

Increase in Charitable Deduction Limits for Nonprofit Organizations for Disaster Relief Contributions

This Provision Ends February 25, 2021

By Jeff Yang, CPA, Manager, Eva Mruk, CPA, EA, Partner and Garrett M. Higgins, CPA, Partner

Nonprofit organizations formed as corporations should be aware of a favorable provision that provides for an increased deduction limit for disaster relief contributions. The Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTRA of 2020) enacted December 27, 2020 temporarily increased the charitable contribution limit for corporations to up to 100% (previously a 10% limitation) of a corporation's taxable income for contributions paid in cash for relief efforts in qualified disaster areas.

Qualified cash contributions must be paid by the nonprofit organization during the period beginning January 1, 2020 and ending on February 25, 2021. Charitable contributions must be made to qualified public charities, as defined in Internal Revenue Code (IRC) section 170(b)(1)(A). This means that contributions made to a supporting organization described in IRC section 509(a)(3), a donor-advised fund described in IRC section 4966(d)(2) and a private nonoperating foundation do not qualify.

Corporations that wish to take advantage of this additional deduction must meet the usual recordkeeping requirements that apply to charitable contributions. Corporations must obtain a contemporaneous written acknowledgement (CWA) within the meaning of IRC section 170(f)(8) from the qualified charitable organization. The dated written acknowledgement must be obtained on or before the **earlier** of the date on which the organization files its tax return (IRS Form 990-T) for the tax year in which the contribution was made **or** the due date, including extensions. The CWA must include a disaster relief statement which states that the contribution was used – or is to be used – by the charity for disaster relief efforts in a qualified disaster area.

The IRS recognizes the timing of the new law, as announced in [IR-2021-27](#) issued on January 29, 2021, and states that a temporary waiver from the recordkeeping requirement is available to those corporations who may have obtained a CWA that lacks the disaster relief statement. In those cases, the IRS will not challenge a corporation's charitable deduction of any qualified contribution made before February 1, 2021 if the disaster relief statement is absent on the CWA.

PKFOD Commentary

Important to note: a nonprofit organization is allowed a charitable contribution deduction under IRC section 512(b)(10) in calculating unrelated business taxable income under IRC section 512(a)(1) – whether or not the contributions are directly connected with the unrelated trade or business. The reason is because a charitable contribution is not allocable to tax-exempt income but instead arises from a donor's charitable intent to voluntarily transfer money or property without receiving any benefit in return. The total amount of the charitable contribution deduction claimed for disaster relief efforts cannot exceed 100% of the excess of the corporation's taxable income over all other allowable charitable contributions. Any excess qualified contributions are carried over to the next five following tax years.

There is still some time left for nonprofit corporations that generate unrelated business taxable income to consider making disaster relief contributions to take advantage of the increased charitable deduction limitation. The key point to remember about this increased limitation is that such contributions can significantly reduce the organization's unrelated business income tax liability while, at the same time, provide support to another organization to help achieve their goals.

Contact Us

If you have questions regarding how this provision may apply to your organization, please contact Garrett M. Higgins, CPA, Partner at ghiggins@pkfod.com or a member of your tax-exempt client service team at PKF O'Connor Davies.

About PKF O'Connor Davies

PKF O'Connor Davies, LLP is a full-service certified public accounting and advisory firm with a long history of serving clients both domestically and internationally. With roots tracing to 1891, Fourteen offices in New York, New Jersey, Florida, Connecticut, Maryland and Rhode Island, and more than 900 professionals, the Firm provides a complete range of accounting, auditing, tax and management advisory services. PKF O'Connor Davies is ranked 27th on *Accounting Today's* 2020 "Top 100 Firms" list. It is also ranked among the top 20 best accounting employers to work for in North America by *Vault*.

PKF O'Connor Davies is the lead North American representative in PKF International, a global network of legally independent accounting and advisory firms located in over 400 locations, in 150 countries around the world.

Our Firm provides the information in this e-newsletter for general guidance only, and it does not constitute the provision of legal advice, tax advice, accounting services, or professional consulting of any kind.