

A Charity's Guide to VEHICLE



**Types of vehicle
donation programs
and their impact on
tax-exempt status,
taxable income,
and deductible
contributions**

**Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations**



Charities described in section 501(c)(3) of the Internal Revenue Code need funds to operate their charitable, educational, or other tax-exempt programs. These charities may choose from a number of fundraising activities for financial support. A popular fundraising program is the sale of donated vehicles.

Through this Publication 4302, the Internal Revenue Service (IRS) and state charity officials provide general guidelines for charities operating vehicle donation programs.

The information in this publication applies to the most common types of section 501(c)(3) organizations, commonly referred to as “charities.”

A companion brochure, Publication 4303, *A Donor's Guide to Vehicle Donations*, provides guidelines for individuals who donate vehicles.



Vehicle Donation Programs and Tax-Exempt Status

A charity must be organized and operated exclusively for one or more exempt purposes described in section 501(c)(3). If a charity operates a vehicle donation program in a manner that confers improper benefits on private parties, the charity's exemption may be adversely affected. If the charity loses its exemption, its income is subject to tax, and it must file the appropriate federal income tax return (generally, Form 1120 for corporations or Form 1041 for trusts).

CHARITY OPERATES VEHICLE DONATION

PROGRAM* – Generally, there should not be an adverse impact on a charity's tax-exempt status if it does any of the following with donated vehicles:

- sells the donated vehicles and uses the proceeds exclusively to fund its charitable programs,
- regularly uses the vehicles for a significant period of time to conduct activities that substantially further its charitable programs,
- sells the vehicle after it makes a material improvement to the vehicle and then uses the proceeds to exclusively further its charitable programs, or
- distributes the vehicles at a price significantly below fair market value to needy individuals in direct furtherance of its charitable purpose of relieving the poor and distressed or the underprivileged who are in need of a means of transportation.

CHARITY HIRES AGENT TO OPERATE VEHICLE DONATION PROGRAM*

– If the charity hires a private, for-profit entity as an agent to operate its vehicle donation program, the charity and the for-profit entity must establish an agency relationship that is valid under the applicable state law. Generally, an agency relationship will be established where the parties agree that the for-profit entity will act on the charity's behalf and that the for-profit entity's activities covered by the agreement are subject to the charity's oversight. Accordingly, the charity should actively monitor program operations and have the right to review all contracts, establish rules of conduct, choose or change program operators, approve or change all advertising, and examine the program's books and records. If the charity follows these guidelines, the program should not jeopardize the charity's tax-exempt status.

FOR-PROFIT ENTITY RECEIVES AND SELLS VEHICLES USING CHARITY'S

NAME – In this program, the charity grants a for-profit entity the right to use the charity's name for the purpose of soliciting donations of used vehicles. The charity receives either a flat fee or a percentage of the proceeds from the sale of the vehicles to support its charitable programs. The charity has no control over the for-profit entity's activities.

*A charity must operate exclusively to further the charity's exempt purposes. A charity must not operate a vehicle donation program in a manner that improperly benefits private parties. For example, a charity should not sell vehicles on favorable terms to individuals who are not part of a charitable class, such as board members. Fees the charity pays an agent to operate the program must not exceed a reasonable amount. Activities such as these may have adverse tax consequences for both the charity and related parties.

Unlike the preceding program, the charity has not established an agency relationship with the for-profit entity that is valid under applicable state law; therefore, this program is not the charity's program. Because the for-profit entity is not an agent of the charity, the donors' contributions (transfers) are made to the for-profit entity, not the charity. A charity cannot license its right to receive tax-deductible contributions. The for-profit entity and the charity must not mislead the public by stating that contributions may be deductible (for example, by providing a written acknowledgment that the "contribution" is deductible). Misleading the public in this regard may expose the for-profit entity and the charity to adverse tax consequences.

Written Acknowledgment of Donation

Donors contribute vehicles in order to support charity and benefit from the federal income tax deduction. A donor cannot deduct any single charitable contribution valued at \$250 or more unless the charity provides the donor with a contemporaneous written acknowledgment of the contribution. The information the charity must provide in the written acknowledgment depends upon what it does with the vehicle and on the claimed value of the vehicle.

WRITTEN ACKNOWLEDGMENT FOR VEHICLE CONTRIBUTION DEDUCTION OF MORE THAN \$500 –

If a donor contributes a vehicle and claims the value of the vehicle is more than \$500, the charity is required to provide a contemporaneous written acknowledgment to the donor, such as Form 1098-C, *Contributions of Motor Vehicles, Boats, and Airplanes*. All acknowledgments must include the following information, plus information on what the charity did or intends to do with the vehicle (see pages 5-8 for the additional required information).

- the donor's name and taxpayer identification number,
- the vehicle identification number,
- the date of the contribution, and one of the following:

- a statement that no goods or services were provided by the charity in return for the donation, if that was the case,
- a description and good faith estimate of the value of goods or services, if any, that the charity provided in return for the donation, or
- a statement that goods or services provided by the charity consisted entirely of intangible religious benefits, if that was the case.

Charity Sells the Vehicle – If the charity sells the vehicle for more than \$500, in addition to the information required for all acknowledgments, the contemporaneous written acknowledgment must include:

- a statement certifying that the vehicle was sold in an arm's length transaction between unrelated parties,
- the date the vehicle was sold,
- the gross proceeds received from the sale, and
- a statement that the donor's deduction may not exceed the gross proceeds from the sale.

However, if the gross proceeds from the sale are \$500 or less, the charity should not provide a written acknowledgment based on these rules. Instead see **Written Acknowledgment for Vehicle Contribution Deduction of \$500 or Less**.

CAUTION

A donor cannot claim a deduction for more than \$500 if the acknowledgment provided by the charity does not contain the donor's taxpayer identification number. If a donor fails to provide his or her taxpayer identification number to the charity, follow the rules under **Written Acknowledgment for Vehicle Contribution Deduction of \$500 or Less**.



Charity Intends a Significant Intervening Use of the Vehicle

– If the charity intends to make a significant intervening use (defined below) of the vehicle, in addition to the information required for all acknowledgments, the contemporaneous written acknowledgment must include:

- a statement certifying that the charity intends to make a significant intervening use of the donated vehicle,
- a detailed statement of the intended use,
- a detailed statement of the duration of that use, and
- a certification that the vehicle will not be sold before completion of the use.

Significant Intervening Use — To qualify as significant intervening use, the charity must actually use the vehicle to substantially further its regularly conducted activities, and the use must be considerable. There is no significant intervening use if the charity's use is incidental or not intended at the time of the contribution. In addition, significant intervening use does not include use of the vehicle to provide training in general business skills, such as marketing and sales. Whether a use qualifies as significant intervening use depends on its nature, extent, frequency, and duration.

Example 1: *An individual donates a used van to a charity that delivers meals to needy individuals. The charity only uses the vehicle a few times to deliver meals and then sells the vehicle. Because the charity's use was infrequent and incidental, it does not qualify as significant intervening use.*

Example 2: *The facts are the same as in Example 1, except that the charity uses the van to deliver meals every day for one year. This use qualifies because it is significant and substantially furthers the charity's regularly conducted activity of delivering meals to needy individuals.*

Example 3: *The facts are the same as in Example 1, except that the charity drives the van a total of 10,000 miles over a 1-year period to deliver meals to needy individuals. This use qualifies because it is significant and substantially furthers the charity's regularly conducted activity of delivering meals to needy individuals.*

Charity Intends to Make a Material Improvement to the Vehicle –

If the charity intends to make a material improvement (defined below) to the vehicle, in addition to the information required for all acknowledgments, the contemporaneous written acknowledgment must include:

- a statement that the charity intends to make a material improvement to the donated vehicle,
- a detailed description of the intended material improvement, and
- a certification that the vehicle will not be sold before completion of the improvement.

Material Improvement — A material improvement includes a major repair or improvement that results in a significant increase in the vehicle's value. Cleaning, minor repairs, and routine maintenance are not material improvements. In addition, a material improvement to the vehicle will not qualify if the improvement was funded by an additional payment from the donor.

Material improvements do not include:

- application of paint or other types of finishes (such as rustproofing or wax),
- removal of dents and scratches,
- cleaning or repair of upholstery, and
- installation of theft deterrent devices.

Charity Intends to Give or Sell the Vehicle to a Needy Individual –

If a charity, whose purpose is relieving the poor and distressed or the underprivileged who are in need of a means of transportation intends to give or sell the vehicle to a needy individual at a price significantly below fair market value, in addition to the information required for all acknowledgments, the acknowledgment must certify:

- that the charity intends to give or sell the vehicle to a needy individual at a price significantly below fair market value, and
- that the gift or sale is in direct furtherance of the charity's charitable purpose of relieving the poor and distressed

or the underprivileged who are in need of a means of transportation.

However, if the charity merely applies the proceeds from the sale of the vehicle to a needy individual for any charitable purpose, the sale is not in direct furtherance of the charity's charitable purpose. In addition, the sale of a donated vehicle at auction does not qualify as a sale to a needy individual at a price significantly below fair market value; instead the rules above under **Charity Sells the Vehicle** apply.

Time and Manner of Providing Acknowledgment

to the Donor – The charity must provide the written acknowledgment to the donor within 30 days from the date of the vehicle's sale. This does not mean the charity must sell the vehicle in the year it receives it. For example, if a charity receives a donated vehicle on December 31, 2009, and sells the vehicle on January 15, 2010, the acknowledgment is due by February 14, 2010. If the charity intends to make a significant intervening use of or material improvement to the vehicle, or if it intends to sell or give the vehicle to a needy individual at a price significantly below fair market value, the acknowledgment is due within 30 days from the date of the contribution.

The charity may use Form 1098-C, *Contributions of Motor Vehicles, Boats, and Airplanes*, as acknowledgment or provide its own statement containing the information described above.

Time and Manner of Providing Acknowledgment to

the IRS – A charity must report the information contained in the contemporaneous written acknowledgment to the IRS on Form 1098-C. Form 1098-C is due by February 28 (March 31 if filing electronically) of the year following the year in which the charity provides the acknowledgment to the donor.

Penalties – For a written acknowledgment of a vehicle contribution deduction of more than \$500, a penalty applies if a charity knowingly furnishes the donor with a false or fraudulent acknowledgment, or knowingly fails to furnish an acknowledgment with the required information. In the case of an acknowledgment related to the sale of a vehicle, the penalty is the greater of the product of the highest tax rate (currently 35 percent) and the sales price stated on the acknowledgment or the gross proceeds from the sale. In the case of an acknowledgment that is not based on gross proceeds, the penalty is the greater of the product of the highest tax rate (currently 35 percent) and the claimed value of the vehicle, or \$5,000.

Example 1: *A charity that delivers food and other needed goods to the rural poor in remote locations receives a donation of a subcompact car that has been driven more than 100,000 miles. The charity needs three large vehicles suitable for delivering heavy loads across rugged terrain. The subcompact is not suitable for the charity's use. The charity provides an acknowledgment to the donor falsely certifying that it intends to make significant intervening use of the car. Based on this acknowledgment, the donor claims a deduction of \$2,300, the fair market value of the car. The charity is subject to a penalty for knowingly furnishing a false or fraudulent acknowledgment to the donor. The amount of the penalty is \$5,000, because that amount is greater than \$805, the product of the claimed value (\$2,300) and 35 percent.*

Example 2: *The charity receives a donation of a qualified vehicle and sells it without any significant intervening use or material improvement. The gross proceeds from the sale are \$300, but the charity provides the donor with an acknowledgment that states that the gross proceeds were \$1,000. The charity is subject to a penalty for knowingly furnishing a*

false or fraudulent acknowledgment to the donor. The amount of the penalty is \$350, the product of the sales price stated in the acknowledgment (\$1,000) and 35 percent, because that amount is greater than the gross proceeds from the sale of the vehicle (\$300).

WRITTEN ACKNOWLEDGMENT FOR VEHICLE CONTRIBUTION DEDUCTION OF \$500 OR LESS –

If a donor is claiming a charitable contribution deduction of at least \$250 but not more than \$500 for the vehicle, the acknowledgment must include the name of the charity, a description (but not value) of the vehicle, and one of the following:

- a statement that no goods or services were provided by the charity in return for the donation, if that was the case,
- a description and good faith estimate of the value of goods or services, if any, that the charity provided in return for the donation, or
- a statement that goods or services provided by the charity consisted entirely of intangible religious benefits, if that was the case.

Time and Manner of Providing Acknowledgment

to the Donor – For the written acknowledgment to be considered contemporaneous, a donor must receive the acknowledgment by the earlier of: the date on which the donor files his or her individual federal income tax return for the year of the contribution; or the due date (including extensions) of the return. A charity may use Form 1098-C as the acknowledgment or provide its own statement that includes the information described above. If the charity uses Form 1098-C, only provide Copy C to the donor and be sure to check the box that states that the donor may not claim a deduction of more than \$500. The charity should not file Copy A with the IRS. A charity can provide either a paper copy of the acknowledgment to the donor, or an electronic acknowledgment, such as an email addressed to the donor.

Filing and Disclosure Requirements

FORM 990 SERIES (ANNUAL INFORMATION RETURN) AND THE E-POSTCARD (ANNUAL ELECTRONIC NOTICE) – Most charities must file an annual information return in the Form 990 series (990, 990-EZ, or 990-PF, with required schedules), disclosing information about the charity’s revenue, expenses, activities, and financial position. Most small charities that are not required to file Form 990 or 990-EZ, must file an annual electronic notice known as the e-Postcard or Form 990-N. See IRS Publication 557, *Tax Exempt Status for Your Organization*, the instructions to the annual information returns and the Charities and Non-Profits page of IRS.gov for further information.

FORM 1098-C – The charity must file Copy A of Form 1098-C with the IRS to report the information contained in a contemporaneous written acknowledgment for a vehicle contribution with a claimed value of more than \$500. Form 1098-C is due by February 28 (March 31 if filing electronically) of the year following the year in which the charity provides the acknowledgment to the donor.

Filing Form 1098-C does not relieve the charity of its obligation to report information about the disposition of a donated vehicle on Form 8282, *Donee Information Return*. For more information, see **Forms 8282 and 8283** below.

If the charity uses Form 1098-C as the acknowledgment for a vehicle contribution deduction of \$500 or less, only provide Copy C to the donor and be sure to check the box that states that the donor may not claim a deduction of more than \$500. The charity should not file Copy A with the IRS.

FORMS 8282 AND 8283 – A donor must file Form 8283, *Noncash Charitable Contributions*, to report information about noncash charitable contributions if deductions for all noncash gifts during the year exceed \$500.

If the contribution deduction is over \$5,000, the donor must complete Section B of Form 8283, and an authorized official of the charity must complete a portion of the form and sign it. The donor must give the charity a copy of Section B. A charity required to sign Form 8283 for receipt of a vehicle must file Form 8282, *Donee Information Return*, if it sells or otherwise disposes of the vehicle within three years after the date it received the vehicle. This form must be filed within 125 days after the charity disposes of the vehicle. This form requires the charity to identify the donor, the charity, and the amount the charity received upon disposition of the vehicle. The charity must give the donor a copy of the completed Form 8282.

WRITTEN STATEMENTS DISCLOSING *QUID PRO QUO* CONTRIBUTIONS – If a charity provides goods or services in exchange for property valued at over \$75, it must provide the donor a written statement. See Publication 1771, *Charitable Contributions – Substantiation and Disclosure Requirements*, for more information about written statements disclosing *quid pro quo* contributions.

State Law Requirements – Vehicle Title

Charities and their fundraisers are subject to state law requirements relating to titling of vehicles and transfers of title. Generally, state charity officials recommend that the donor take responsibility for transfer of title to ensure termination of liability for the vehicle. In most states, this involves filing a form with the state motor vehicle department, which states that the vehicle has been donated. Before donating the vehicle, the donor should remove the license plates, unless state law requires otherwise. This will help avoid any liability problems after the vehicle is transferred.

Assistance Through State Officials and Through the IRS

STATE CHARITY OFFICIAL ASSISTANCE – Before starting a vehicle donation program, check out your state requirements. Charities that solicit contributions are often required to register with state officials, such as the state attorney general or the secretary of state. Some state charity officials provide information about paid fundraisers on their Web site. Contact your state charity official if you have a concern or complaint that a charity is not complying with state laws.

A listing of state charity offices is available through the National Association of State Charity Officials at www.nasconet.org. A listing of state attorneys general is available through the National Association of Attorneys General at www.naag.org.

IRS ASSISTANCE – The IRS offers help that is accessible online, via mail, by telephone, and at IRS walk-in offices in many areas of the country. IRS forms and publications can be downloaded from the Internet and ordered by telephone.

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Web based training

IRS tax forms and publications related to donations include:

Form 1098-C, *Contributions of Motor Vehicles, Boats, and Airplanes*

Form 8282, *Donee Information Return*

Form 8283, *Noncash Charitable Contributions*

Publication 526, *Charitable Contributions*

Publication 561, *Determining the Value of Donated Property*

Publication 1771, *Charitable Contributions – Substantiation and Disclosure Requirements*

Publication 4303, *A Donor's Guide to Vehicle Donations*

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