



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF  
CHIEF COUNSEL

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CONEX-122313-10

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The Honorable Bob Inglis  
Member, U.S. House of Representatives  
464 East Main Street, Suite 8  
Spartanburg, SC 29302

Attention:

Dear Congressman Inglis:

This letter responds to your inquiry dated May 25, 2010, on behalf of your constituent, \_\_\_\_\_ asks whether the amount of deductions claimed for certain charitable contributions must be reduced as *quid pro quo* contributions.

Your constituent states that \_\_\_\_\_ is on the board of an organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code (the Code). This organization commissioned an artist to create a \_\_\_\_\_ as an artistic showpiece and to recognize large donors to the \_\_\_\_\_. Donors who pledge a certain amount are recognized on \_\_\_\_\_. The facts provided do not indicate whether donors may choose to keep the \_\_\_\_\_, but we assume that the \_\_\_\_\_ are intended to be \_\_\_\_\_. Your constituent asks whether recognition of the charitable contributions of donors on the \_\_\_\_\_ is considered a *quid pro quo* exchange of property for goods or services. I am pleased to provide you with the following information about deductibility of charitable contributions.

Taxpayers can take deductions for certain charitable contributions made during the taxable year. A charitable contribution is a gift to or for the use of an organization described in section 170(c) of the Code. To take a deduction, a donor must have charitable intent. *United States v. American Bar Endowment*, 477 U.S. 105 (1986). A

charitable contribution generally does not include any part of a payment that a taxpayer makes to a charitable organization in consideration for goods or services (Revenue Ruling 67-246, 1967-2 C.B. 104). Goods or services that have insubstantial value under the guidelines provided in Revenue Procedures 90-12, 1990-1 C.B. 471, and 92-49, 1992-1 C.B. 987, and any successor documents, are disregarded. Under those Revenue Procedures, benefits received in connection with a payment to a charity will be considered to have insubstantial fair market value if:

1. The payment occurs during a fund-raising campaign in which the charity informs patrons how much of their payment is a deductible contribution, and either--
2. (a) The fair market value of all of the benefits received in connection with the payment is not more than 2 percent of the payment, or \$96 (under current rules), whichever is less;  
  
(b) The payment is \$48 or more (under current rules) and the only benefits received in connection with the payment are token items (such as bookmarks, calendars, key chains, mugs, posters, tee shirts, etc.) bearing the organization's name or logo. The cost of all of the benefits received by a donor must be no more than \$9.60 (Revenue Procedure 2009-50, 2009-45 I.R.B. 617); or  
  
(c) The charity mails or otherwise distributes free, unordered items to patrons with a request for a charitable contribution and a statement that the patron may retain the item whether or not the patron makes a contribution, and the cost of all the items is no more than \$9.60 (Revenue Procedure 2009-50, 2009-45 I.R.B. 617).

If the donor does not receive (or have a right to receive) a benefit in connection with a payment to charity, privileges such as being associated with or being known as a benefactor of an organization (for example, being memorialized on a plaque or similar commemorative item) are not significant return benefits that have a monetary value; therefore, we do not consider these privileges as *quid pro quo* exchanges that disqualify full deductibility of a charitable contribution. See Revenue Ruling 68-432, 1968-2 C.B. 104; see also *Hernandez v. Commissioner*, 490 U.S. 680, 701 (1989) (Court assumed that payments for memorial plaques were deductible).

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I hope this information is helpful. If you have any questions, please call  
or at .

Sincerely,

John P. Moriarty  
Chief, Branch 1  
(Income Tax and Accounting)