

17. Charitable Giving

Contributions from its members make up the primary source of income for most congregations. And because ELCA congregations are recognized as 501(c)(3) charitable organizations this means your members are allowed a tax deduction for the gifts they give. To be deductible a contribution must meet the following conditions:

1. It must be a gift of cash or other property.
2. It must be made before the close of the year for which the contribution is claimed.
3. The gift must be unconditional and without personal benefit to the contributor.
4. It must be made to or for the use of a qualified organization.
5. The gift must not be in excess of the amount allowed by law.
6. The gift must be properly substantiated.

Gifts of Cash and Property

Most gifts that congregations receive are in the form of cash. Sometimes the gifts will be near-cash instruments such as stocks or bonds which are readily converted to cash. And occasionally gifts of real or personal property are given or left to the church. It's a good idea for a congregation's financial policies to address what kinds of real or personal property it might consider accepting – sometimes such gifts can be more of a burden than a joy. And remember that the value of person's time or services is never considered a tax deductible gift.

Timing of Gifts

A charitable gift is tax deductible only in the year the gift is given, regardless of when the pledge was received. A gift by credit card is considered given at the time of the charge not at the time of payment to the credit card company. Gifts by check at the end of the year are deemed made on the date the check is mailed or given to the congregation.

Unconditional and without Personal Benefit

To be tax deductible the amount given must be a gift. It cannot be payment for the use of the facility. It cannot be payment for books or other items. For congregations that offer promotional materials or other items as a means of encouraging contributions, the donor can take a tax deduction only for the excess of the amount he gave over the value of the items he received.

To or for the use of a qualified organization

To be tax deductible, gifts need to be given to qualified organizations. ELCA congregations meet this qualification because of their 501(c)(3) status. Gifts given to clergy or other individuals are never tax deductible. Likewise, a contribution given to a church with the stipulation that it be passed along to a particular individual will generally not be deductible. (The only time the deduction is allowed is if the gift is designated to a particular missionary and the congregation has control of the donated funds and discretion as to their use.)

Many congregations have established a Benevolent Fund to assist congregational or community members. This often just involves setting up a separate restricted account on the books, asking for donations to the fund and then determining who qualifies to receive any assistance. Either the church council or a separate committee should have the responsibility of making such determinations. Any gifts to the fund would be tax deductible. Donors to the fund need to know that they have relinquished control over the funds and that the amounts they give will not necessarily be given to a certain individual of their choosing. Individuals giving to the fund however, as well as other congregational members can submit anonymous suggestions to the committee which oversees the fund and the committee can then use these suggestions to assist them in identifying those individuals in need. In order to maintain the integrity of the Benevolent Fund and ensure the tax-deductibility of the gifts it is important:

- That everyone knows that the congregation retains full control of the gifts and discretion as to their use.
- That the donors understand that their recommendations about the use of funds directed into the Benevolent Fund are advisory only.

Not in Excess of the amounts allowed by law

Generally tax payers can get a tax deduction for their charitable gifts. Most are limited to a tax deduction of up to 50% of their Adjusted Gross

Income. Sometimes other limitations apply in the case of gifts of capital-gain property or high-income taxpayers. Donors in such situations would be wise to seek the advice of a tax consultant.

Substantiation of Gifts

The Revenue Reconciliation Act of 1993 added new requirements for substantiating charitable contributions. The most important requirements are summarized below.

Cash Gifts of less than \$250.00. Cash gifts of less than \$250 require no substantiation by the organization receiving the gift. Instead the donor can provide proof of the gift by his cancelled check.

Cash Gifts of more than \$250.00. Cash gifts of more than \$250.00 require written acknowledgement from the charity receiving the gift before they can be deducted for tax purposes. The acknowledgment must contain the name of the donor, a statement to the effect that only intangible religious benefits were received in exchange for the gift, or if any goods or services were provided, the value of such must be stated. And the acknowledgement needs to be received by the taxpayer prior to his doing his tax return or by the due date of the return.

Quid Pro Quo cash contributions of \$75.00 or less. Quid Pro Quo contributions are those contributions that are partly contributions and partly payment for goods or services. For instance, a donor attends a youth spaghetti dinner and contributes \$30 and receives a \$10 meal. Only the \$20 which represents the amount paid less the value of the meal is considered a tax deductible charitable contribution. For Quid Pro Quo cash contributions of \$75 or less there is no substantiation requirement on the part of the organization receiving the gift. The taxpayer is required to maintain his own documentation.

Quid Pro Quo cash contributions of more than \$75.00. Quid Pro Quo contributions of more than \$75.00 require written acknowledgment from the donee that includes an estimate of the value of the goods or services furnished to the donor and informs the donor that the amount of the tax-deduction is limited to the amount paid in excess of these goods or services. If for example your youth group hosted a slave auction and one contributor purchased a slave for \$500.00. The acknowledgment from the organization would thank the donor for the \$500.00, state the value of the services received of \$80.00 and inform him that the tax deductible portion of the gift was limited to \$420.00.

Non-cash gifts valued at less than \$250.00. The organization receiving such a gift needs to provide written receipt that states their name, date and a description of the property. The congregation never states a value of such property. Determining the value of such gifts is left up to the donor. The taxpayer is required to maintain written records that provide:

1. The name and address to whom the property was given.
2. Date and location of the gift.
3. A description of the property.
4. The fair market value of the property at the time of the gift.
5. The cost or basis of the property.
6. The amount claimed as a tax deduction for the year.

Non-cash gifts valued at \$250.00 or more. Gifts of property of \$250.00 or more require written acknowledgment from the congregation. The acknowledgment must contain the name of the donor, a statement to the effect that only intangible religious benefits were received in exchange for the gift, or if any goods or services were provided, the value of such must be stated. And the acknowledgement needs to be received by the taxpayer prior to his doing his tax return or by the due date of the return. In addition, the acknowledgment must include a description of the property but not give a value to the property. Once again, the donor must maintain written records which document the six items listed above.

Non-cash gifts valued at less than \$5,000.00 and more than \$500.00. Gifts of property valued at less than \$5,000.00 need the written acknowledgement described above and the donor needs to maintain the written records which document the six items listed above. In addition the following records are required by the donor:

- How the property was obtained (ie purchase, gift, inheritance, etc)
- The approximate date the property was received by the donor
- The cost or other basis of the property immediately preceding the date on which the gift was given.

The donor must also complete the front side of IRS Form 8283.

Non-cash gifts valued at more than \$5,000.00. The congregation receiving gifts of property valued by the donor at more than \$5,000.00 must:

1. Complete and sign Section B of Form 8283 for the taxpayer.
2. File Form 8282 if they sell or dispose of the donated property within two years of the date of the gift.

In addition to maintaining the written records as noted above, the taxpayer also needs to:

1. Obtain a qualified appraisal.
2. Prepare a qualified appraisal summary.

For more information about the record keeping requirements please refer to IRS Publication 526, *Charitable Contributions*. For more information on determining the value of donated property and obtaining a qualified appraisal, refer to IRS Publication 561, *Determining the Value of Donated Property*.