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Date of Gift and Substantiation Rules Q&A

Presenters: Jeff Lydenberg
Vice President, Consulting
Edie Matulka
Director, Gift Annuity
Compliance



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Agenda

- Overview
- Cash
- Stock
- Qualified Charitable Distribution
- Life Income Gifts
- DAFs/Foundations
- Questions and Answers

Overview

- The general answer regarding date of gift: It Depends
- Fact specific as to type of asset, nature of delivery
- Set donor expectations, especially at year end
- Don't speculate – provide information based on facts you know
- What is required, what is useful, what goes too far

- Check considerations:
 - ✓ Method of delivery: in-person, mail, courier service
 - ✓ Post-dated check
 - ✓ Cleared in due course? Reissued?
- Wire transfers – date received by charity
- Credit cards – date charge posted

Publicly Traded Stock

- Gift complete when donor surrenders dominion and control of stock
 - ✓ Stock may be a physical certificate or held electronically
 - ✓ Generally, mailbox rule governs physical certificates
 - ✓ If held in brokerage account, stock gift complete when stock is transferred to charity's account
 - Gift date is not when the transfer instructions are provided to broker

Publicly Traded Stock

- Valuation
 - ✓ Average of highest and lowest selling prices on the date of gift
 - ✓ If not traded on DOG, use weighted average on nearest dates of sale
 - IRS Reg § 25.2512-2. Stocks and bonds
- Contemporaneous written acknowledgment that includes:
 - ✓ Description of donated stock (e.g., number of shares and company name)
 - ✓ Date of contribution
 - ✓ Confirm whether goods or services provided in exchange for the gift
 - Good faith estimate of value if goods or services provided

Qualified Charitable Distributions

- QCDs complete when funds withdrawn from account:
 - ✓ Electronic transfer: Gift date = date funds received by charity
 - ✓ Custodian-issued check: Gift date = as practical matter, date on check

If for a CGA and check is routed through donor and donor delays in forwarding, charity may wish to delay the first payment by combining the initial pro rata payment with the first regular payment.
 - ✓ IRA checkbook: Check must clear IRA account by December 31 for gift to be complete in that tax year (“mailbox rule” or date received by charity is not applicable)

Qualified Charitable Distributions

- QCDs are not tax-deductible but reduce taxable income and satisfy RMD
- IRS requires acknowledgment for QCDs:
 - Donor's name
 - Date and amount of the gift
 - Statement that no goods or services were provided
 - Confirmation that charity is a qualified 501(c)(3)
- Without acknowledgment, IRS may disqualify QCD
 - Donor may have to recognize QCD as taxable income
 - Donor may miss deadline for satisfying RMD, incurring penalties

- Gift Annuities
 - ✓ Multiple assets with different contribution dates
 - *Valuation date v. gift date*
 - ✓ Single agreement or multiple agreements
 - ✓ Mailbox rule applicable?
- Charitable remainder trusts
 - ✓ Establishment of trust distinct from gift date

DAFs/Private Foundations

- Donor entitled to income tax charitable deduction upon creating a DAF or Private Foundation
 - Donor not eligible for deduction on subsequent grant from DAF or PF
- IRS does not require charity to acknowledge DAF or PF grants
 - Nonetheless, confirmation of receipt and thank you highly recommended
- Confirmation/thank you for DAF and Private Foundation
 - Include organization's name, date of contribution, and description of gift
 - Must include no goods or services language
 - Neither DAF nor private foundation entitled to more than incidental benefit

Questions?



Click the Q&A icon at the bottom of your screen.



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Still Have a Question?

Contact: Jeff Lydenberg

E-mail: jeff@pgcalc.com

Contact: Edie Matulka

E-mail: ematulka@pgcalc.com