



Required Disclosures for Quid Pro Quo Part II



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This article is the second in a series discussing the intricacies of donor acknowledgment.

Galas, auctions, golf tournaments and fitness events are all great ways for charities to raise awareness of their mission as well as raise substantial contributed revenue. One thing these fundraising events all have in common is they involve giving donors something for their “donation”. Charities provide donors with something of value in exchange for a donation to attend or participate in the fundraising event. These are called “quid pro quo” transactions and, in most cases, require additional disclosures by the charity to the donors. For example, at a charity auction, a donor might receive a meal in exchange for purchasing an event ticket, or as part of a capital campaign, a donor might receive a logo mug for a donation. When a donor makes a donation of more than \$75 and receives something of value in exchange, the charity is required to provide written disclosure to the donor of the value of the quid pro quo provided to the donor. If the charity fails to do so, the charity may be subject to a penalty.

The written disclosure statement to the donor must include the following:

- Provide the donor with an estimated value of the goods or services received in exchange for the donation, and
- Inform the donor that the charitable deduction for income tax purposes is limited to the excess amount given – total amount contributed to the charity less the value of goods or services received by the donor.

Issuing the value of quid pro quo amounts on donor receipts is required by law. A charity that does not issue this required donor disclosure may be subject to a penalty of \$10 per donation, not to exceed \$5,000 per fundraising event or mailing. If a charity can demonstrate reasonable cause for failing to do so, the penalties may be waived. As discussed in Part I of this series, donors are required to obtain contemporaneous documentation of contributions to substantiate a charitable deduction. Therefore, what may be the far more damaging penalty is the damage to a charity’s reputation from failing to provide a donor with a proper donor acknowledgment letter. Many charities make it a best practice to issue charitable receipts for all donations, regardless of the amount involved.

In the case of a charity auction where an individual purchases a ticket for \$100 and receives a meal valued at \$45, the charity should disclose the value of this meal in writing to the individual. The amount a donor may claim as a charitable deduction on an income tax return is \$55 (the difference between the \$100 ticket price and the value of the goods/services the donor has a right to receive in conjunction with the donation). A great way to raise additional contributions from donors that are not able to attend the function is to provide a separate option stating: "I will not be able to attend but would like to make a fully deductible contribution of \$_____." Because the individual indicated he would not be attending the event and therefore has no right or expectation of receiving any goods or services in exchange for the contribution, the full amount of the contribution is deductible to the individual.

This disclosure to the donor can be made in a variety of forms. It can be included with the donation receipt the individual receives after the fundraising event. It can also be made at the time the individual purchases a ticket to the event and included on the individual's receipt for the ticket. As long as the invitation has all of the information required in a donor acknowledgment as detailed in Part I of this series, as well as the quid pro quo amount, the donor may use the invitation along with proof of payment as a substantiation of a donation. Paper or electronic means are both acceptable methods for providing disclosure.

In addition to providing a value for meals at fundraising events, charities should not forget to assign value to auction items sold at their fundraisers. Many of these auction items sell for over \$75 and do not fall into the exceptions identified below. While charities should not provide a value to the donor who contributes the auction item to the charity initially, charities should provide a value when the auction item is purchased at the event. Providing a good faith estimate of the value is required so the purchaser can properly compute the charitable contribution deduction allowed. Although auction books may list various items as "priceless", a reasonable value should still be assigned to the item.

Certain benefits provided to a donor in exchange for a donation may be considered insubstantial and therefore excluded from the quid pro quo disclosure requirements. The first such benefit, the "Token Exception", applies when a charity provides goods or services that are insubstantial and made in the context of a fundraising campaign. In this case, the quid pro quo goods or services are disregarded and the entire value of the donation is deductible if one of the following criteria is met:

- The fair market *value* of the goods or services received does not exceed the lesser of 2% of the donation or \$97.
- The donation received is at least \$48.50, the goods or services provided to the donor *cost* the charity \$9.70 or less, and the items have the name or logo of the charity on them.

It is important to distinguish when the charity uses the *value* versus when it uses the *cost* for determining if quid pro quo amounts may be disregarded for purposes of donor acknowledgment. The thresholds for the insubstantial benefits above are adjusted annually for inflation. The dollar thresholds above reflect the 2011 limitations.

Examples of insubstantial benefits include an individual giving a \$2,000 contribution during a capital campaign and receiving a box of chocolates in exchange *valued* at \$20. Two percent of \$2,000 is \$40 which is less than the \$97 threshold. The value of the goods received in this example is less than \$40. The individual may claim the entire \$2,000 as a deduction since it meets the first criterion.

Similarly, if the donor made a \$100 donation during the capital campaign and received a logo mug in exchange which cost the charity \$3.50, a deduction of \$100 would be allowed under the second criterion. The donation is over the \$48.50 threshold, the cost of the item provided is less than \$9.70 and the mug displays the charity's logo. In both cases, the charity should provide a donor receipt stating that no goods and services were provided in exchange for the contribution because the underlying contribution is greater than \$75.

Alternatively, if a donor contributes \$100 to the capital campaign and receives a gift basket of logo items costing the charity \$10, and valued at \$20, the donor receipt must include a quid pro quo disclosure indicating goods valued at \$20 were provided in exchange for the contribution. This example does not meet either of the exceptions. The value provided to the donor exceeds the 2% threshold, which is lower than the \$97 threshold, and the aggregate of the logo items exceeds the low cost threshold of \$9.70. The donor would only be allowed to deduct \$80 as a charitable contribution deduction on an income tax return.

Another example of disregarded benefits comes under the “Membership Benefits Exception”. When membership fees are \$75 or less and include annual recurring rights or privileges, such as discounts to gift shops and/or free or discounted admission tickets, free or discounted parking, or preferred access to goods and services, these items can be considered insubstantial and the entire membership fee can be a charitable deduction for the individual. Similar to the Token Exception, members can receive low cost items as long as they are within the current year value and cost limitations. For example, if an individual purchased a \$100 family zoo membership which included up to four annual passes for unlimited admission to the zoo and a book on endangered animals, sold in the gift shop for \$20 (the wholesale cost to the zoo is \$12), the receipt should indicate that \$20 of the \$100 membership is a non-deductible contribution. The admission tickets qualify as a disregarded benefit and would not need to be separately disclosed or assigned value on the donation receipt. However, because the book exceeds the 2% value threshold as well as the \$9.70 cost threshold, the value must be disclosed on the donor acknowledgment.

A third exception to the disclosure rules exists for “intangible religious benefits”. When a donor makes a contribution to a religious organization and receives intangible religious benefits, no value needs to be provided to the donor for the amount of the benefits received. The donation receipt should, however, indicate that intangible religious benefits were provided. Intangible religious benefits are those which a religious organization provides that are generally not sold in a commercial manner outside a charitable context. For example, religious education classes offered by the church could be a disregarded religious benefit. However, an education in an accredited school operated by a church would not be considered an intangible religious benefit in exchange for a contribution. If a member of a church made a monthly donation but also participated in free weekly education classes that are not part of a degree program, this would qualify as intangible religious benefits. The donor receipt disclosure would state that no goods or services were received in exchange for the contribution. However, if a family makes regular monthly contributions to a church and receives a corresponding tuition reduction, the “contribution” will be treated as tuition and disclosed as a quid pro quo benefit on the donor acknowledgment letter.

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We would be happy to assist you with any of your questions. Please call us at 941-365-4617 or email Rob Lane at rlane@kbgrp.com or Patricia Entsminger at pentsminger@kbgrp.com.