

VEHICLE DONORS AND CHARITIES FACE INCREASED COMPLIANCE BURDEN

Auto dealers are often involved with charitable organizations in their efforts to raise money through vehicle donation programs. Dealers should be aware that there have been recent changes to the rules affecting vehicle donations.

The 2004 American Jobs Creation Act places an increased compliance burden on vehicle donors and charitable organizations. The change in the charitable contribution deduction rules for vehicle donations are designed to clamp down on what Congress believes is overstated deductions.

Historically, people making donations would use the highest market value as listed in books like the Kelley Blue Book in determining their deduction. For example, someone donates a car to his or her favorite charity.

According to book value, the car should sell for \$1500. The charity then attempts to sell the car, but after many months has to sell the car for \$750. However, the individual still claims a \$1500 value of the car on their tax returns.

Under the new rules, the taxpayer's deduction is generally limited by the charity's ultimate use of the vehicle—not necessarily the highest market value listed in a vehicle pricing guide. Using our previous example, the individual can now only claim a \$750 deduction. Also, a deduction would not be allowed unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgement by the charitable organization. Non-compliance could result in significant penalties for violations of the new rules.

To detail the rules that apply to both donors and charities, the IRS released two publications last year: Publication 4303, *A Donor's Guide to Car Donations*, and Publication 4302, *A Charity's Guide to Car Donations*. Here's a summary of some of the provisions, particularly those with resulting tax consequences for the charity and its contributors:

Charity uses donated cars or distributes cars. The charity uses donated cars in its charitable program or distributes the cars to needy individuals. This program does not affect the charity's tax-exempt status and the donor may deduct the fair market value of the contribution if all other requirements are met.

Charity sells donated cars. This program is similar to the one above, except here the

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ACCELERATE YOUR MONTH-END CLOSE TO TWO DAYS

Although it may seem out of reach, a two-day close is possible when all departments work together. Accelerating the close process actually improves the accuracy of the information available not only at month-end, but throughout the month as well.

Errors and discrepancies are identified more quickly and can be resolved more easily making month-end close a snap. Closing the month quickly and efficiently actually helps to prevent mistakes

and reduce opportunities for theft or misappropriation of assets.

At first, making the month-end close happen in two days takes some extra effort. The accounting department and the sales, service, and parts departments must work together more closely. The sales department must complete deals quickly and turn deals into the office for posting in a timely fashion—which should be done every day. Parts and service

departments must review open repair orders and open invoices daily to ensure all are closed promptly and to the proper cash or receivable accounts.

Organization is key in the two-day close and there must be a well-executed plan. Start by identifying all the tasks that must occur to close the month: reconciliations completed, deals posted, accruals calculated, and reviews for errors. Segregate

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charity sells the donated cars and uses the proceeds to fund its charitable programs. This program does not affect the charity's tax-exempt status and the donor may deduct the fair market value of the contribution if all other requirements are met.

Charity hires agent to operate car donation program. The charity hires a private, for-profit entity to operate the car donation program. If there is a valid agency relationship under the applicable state law and the program is subject to the charity's oversight (i.e.: charity monitors program operations, have the right to review all contracts, establish rules of conduct, choose or change program operators, examine the program's books and records, etc), the program does not affect the charity's tax exempt status and the donor may deduct the fair market value of the contribution.

For-profit entity receives and sells cars using charity's name(s). In this program, the charity grants a for-profit entity the right to use the charity's name to solicit vehicle donations. The charity receives a flat fee or a percentage of the proceeds from the sale of the

vehicles and uses the funds to support its charitable programs. Unlike the preceding programs, the charity has not established an agency relationship with the for-profit entity. Therefore, contributions are treated as made to the for-profit entity and not to the charity. Donors may not deduct the value of their contributions.

Once the donor has determined that the contribution is being given to a qualified charity and that the contribution is tax deductible, IRS Publication 4303 indicates that the donor needs to determine the fair market value of the vehicle being donated, obtain proper documentation, and file required forms. According to the IRS, a charity is subject to penalties if it does not provide proper documentation to donors or knowingly provides a false statement of the vehicle's value and had the knowledge that this false statement would result in an understatement of tax liability.

Since the new rules have now gone into effect, taxpayers and charity organizations should approach vehicle donations with caution. For further information on this topic, contact your Auto Team America member firm.

TAX TIP INVEST IN A SELF-DIRECTED IRA AS AN ALTERNATIVE

Many dealers have large sums of money accumulated in their individual retirement accounts. Dealers can now put these accounts to work in nontraditional investments through the services of self-directed IRA institutions.

A long-standing Internal Revenue Service ruling allows all Americans to invest their IRA funds—or 401(k) funds rolled into a self-directed IRA—in a wide variety of nontraditional investment types. Rolling current retirement funds from an existing IRA or 401(k) account into a Self-Directed IRA to do this type of investing is penalty-free. Additionally, the taxes due on the growth of the investments are deferred until distribution begins at retirement. If a self-directed Roth IRA is involved, the principal and earnings are tax-free when distributed at retirement.

The process itself is simple: an individual opens a self-directed IRA account with a specialized custodian, transfers his or her current IRA funds to the new self-directed account and directs the custodian to invest the funds into the specified asset. After an administrative review to determine if the asset can be administered, the custodian forwards the funds to purchase the asset, and the asset comes into the ownership of the individual's IRA account.

Now is an excellent time to take advantage of this little-known retirement planning tool, as well as the possibilities opened up by it. Daily headlines in the Wall Street Journal discuss the damage done to retirement funds by the low return of stocks and bonds. As a result, more and more Americans are pulling out of traditional investments and moving toward nontraditional assets as a primary or ancillary investment for their IRAs due to their potential for a higher return.

The IRS code does not specify which types of investments are permitted. However, you can typically purchase investment property such as single or multifamily dwellings, apartments, commercial buildings, raw land, vacation property, condominiums, mobile homes, and so on. You can also lend money against these types of property. There are some special considerations for real estate transactions. For example, you cannot buy a property, or invest in a secured loan, that involves yourself, a son, daughter, parent, or other disqualified party—such as a fiduciary or your sole proprietorship.

If you are interested in more information on this subject, please contact your local ATA firm.

QUICK CHECK

Most industry standards say that used vehicles are considered to be aged units after they reach 60 days on hand.

To prevent units from reaching 60 days, reevaluate any unit that hits 30 days on hand. Now is the time to take a look at those units:

Why isn't it selling? Does it need another detailing? Is there some noise when it's driven?

Pull it off the lot and take it for a test drive to find out if there is a problem—then fix it. Doing this will give a cushion of another 30 days before that unit is considered aged.

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those tasks that often are done as part of month-end close, but can—and should—be completed earlier in the month. Examples include the parts statement, bank statement and floor-plan reconciliations.

You will likely be left with two lists. One will include tasks that should be completed during the month and another will include items that must be done at the month-end close. The latter list should be relatively short, including items such as posting deals from the last two or three days of the month and calculating appropriate accruals for bonuses, commissions, and

floor-plan interest.

Day one of the two-day close is spent bringing the accounting records up to date—posting deals, completing a physical vehicle inventory to insure no deals or vehicles are missing, and gathering information necessary to calculate accruals.

Day two will be spent posting accruals as necessary, scrubbing schedules to ensure the final

entries have been properly posted, and reviewing the financial statements for any errors or unusual items.

If the accounting department has stayed on top of problems or errors throughout the month, the records should be clean and ready for close by the end of the second day. For more advice on the two-day close, contact your Auto Team America member firm.