FACT SHEET
CHANGES TO FEDERAL TAX TREATMENT OF VEHICLE DONATIONS

Background

The House and Senate passed the conference report to H.R. 4520, the American Jobs Creation Act, which includes a provision that would change the federal tax treatment of donated vehicles. In addition, charities would have more reporting requirements and taxpayers would be limited in their deductions. The President is expected to sign the bill into law.

Current Law

Under current law, a taxpayer can donate a vehicle to a charitable organization and take a deduction for the fair market value of the vehicle. A donor cannot deduct any single charitable contribution valued at $250 or more unless the donor obtains a contemporaneous written acknowledgment from the charity. For vehicle donations greater than $5,000, a donor must get a qualified appraisal. Taxpayers are required to report non-cash contributions totaling $500 or more and the method for determining fair market value.

Proposed Changes

H.R. 4520 would alter the amount the taxpayer can deduct, increase the charity's reporting requirements, and add new penalties to charities for false or non-reporting.[1] The provisions would take effect on donations after December 31, 2004.

The following information is required by charities and donors under the bill. A taxpayer must have a written acknowledgement of the donation from the charity; the charity must provide a list of items in the content of acknowledgement, and the acknowledgement must be what the bill describes as contemporaneous. The bill allows the Secretary of the Treasury to prescribe regulations that would exempt certain donors from only being able to deduct the gross proceeds of the sale of the vehicle; the charity must meet several tests for this to occur.

Written Acknowledgement of Donation

Under the provisions in H.R. 4520, in the case of a vehicle for which the claimed value exceeds $500, the taxpayer must substantiate the contribution by a contemporaneous written acknowledgment of the contribution by the charity. The acknowledgement must be included with the taxpayer's return.

[1] For Goodwill agencies that hire a third-party vendor to operate the car program, please consult state laws. The Goodwill agency and the for-profit entity must establish an agency relationship that is valid under the applicable state law.

The amount of the deduction cannot exceed the gross proceeds received from the sale of the vehicle, if the charity sells the vehicle without any significant intervening use or material improvement of the vehicle.

Content of Acknowledgment

An acknowledgment must contain the following for the sale of the vehicle:

(1) Name and taxpayer identification number of the donor.
(2) The vehicle identification number or similar number
(3) Certification that the vehicle was sold in an arm's length transaction between unrelated parties.
(4) The gross proceeds from the sale.
(5) A statement that the deductible amount may not exceed the gross proceeds of the sale.

For the content of acknowledgment for a vehicle that is not sold without significant improvement or is used by the charity, the following must be contained in the content of acknowledgment:

(1) Certification of the intended use or material improvement of the vehicle and the intended duration of such use.
(2) Certification that the vehicle would not be transferred in exchange for money, other property, or services before completion of such use or improvement.

Contemporaneous Acknowledgment

This is defined as an acknowledgment provided with *30 days of the sale of the vehicle* or in the case of a vehicle not sold without significant improvement or is used by the charity *30 days within the contribution of the qualified vehicle*.

Regulations Prescribed by Secretary of Treasury

The bill allows the Secretary to prescribe regulations or other guidance, which exempts sales by the charity, which are in direct furtherance of the organization's charitable purpose. Such guidance or regulations would apply, for example, if an organization directly furthers its charitable purposes by selling automobiles to needy individuals at a price significantly below fair market value.

The Secretary will construe the requirement of significant use or material improvement. To meet the significant use test, an organization must actually use the vehicle to substantially further the organization's regularly conducted activities and the use must be significant. Simply selling the vehicle at auction does not apply.

a. To meet the use test, it must be significant; it cannot be incidental or not intended at the time of the contribution and depends on the frequency and duration of the use.

b. For the material improvement test, a material improvement would include major repairs to a vehicle, or other improvements to the vehicle that improve the condition of the vehicle in a manner that significantly increases the vehicle's value.

Examples of Significant Use and Material Improvement

1. As part of its regularly conducted activities, an organization delivers meals to needy individuals. The use requirement would be met if the organization actually used a donated qualified vehicle to deliver food to the needy. Use of the vehicle to deliver meals substantially furthers a regularly conducted activity of the organization. However, the use also must be significant, which depends on the nature, extent, and frequency of the use. If the organization used the vehicle only once or a few times to deliver meals, the use would not be considered significant. If the organization used the vehicle to deliver meals every day for one year the use would be consider significant. If the organization drove the vehicle 10,000 miles while delivering meals, such use likely would be considered significant. However, use of a vehicle in such an activity for one week or for several hundreds of miles generally would not be considered a significant use.

2. An organization uses a donated qualified vehicle to transport its volunteers. The use would not be significant merely because a volunteer used the vehicle over a brief period of time to drive to or from the organization's premises. On the other hand, if at the time the organization accepts the contribution of a qualified vehicle, the organization intends to use the vehicle as a regular and ongoing means of transport for volunteers of the organization, and such vehicle is so used, then the significant use test likely would be met.

3. A taxpayer makes a charitable contribution of a used automobile in good running condition and that needs no immediate repairs to a charitable organization that operates an elder care facility. The donee organization accepts the vehicle and immediately provides the donor a

written acknowledgement containing the name and TIN of the donor, the vehicle identification number, a certification that the donee intends to retain the vehicle for a year or longer to transport the facility's residents to community and social events and deliver meals to the needy, and a certification that the vehicle will not be transferred in exchange for money, other property, or services before completion of such use by the organization. A few days after receiving the vehicle, the donee organization commences to use the vehicle three times a week to transport some of its residents to various community events, and twice a week to deliver food to needy individuals. The organization continues to regularly use the vehicle for these purposes for approximately one year and then sells the vehicle. Under the provision, the donee's use of the vehicle constitutes a significant intervening use prior to the sale by the organization, and the donor's deduction is not limited to the gross proceeds received by the organization.

Penalties

A penalty applies if a charity knowingly furnishes a false or fraudulent acknowledgement or knowingly fails to furnish and acknowledgment in the manner, at the time, and showing the required information.

In the case of an acknowledgement provided within 30 days of the sale of a vehicle that is not significantly used or materially improved by the charity, the penalty is the greater of the value of the tax benefit to the donor or the gross proceeds from the sale of the vehicle.