

## How to Properly Facilitate Vehicle Donations

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Every church occasionally gets offered a vehicle as a donation. While there have always been pitfalls in accepting vehicles, last year Congress adopted new code section 170(f)(12) that made the terrain more hazardous. There are no exceptions for churches from these requirements. Failure to provide the new acknowledgement and certification documentation can cost the donor their lawful tax deduction, and the church penalties.

The new requirements apply to (1) motor vehicles manufactured primarily for use on public streets, roads or highways, (2) boats and (3) aircraft. This article focuses on some common practices. If your church encounters other vehicle donation issues, you should consult with knowledgeable tax counsel.

Some basic requirements applicable to vehicles have not changed:

- The church cannot pass through the vehicle to a needy family based on the donor's request. The church must determine the use of the vehicle. If the donor makes a recommendation, the church should generally be more careful to document it made an independent decision. Evidence of this would include (a) an independent, documented assessment of the need, (b) a determination that this vehicle will meet the need, and (c) a documented decision by the church board, a committee or individual specifically charged with making such benevolent gifts.
- The vehicle must be transferred to the church with all the state-required formalities, and the church must then make the transfer. Shortcuts from the donor to the ultimate user will disqualify the tax deduction.

For contribution deductions of \$500 or less, the donor's deduction is the fair market value (FMV), as determined below. The organization should issue a receipt describing the vehicle, but place no value.

For a deduction for the gift of a vehicle for more than \$500, the contribution deduction amount plus timing and content of the church's acknowledgement will depend on how the church uses the vehicle:

1. If the church sells the vehicle without using it in any significant way (or without improving the vehicle), the amount of the charitable deduction cannot exceed the gross proceeds from the sale, or the donor's basis, whichever is less.
2. If the church keeps the vehicle for its own use or makes material improvements in it, the donor can claim the fair market value.
3. If the church sells the vehicle at a price significantly below the fair market value (or gives it away for free) to a needy individual in direct furtherance of its exempt purpose, the donor can claim the fair market value, under the rules described below.

For all gifts of vehicles worth more than \$500, the church must issue the donor an acknowledgement containing the following elements:

- The name and taxpayer identification number of the donor.
- The vehicle identification number.
- The date of the gift. If the church will sell the vehicle, it must provide to the donor within 30 days of selling the vehicle a written acknowledgement with the above elements, plus:
  - A certification that the vehicle was sold in an arm's length transaction between unrelated parties.
  - The gross proceeds from the sale.
  - A statement that the deductible amount may not exceed the amount of such gross proceeds. If the church will use or improve the vehicle, it must provide to the donor within 30 days of receiving the vehicle a written acknowledgement with the above elements, plus:
    - A certification of the intended use or material improvement of the vehicle and the intended duration of such use.
    - A certification that the vehicle would not be transferred in exchange for money, other property or services before completion of such use or improvement.

If the church sells the vehicle significantly below the fair market value, or gives it away to a needy individual, it must provide to the donor within 30

days of receiving the vehicle a written acknowledgement containing the above elements, plus:

- A certification that the church will sell the vehicle to a needy individual at a price significantly below fair market value (or, if applicable, that it will give the vehicle to a needy individual).
- The sale (or gift) will be in direct furtherance of the church's charitable purpose of relieving the poor and distressed or the underprivileged who are in need of a means of transportation.

Relieving the poor and distressed or the underprivileged has always been an activity of the church in the larger sense. While some local churches might have difficulty establishing it as a purpose, a church with a structured benevolence program that included policies for gift giving, a committee to make decisions, and documented gifts (who, why and what) should not have any trouble.

If the donation deduction under the above rules is based on the fair market value, the donor (not the church) will be responsible for establishing the fair market value. Vehicles valued at more than \$5,000 are subject to the independent, qualified appraiser requirements like other non-cash gifts. The church would sign the appraisal summary on Form 8283, signifying it had seen the appraisal. If the vehicle is worth \$5,000 or less, an independent appraisal is not required, but the donor may have to prove the value if audited. The IRS suggests use of an "established vehicle pricing guide." The price used, however, should be a private party sale of a similar vehicle, and not a dealer's price.

Under the statute, the same information provided in the acknowledgement to the donor must also be provided to the IRS. Guidance or forms for how to provide this information have not been released. Churches receiving vehicles should retain the information they provide the donor and monitor the issue.

Gifts of vehicles can be a blessing for the donor and the ultimate recipient. With care, church administrators should be able to facilitate this ministry.

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