

## **Charitable Deductions??**

### **Valid Charitable Deduction Lost for Lack of Proper Substantiation**

#### **Warning! Warning! Warning!**

I was recently at a breakfast seminar presented by the law firm of Chamberlain, Hrdlicka, White, Williams & Martin in Atlanta, GA. They presented the following information reference the valid charitable deduction lost for lack of proper substantiation. I recommend each of you read and understand the severity of this case reference any charitable deductions you plan to take on your tax returns for the year 2008 forward. It is most important for you to be able to supply your tax preparer with the correct documentation or he will not be able to take the tax deduction on your tax return.

#### **Valid Charitable Deduction Lost for Lack of Proper Substantiation**

*Gomez v. Commissioner, T.C. Summary 2008-93 (7/30/08)*

During 2005, Daniel and Ruth Gomez were members of the Apostolic Assembly of the Faith In Christ Jesus, a religious organization. As members of the Apostolic Assembly, Daniel and Ruth were required to tithe. During 2005 they paid a total of \$6,548 to the Apostolic Assembly by 20 separate checks. Ten of the checks, for a total of \$6,100, indicated that they were for tithes, and each check was over \$250. A letter from the Apostolic Assembly, dated January 22, 2008, indicated that the Gomez's paid a total of \$6,552 as tithes during 2005.

On their 2005 income tax return, the Gomez's claimed a \$6,885 charitable contribution deduction on their Schedule A. In a notice of deficiency, the IRS disallowed the deduction because the Gomez's failed to adequately substantiate the charitable contributions. For that year, no charitable contribution deduction is allowed for all or part of any contribution of \$250 or more unless the taxpayer substantiates the contribution with a contemporaneous written acknowledgment from the donee organization. Further, a written acknowledgment is contemporaneous if it is obtained by the taxpayer on or before the earlier of: (1) the date on which the taxpayer files a return for the tax year in which the contribution was made; or (2) the due date (including extensions) for filing such return.

The Tax Court held that the Gomez's could not deduct the contributions. According to the court, despite the fact that they made the contributions, the Code requires a contemporaneous written acknowledgment for contributions of \$250 or more for a charitable contribution deduction to be allowed. The letter from the Apostolic Assembly was not contemporaneous with the claimed deduction. The letter was dated January 22, 2008, and was not received by the earlier of the Gomez's filing of their income tax return or the return's due date of April 17, 2006.

The court said that although the letter and the ten canceled checks were reliable, they did not meet the substantiation requirements set forth by the Code or regulations. The required acknowledgment of the charitable contribution not only must include the amount contributed, but also must state whether the charity provided any goods or services in consideration for the contributions and describe and set forth a good faith estimate of the value of those goods or services. Because the Gomez's failed to comply with the substantiation requirements, their contributions were limited to the amount allowed by the IRS.

#### **Important Deadlines !!!**

September 15 - ALL corporate returns with extensions filed are due to the IRS on this date.

October 15 - ALL personal returns with extensions filed are due to the IRS on this date.