

Corporate philanthropists get relief from SALT cap on charitable donations

Businesses frequently make cash donations to charitable organizations. But what happens to the deductibility of those donations under the state and local tax limitations imposed by the 2017 tax law? This issue continues to be the subject of discussion, but your business clients should be encouraged by the IRS's commentary. The IRS has taken the position that a business taxpayer can usually deduct payments to a charitable entity by treating them as Section 162 ordinary and necessary business expenses. Indeed, reducing the impact of state and local taxes itself constitutes a business purpose.

The continuing relevance of this topic is a reminder that philanthropy remains a priority in advising your corporate clients.

Watch out for compliance pitfalls as clients favor gifts of hard-to-value assets



If volatile market conditions persist, gifts of hard-to-value assets may become popular substitutes for appreciated stock gifts. That's why we're keeping a close eye on the IRS's scrutiny of Form 8283, "Noncash Charitable Contributions," especially now that the final regulations governing substantiation and reporting have taken effect.

It is critical to pay attention to the details when your clients have made gifts of hard-to-value assets. In *Chad Loube et ux. v. Commissioner*; No. 5092-17; T.C. Memo.

2020-3, the taxpayers failed to provide the required components of the "appraisal summary" and instead attached a full appraisal to the Form 8283 to substantiate the value of their charitable contribution.

According to the Tax Court, attaching a full appraisal did not constitute substantial compliance. "While it may have been possible for the Commissioner to glean sufficient information from the purchase price and tax information listed in the appraisal," stated the Memorandum Opinion, "that does nothing to change the fact that Congress specifically passed [the] heightened substantiation requirements so that the Commissioner could efficiently flag properties for overvaluation from the face of appraisal summaries. In so doing, Congress wanted precisely to prevent the Commissioner from having to sleuth through the footnotes of millions of returns."

In other words, the IRS won't do your work for you.

Close scrutiny of 501(c)(3) political activities in an election year



An election year frequently inspires clients' passion for social issues, making philanthropy an especially important topic for your conversations. You may also experience an uptick in questions about giving vehicles such as donor-advised funds and foundations.

It's critical to stay current on the IRS's interpretation of the statutes and regulations prohibiting charitable organizations from engaging in certain types of political activity.

For example, in early 2020, the IRS issued Private Letter Ruling 202005020 ruling that a for-profit subsidiary's political activities would be attrib-

ed to its nonprofit parent and therefore constitute impermissible political campaign participation. In addition, a shared services agreement between the two entities constituted operation for private interests, thereby flying in the face of Section 501(c)(3).

If you'd like to go deeper into the connection between charitable giving and politics, GuideStar offers insight into how the 2016 presidential election impacted charitable giving.



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