

Attention: The IRS is Revising Publication 4302, *A Charity's Guide to Car Donations*

The IRS is in the process of revising Publication 4302 dated August 2004. This version does not include the tax law changes enacted under section 884 of the American Jobs Creation Act of 2004. If an individual donated a car to your charity before January 1, 2005, or if the value or gross proceeds from the car's sale are \$500 or less, use the information in this publication. If an individual donates a car after December 31, 2004, and the value or gross proceeds from the car's sale are more than \$500, see below for an explanation of the new rules.

New Rules for Certain Car Donations Made After December 31, 2004

If the charity receives a car donation after December 31, 2004, with a value of more than \$500 or which generates gross proceeds of more than \$500, the deduction is determined in one of two ways.

1. If the car is sold without any significant intervening use or material improvement by the charity, the deduction is limited to the amount of gross proceeds received from the sale.
2. If the charity intends to make significant intervening use of or materially improve the car, the donor generally can deduct its fair market value.

Significant intervening use means that a charity must actually use the car 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.

Material improvement includes a major repair or improvement that results in a significant increase in the car's value. Cleaning, minor repairs, and routine maintenance are not material improvements.

The charity must provide the donor with a contemporaneous written acknowledgement of the donation. Without an acknowledgement, the donor cannot deduct the contribution. The acknowledgement must include:

- the individual's name and taxpayer identification number,
- the vehicle identification number, and
 - a statement certifying that the car was sold in an arm's length transaction between unrelated parties, the gross proceeds received from the sale, and a statement that the donor may not deduct more than the gross proceeds from the sale, **or**
 - if the charity intends a significant intervening use, a statement certifying the intended significant intervening use, the duration of that use, and that the charity will not sell the car before completion of that use, **or**

- if the charity intends to make a material improvement to the car, a statement certifying the intended material improvement and that the charity will not sell the car before completion of the improvement.

The acknowledgement is considered contemporaneous if the charity furnishes it to the donor no later than 30 days after the date it sells the car, or 30 days from the date of the contribution if the charity intends to make significant intervening use of or materially improve the car. The charity also must provide the IRS with the same information it included in the acknowledgement.

A penalty applies if a charity knowingly furnishes the donor with a false or fraudulent acknowledgement, or knowingly fails to furnish an acknowledgement with the required information. In the case of an acknowledgement related to the sale of a car, the penalty is the greater of the product of the highest tax rate (currently 35%) and the sales price stated on the acknowledgement or the gross proceeds from the sale. For all other acknowledgments, the penalty is the greater of the product of the highest tax rate (currently 35%) and the claimed value of the car, or \$5,000.

The IRS expects to issue additional guidance on these rules early in 2005. To find out if we have issued that guidance, check our website at www.irs.gov or call (877) 829-5500.



Department of the Treasury
Internal Revenue Service

www.irs.gov

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A Charity's Guide to

**Types of car
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. An increasingly popular fundraising program is the sale of donated cars.

Through this Publication 4302, the Internal Revenue Service (IRS) and state charity officials provide general guidelines for charities operating car 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 Car Donations*, provides guidelines for individuals who donate cars.

Tax-Exempt Status and Deductible Contributions

How a charity operates a car donation program may have tax consequences. The program can –

- affect a charity’s exempt status; and
- impact the tax-deductibility of the donor’s contribution.



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 car 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).

TAX-DEDUCTIBLE CONTRIBUTIONS – In order to be deductible, a donation must be made to a charity that has full control and discretion over the disposition or use of the donation.

Note: Taxpayers may only deduct contributions to charity if they itemize their deductions.

Types of Car Donation Programs and Their Impacts on Tax-Exempt Status and Deductibility

This section identifies four common types of car donation programs and the tax consequences for a charity and its contributors.

CHARITY USES OR DISTRIBUTES CARS* – The charity uses donated cars in its charitable program or distributes the cars to needy individuals. The program should not have an adverse impact on the charity’s tax-exempt status. Donors may deduct their contributions (if all other requirements are met).

CHARITY SELLS DONATED

CARS* – This program is similar to the one above, except here the charity sells the donated cars and uses the proceeds to fund its charitable programs. The program should not have an adverse impact on the charity’s tax-exempt status. Donors may deduct their contributions (if all requirements are met).

CHARITY HIRES AGENT TO OPERATE CAR DONATION PROGRAM*

– The charity hires a private, for-profit entity as an agent to operate its car 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 of or change all advertising, and examine the program’s books and records.

If the charity follows these guidelines, the program should not have an adverse impact on the charity’s tax-exempt status. Because the for-profit entity is an agent of the charity, donors may deduct their contributions (if all other requirements are met).

*A charity must operate exclusively to further the charity’s exempt purposes. A charity must not operate a car donation program in a manner that improperly benefits private parties. For example, a charity should not sell cars on favorable terms to individuals 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.

FOR-PROFIT ENTITY RECEIVES AND SELLS CARS 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 cars. The charity receives either a flat fee or a percentage of the proceeds from the sale of the cars to support its charitable programs. The charity has no control over the for-profit entity's activities.

Unlike the preceding programs, 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 are made to the for-profit entity and are not treated as made to 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.

Filing and Disclosure Requirements

FORM 990 SERIES (ANNUAL INFORMATION RETURN)

– 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. See IRS Publication 557, *Tax Exempt Status for Your Organization*, and the instructions to the annual information returns for further information.

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.

For most property donations for which the deduction claimed is greater than \$5,000, the donor must obtain an appraisal. A qualified appraiser must complete and sign Section B of Form 8283, called the *appraisal summary*, and an authorized official of the charity must also 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 car must file Form 8282, *Donee Information Return*, if it sells or otherwise disposes of the car within two years after the date it received the car. This form must be filed within 125 days after the charity disposes of the car. This form requires the charity to identify the donor, the charity, and the amount the charity received upon disposition of the car. The charity must give the donor a copy of the completed Form 8282.

WRITTEN ACKNOWLEDGMENT OF DONATION

– Donors contribute cars 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 donor obtains a contemporaneous written acknowledgment of the contribution from the charity. A charity that does not acknowledge a contribution incurs no penalty; but without a written acknowledgment, a donor cannot claim a tax deduction. Therefore, to encourage continuous giving, a charity should provide the written acknowledgment. A charity

CAUTION

Some fundraisers mistakenly claim that donors can, in all cases, deduct the highest value of their cars as found in a used car pricing guide. Donors and charities should exercise caution. The IRS will only allow a deduction for the fair market value of the car, which takes into account the mileage and condition.



can provide either a paper copy of the acknowledgment to the donor, or a charity can provide the acknowledgment electronically, such as via an e-mail addressed to the donor.

Note: Penalties will apply if a charity helps a donor overstate the value of an income tax charitable deduction by knowingly providing a false acknowledgment, and had the knowledge that the false acknowledgment would result in an understatement of tax liability.

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 – Car Title

Charities and their fundraisers are subject to state law requirements relating to titling of vehicles and transfers of title. Generally, state charity officials ask the donor to transfer the car title to the charity's name and make a copy of the title transfer, when possible. In some states, however, there are exceptions to this titling process, and an agent can hold an open title or insert a dealer's name. The donor should remove the license plates, unless state law requires otherwise. This will help avoid liability problems after the car is transferred.

Assistance Through State Officials and Through the IRS

STATE CHARITY OFFICIAL ASSISTANCE – Before starting a car 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 – IRS assistors can answer your tax questions and provide IRS tax forms, publications, and other reading materials for further assistance. IRS materials are accessible through the Internet, through telephone ordering, and at IRS walk-in offices in many areas across the country.

SPECIALIZED ASSISTANCE ON TAX-EXEMPT ORGANIZATIONS THROUGH THE EXEMPT ORGANIZATIONS (EO) DIVISION OF THE IRS:

www.irs.gov/eo

**Customer
Account Services**
(877) 829-5500 (toll-free)

Internal Revenue Service
TE/GE Customer Account
Services
P.O. Box 2508
Cincinnati, OH 45201

IRS tax forms and publications useful to charities are available on the EO Web site above and through the IRS services noted under **General IRS Assistance** on the back panel.

Form 990, *Return of Organization Exempt From Income Tax*

Form 990-EZ, *Short Form Return of Organization Exempt from Income Tax*

Form 990-PF, *Return of Private Foundation*

Form 8282, *Donee Information Return*

Form 8283, *Noncash Charitable Contributions*

Publication 526, *Charitable Contributions*

Publication 557, *Tax-Exempt Status for Your Organization*

Publication 561, *Determining the Value of Donated Property*

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

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

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