

THE Good Advisor

Year-End Countdown: Checklists to Launch Successful Gifts

He wasn't a singer, actor or news anchor, but you may have heard his voice. John William "Jack" King was chief of public information at NASA. Much of the world listened to his calm voice count down the historic checklist for Apollo 11—a launch that sent three astronauts to the moon.¹

Twelve, eleven, ten, nine. Ignition sequence start.

Six, five, four, three, two, one, zero. All engines running.

Liftoff! We have a liftoff. Thirty-two minutes past the hour. Liftoff on Apollo 11.²

One of Jack King's true gifts was describing complex technical matters in plain English.³ As we near the end of the year, many prospects and clients considering charitable gifts could use a "chief of information" who could provide a countdown using clear, simple directions. Just as King's pre-launch commentary highlighted the tasks being completed, advanced underwriting advisors can offer guidance, assistance and reinforcement that gifts are still a "GO" at year end.

Ten minus ten weeks until year end...

Charitable contribution over \$5,000, go or no go?

Qualified appraisal, go or no go?

Completion of transfer of charitable gifts, go or no go?

Of course, checklists are imperative for a rocket launch, but they are equally important for making sure that charitable gifts meet all legal and tax requirements. Following all the necessary steps ensures that clients and prospects complete successful year-end gifts. In this issue of *The Good Advisor*, we provide a checklist and helpful guidelines for effective year-end giving.

Don't Forget Your Gift Preserver: Appraisals for High-Value Gifts

Whether you're in a canoe, a ski-boat or a yacht, boating can be an exceptional hobby. However, it can also present unique dangers. To fully enjoy boating, you must be prepared and careful. The U.S. Coast Guard helps boaters get ready by offering educational and safety programs and by providing pre-departure checklists covering items from state registration and documentation to spare parts, operational items, weather information, a float plan and life preservers.⁴ These checklists provide useful guidance for experienced as well as novice boaters.

Making a charitable contribution—an enjoyable and fulfilling experience—is also accompanied by "hazards" that affect contributions and deductions when the gift does not follow the requirements set out in the Internal Revenue Code (IRC) and related regulations. One hazard that can trip up donors is the IRC appraisal requirement for high-value gifts.

Most donors understand that when they make a charitable contribution, they may take a charitable deduction if they itemize on their income tax returns. Donors also likely know that to take the deduction, they need a record of the gift. However, more substantial gifts require an even greater understanding of the tax requirements.

Gift of Cash—A taxpayer must maintain a record of the contribution, such as a cancelled check, a receipt or written letter from the charitable organization showing the donor's name, the date, and the amount of the contribution, or some other reliable written record documenting the same information.⁵

Gift of Property Over \$500—The taxpayer must include a description of the donated property with the tax return.⁶

Gift of Property Worth \$5,000 or More—The taxpayer must obtain a “qualified appraisal” and include an appraisal summary with the tax return. (See the Appraisal Summary Checklist on the next page for more detail.) If the donation is non-publicly traded stock, certain publicly traded securities, or a contribution by a C corporation, additional records must be maintained.⁷ The taxpayer must also maintain the general substantiation records required by Treas. Reg. § 1.170A-13(b)(2)(ii).

Gift of Property Worth \$500,000 or More—The taxpayer must obtain a qualified appraisal and attach a copy of the appraisal (not just an appraisal summary) to the income tax return for that year.⁸

Gifts That Do Not Require an Appraisal

According to the IRC, gifts of cash, publicly traded securities, inventory, and certain qualified vehicles do not require an appraisal because they are considered “ready valued property.”⁹

Failure to Comply

A failure to provide the required documentation may result in the IRS disallowing the charitable deduction. In the case of *Van der Lee vs. Commissioner of Internal Revenue*, the Tax Court limited the couple’s deductions because they failed to provide timely appraisals and other required documentation.¹⁰ The Second Circuit Court of Appeals affirmed this ruling, stating:

Here, the tax court did not err in concluding that certain of the Van der Lees’ claimed charitable contributions did not meet the above-described substantiation requirements. First, Mrs. Van der Lee’s submission of credit card statements (with allegedly qualifying expenses circled) does not meet the I.R.C. §170(f)(8) requirement... Second, Mrs. Van der Lee’s \$6,000 claimed deduction for the use of a home office for her volunteer work was not allowable because it was not substantiated by any “credible documentary evidence”... Third, the Van der Lees’ donation of kitchen and bathroom items to the Hudson Valley Materials Exchange, for which they claimed a \$33,009 charitable deduction, was not adequately substanti-

ated under the Code’s standards for donation of property valued at more than \$5,000.¹¹

The court found the Van der Lees negligent in taking the charitable deduction by failing to document the circumstances and the court affirmed the 20% negligence penalty assessed by the IRS.¹² The court stated:

...the Van der Lees negligently “failed to provide [their accountant] with all relevant information” necessary to accurately report their charitable deductions... In particular, the Van der Lees “gave [their accountant] only the total [amount] of the charitable contributions” that they claimed were deductible for the 2002 tax year, rather than an itemized list; “did not tell him that a large portion of the contributions was not gifts by cash or check”; and did not provide him with any of the written documentation necessary to substantiate the disallowed contributions.¹³

The Need for a Checklist

Just as a boater needs to meticulously follow buoys and other navigational aids to avoid running up on a shoal, a donor making a charitable donation—particularly one of high value—needs to carefully follow the applicable law. There are no “search and rescue” crews to locate a missing qualified appraisal. Instead, the donor should follow the advice of a professional to make certain the donation meets all the necessary appraisal requirements.

Back to School: Don’t Let the Dog Eat Your Receipts

The start of a new school year is exciting and often chaotic. To ease the transition from summer freedom to academic structure, retailers and schools provide back-to-school checklists for supplies that will be needed in the fall. Students may have their own mental checklists to prepare for the first day of school—pack a lunch, grab a jacket, label notebooks for each subject, sharpen pencils and make sure summer homework is completed.

Whether a gift is large or small, cash or non-cash, the courts consistently require donors to follow the law and substantiate charitable gifts. Taxpayers can rest assured that a claim of “The dog ate my paper!” will not get them off the hook.

Appraisal Summary Checklist

An appraisal summary is a form prescribed by the IRS that is signed and dated by both the donee and the appraiser and includes the following information as specified by the Treasury regulations:

- ✓ The donor's name and taxpayer identification number (individuals use a social security number while partnerships or corporations use an employer identification number)
- ✓ The donee's name, address, and taxpayer identification number
- ✓ The date the donee received the property
- ✓ A description of the property (detail must be such that a person who is not generally familiar with the type of property can ascertain that the appraised property is the contributed property)
- ✓ A brief summary of the overall physical condition of the tangible property at the time of the contribution
- ✓ The manner of acquisition (e.g., purchase, exchange, gift or bequest)
- ✓ The date the donor acquired the property (or the date the property was created, produced or manufactured by or for the donor)
- ✓ The cost or other basis of the property, adjusted as provided by Section 1016
- ✓ A statement explaining whether or not the charitable contribution was made by means of a bargain sale and the amount of any consideration received from the donee for the contribution
- ✓ The name, address and identifying number (if a taxpayer identification number is otherwise required by section 6109 and the regulations thereunder) of the qualified appraiser who signs the appraisal summary and of other persons as required
- ✓ The appraised fair market value of the property on the date of contribution
- ✓ The appraiser's declaration that he or she is a qualified appraiser as described in 26 CFR 1.170A-13(c)(5)(i)
- ✓ The appraiser's declaration that the fee charged for the appraisal is not of a prohibited type and that appraisals prepared by the appraiser are not being disregarded pursuant to 31 U.S.C. 330(c) on the date the appraisal summary is signed by the appraiser

Launching a Legacy: Checklists Are Necessary

Ten. Nine. Eight. As we enter the countdown to year end, a checklist can help clients who are planning charitable gifts. While the tax rules are not as complex as rocket science, the intricacies of the Internal Revenue Code present unique challenges for donors. As an attorney, advisor or other financial professional, you can fulfill the role of "information officer" by using year-end giving checklists to ensure a successful "launch" of each client's charitable legacy.

ENDNOTES

- 1 Scott Neuman, "Jack King, NASA's 'Voice of Apollo,' Dies at 84," *The Two-Way*, NPR, June 12, 2015. <http://www.npr.org/sections/thetwo-way/2015/06/12/413928517/jack-king-nasas-voice-of-apollo-dies-at-84>
- 2 Jack King, as reported in AP obituary, "Launch Commentator for Apollo 11 Moon Shot, Jack King, Dies," June 12, 2015. <http://www.msn.com/en-us/news/technology/launch-commentator-for-apollo-11-moon-shot-jack-king-dies/ar-BBkZ0z7>
- 3 Nigel Fountain, "Jack King Obituary: NASA PR Chief Recognizable to Millions as the Voice of America's Space Program," *The Guardian*, June 17, 2015. <https://www.theguardian.com/science/2015/jun/17/jack-king>
- 4 "A Boater's Guide to the Federal Requirements for Recreational Boats," United States Coast Guard. uscg-boating.org/images/420
- 5 Treas. Reg. §1.170A-13(a)(1).
- 6 IRC §170(f)(11)(B).
- 7 Treas. Reg. §1.170A-13(c)(2)(ii).
- 8 IRC §170(f)(11)(D).
- 9 IRC §170(f)(11)(A)(ii)(I).
- 10 *Van Der Lee vs. Commissioner of Internal Revenue*, No. 12-226-ag, CA-2, 2012-2 ustrc . Aff'g 102 TCM 329, Dec. 58,772(M), TC Memo. 2011-234.
- 11 *Id.*
- 12 *Id.*
- 13 *Id.*

Access more information now!

An electronic copy of our companion booklet with additional checklists, more information on qualified appraisals, a discussion of two cases involving gift substantiation, and a new section discussing the importance of gift timing as it relates to deductions may be accessed in the Professional Advisor section of our website at www.catholicfoundation.com.

You can download this PDF and store it on your PC or tablet for easy access.

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