaneous

written acknowledgment' only the acknowledgment letter and Form 8283 were acknowledged by CHA. Bill's donation letter and the LLC's quitclaim deed were signed by Bill on behalf of the donor. A proper contemporaneously signed written acknowledgment must come from the donee, regardless of the parties underlying relationships. As for the quitclaim deed, the Court noted that while a quitclaim deed can serve as a contemporaneous written acknowledgment, that is only if the deed is executed and/or acknowledged by the donee-charity, which was not present in this case. While the CHA's acknowledgement letter noted the gift and its value, and its Form 8283 provided a description of the property, neither document stated whether CHA had provided any goods or services in exchange for the LLC's donation. Because these documents did not contain that specific statement, they could not serve as a valid contemporaneous written statement from the charity. ***"Proving the facts that should have been included in the contemporaneous written agreement cannot replace the strict substantiation requirements of section 170(f)(8)."***

- **Accuracy-Related Penalty:** The IRS's 20% penalty was not sustained by the Tax Court, because Bill had relied on his accountant of 30+ years, and he had in fact inquired of his accountant as to the contemporaneous written acknowledgement requirements.
- **Deductions Disallowed:** To conclude, the Tax Court sustained the IRS's disallowance of the LLC's noncash charitable contribution carryovers as a matter of law; the charitable deduction for these three years failed solely on substantiation grounds.

Conclusion: Obtaining a contemporaneous written acknowledgment letter from the charity should not be an afterthought in light of the strict compliance courts require under IRC 170(f)(8). Simply missing the 'no goods or services were provided in connection with this gift' ruined a sizeable charitable deduction for three years.

If you would like to read additional missives, [click here](#).