

Bankruptcy of Donors

We have experienced some bankruptcy trustees asking churches to return contributions made by a bankrupt donor. Federal law gives bankruptcy trustees the **power to “set aside” transfers** by bankrupt debtors for less than fair value during the twelve months preceding the filing of a bankruptcy petition. Therefore contributions made by church members to their church within a year before filing a bankruptcy petition are now subject to recovery by a bankruptcy court.

Individual Cash Contributions of \$250 or More

Donors are **no longer permitted** to substantiate individual cash contributions of \$250 or more with canceled checks.

Substantiation rules deny a deduction for individual contributions of \$250 or more unless the donor "substantiates the contribution" by a written acknowledgment of the contribution from the donee organization." **We recommend that the church acknowledge all charitable contributions by written receipt.**

Please note that the standard five-part "record of contribution" form that many churches are using is acceptable. **Each check must be listed** and a statement must be included on the final record of contribution sent to the church members such as, "**Cash Contribution for Intangible Religious Benefits Only.**"

It is not necessary to list a donor's Social Security number on the written acknowledgment. Further, a church's written **acknowledgment must be issued only to the donors.**

The written acknowledgment must be **received by the donor** on or before the **earlier** of the following two dates:

- The date the donor files a tax return claiming a deduction for the contribution or
- The due date (including extension) for filing the return.

Since the churches do not know when donors will be filing their tax returns , we suggest issuing written acknowledgment of contributions to donors on or before January 15 of each year for contributions made during the preceding year. If the process will take longer, it is recommended that churches advise donors on or before January 15 of each year not to file their current year income tax returns until they have received a written acknowledgment of their contributions to the church to avoid jeopardizing the tax deductibility of charitable contributions. This communication should be in writing. To illustrate, the following statement could be placed in the church bulletin and/or newsletter for the last few weeks of the current year:

Important Notice: To ensure the deductibility of your church contributions, **please do not file your income tax return until you have received written acknowledgment of your contributions from the church.** Under existing rules you may **lose a deduction** for some contributions if you file your tax return before receiving written acknowledgment of your contributions.

Contributions of Property

Special rules apply for non-cash contributions of **\$250 or more**. When property valued at **\$250** or more is given to the church, the church must issue **written acknowledgment** for the non-cash contribution. Such receipt should contain the following information:

- **Date** property was received;
- Complete **description** of the property including model year, serial numbers;
- **Condition** of the property.

The church **should not** set the value of the property. It is suggested that an individual letter be prepared and sent to the donor for each contribution within five (5) working days upon receipt of the property.

If the non-cash value is **\$500 to \$1,000**, there are additional filing requirements.

If the non-cash value is **more than \$5,000**, the donor must obtain a qualified appraisal.

Quid Pro Quo Contributions

A *quid pro quo* contribution is a payment made to a church which is partly for a contribution and partly in exchange for goods and services. Any such contribution of insubstantial value does not require a written acknowledgment from the church setting forth the value given in exchange for a contribution.

Any contribution more than insubstantial value in exchange for goods and services requires a written acknowledgement to the donor providing a "**good faith estimate**," stating the amount of the goods and services given to the donor. Such acknowledgement must further inform the donor that the tax-deductible portion of the contribution is the excess of the value of such goods and services.

The rule does not apply if only small token items with a low cost (bookmarks, key chains, mugs, etc.) are provided to the donor.

The tax law defines what is an insubstantial value and a low cost item. These are indexed for inflation, and you should check with the Internal Revenue Service or your tax advisor for the current amounts.