

NOVEMBER 4, 2014

Date of Gift Rules for Charitable Contributions

The end of the year is nigh, and timing is crucial to determining the year of a donor's income tax deduction, the value of a donor's fluctuating asset, and the characterization of the donor's asset as short-term or long-term. In general, a gift is complete when the donor relinquishes control over the asset and delivers it to the charity. It sounds simple, but there are many special rules about what constitutes "delivery." The following summarizes some common scenarios:

In-Person Delivery: Donor hands cash, check, or a properly-endorsed stock certificate to charity's representative.

- › **Date of Gift:** Date charity's representative receives the cash, check, or certificate. ([Treas. Reg. 1.170A-1\(b\)](#))

Mail or Delivery Service: Donor mails a check or properly-endorsed stock certificate to one charity via U.S. Postal Service and another check to a second charity via a private delivery service (e.g., FedEx or UPS).

- › **Date of Gift:** The check or certificate sent by U.S. Postal Service is deemed delivered, pursuant to the "mailbox rule," when the donor places the envelope in the mail. ([Treas. Reg. 1.170A-1\(b\)](#)). The mailbox rule does not apply, however, to items sent by private delivery service. Items sent by private delivery service are deemed delivered on the day they arrive at the charity's office.

Reissued Stock: Donor instructs the corporation that issued the stock or the transfer agent to transfer ownership of the donor's stock to the charity.

- › **Date of Gift:** Date on which the issuer or transfer agent, as applicable, changes the ownership records to reflect the transfer. ([Treas. Reg. 1.170A-1\(b\)](#)) Note that "irrevocable" instructions to the transfer agent are not sufficient.

Street Name Stock: Donor's stock is held in "street name" on the books of a central clearing house.

- › **Date of Gift:** Date on which the transfer to the charity's account is complete. ([Morrison v. Comm'r, T.C. Memo 1987-112](#))

Credit Cards: Donor makes a charitable contribution via credit card.

- › **Date of Gift:** Date the charge occurs, regardless of when the donor pays the credit card company. ([Rev. Rul. 78-38](#))

RELATED CATEGORIES

- › Charitable Gift Planning
- › Private Foundations
- › Public Charities

AUTHOR



A&C Alumni

ABOUT OUR BLOG

Nonprofit Law Matters looks at legal issues in the nonprofit and tax-exempt organizations world. Written by the attorneys and paralegals of Adler & Colvin, it provides updates and analysis regarding philanthropy, charity, and other exempt organization issues.

EDITORS



Eric K. Gorovitz
Principal

Real Estate: Donor transfers real estate to charity.

- **Date of Gift:** State law controls when real property is deemed delivered. In some cases, the delivery of the deed is sufficient, while in other cases, recording is required. In California, the gift of real estate is complete when the deed is delivered. ([California Civil Code Section 1054](#))

Tangible Personal Property: Donor contributes tangible personal property to the charity.

- **Date of Gift:** Delivery of tangible personal property usually requires a transfer of both title and possession. In rare cases, constructive delivery can be shown. ([Thomas G. Murphy v. Comm'r, TC Memo 1991-276](#))

Text Message: Donor responds to a charity's request for funding via text message.

- **Date of Gift:** Date donor sends the text message, if charged to the donor's wireless account. ([IRS Publication 526, Charitable Contributions](#))

Bottom Line for Charities: These rules are complicated, and in many cases, the charity may not know the exact date on which the donor's gift was complete for his or her deduction purposes (e.g., date stock ownership is transferred on corporate records). The charity must provide, in its receipt to the donor, the date on which it received the gift (which may be later than the donor's date of gift). For example, the charity could state in the receipt that "your stock gift was received in our brokerage account on [date]," or "your check was received in our offices on [date]." Finally, remember that the date of the gift for purposes of the donor's deduction, and how the gift is valued for deduction purposes, is a separate issue from when the gift is booked by the charity, and how much is booked.

Bottom Line for Donors: These rules are complicated, so plan ahead to avoid frantic year-end gifts, and consult your tax advisor.

Additional Resources:

Conrad Teitell, [Charitable Gifts: Date of Delivery Rules](#)