

# MUSEUM MEMBERSHIP AND TAX RULES: WHAT'S THE DEAL?



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# General Tax Concept



The payment of membership dues to a charitable organization is deductible as a charitable contribution to the extent that the payment exceeds the fair market value of the benefits the member is entitled to receive in return for the payment.

# Quid Pro Quo Contributions



- Part contribution, part payment for benefits
- Only contribution part is deductible
- If quid pro quo payment is more than \$75, museum **MUST** notify members that amount of payment that's deductible is excess of payment over value of goods and services provided
- Significant penalties for museum for failure to comply

# Fair Market Value



- The payment of membership dues to a charitable organization is deductible as a charitable contribution **to the extent that the payment exceeds the fair market value of the benefits** the member is entitled to receive in return for the payment.
  - Fair Market Value: willing buyer, willing seller, no compulsion to act
  - Means Fair Market Value to MEMBER

# Insubstantial Benefits



- May be disregarded when notifying members what part of membership payment is tax deductible
- Must be received in connection with fundraising campaign
- Must state deductible part of payment in solicitations

# Insubstantial Benefits: Low Value Benefits



- Fair Market Value of all benefits received is not more than 2% of payment or \$97 (in 2011), whichever is less
- Token logo items
  - Payment is at least \$48.50 (in 2011)
  - No other benefits
  - Aggregate cost of items not more than low cost item limit (\$9.70 in 2011)
- Non-commercial quality publications
  - Primary purpose informational
  - Not available to non-members or on newsstands
  - No advertising or paid articles

# Insubstantial Benefits: Low Value Benefits



- Free, unordered low cost items mailed to members or prospective members
  - Aggregate annual cost not more than low cost item limit (\$9.70)
- Solicitation must state benefits not substantial and full amount deductible

# Insubstantial Benefits: Frequently Used Benefits



- To be disregarded, must be provided in return for membership payment of \$75 or less (or higher level of membership if benefits of qualifying membership level are included at higher level)
- Unlimited free or discounted admissions to museum, discounts in shop or for parking
- Member-only events if per person cost is no more than low cost item limit (\$9.70)



# Availability of Benefits



- The payment of membership dues to a charitable organization is deductible as a charitable contribution to the extent that the payment exceeds the fair market value of **the benefits the member is entitled to receive** in return for the payment.
  - Test is availability of benefit, not actual use

# Bargained For Benefits



- The payment of membership dues to a charitable organization is deductible as a charitable contribution to the extent that the payment exceeds the fair market value of the benefits the member is entitled **to receive in return for the payment.**
- Benefit valued only if member expected to receive it.

# Hypothetical



- \$50 membership level
- Unlimited free admission
- 10% discount to restaurant
- 4 vouchers for free parking
- Pen with museum logo
- Subscription to “Cheese, Please”
- Car decal in direct mail solicitation

# Hypothetical



## Unlimited free admission

\$50 membership level, so frequently used benefits exception applies and value can be disregarded

## 10% discount to restaurant

\$50 membership level, so frequently used benefits exception applies and value can be disregarded

## 4 vouchers for free parking

Limited number of uses, so vouchers must be valued

4 vouchers x \$5 per voucher = \$20

# Hypothetical



Pen with museum logo

Payment more than \$48.50

Cost of pen more than low cost item limit

Only benefit that is token, so must value = \$3

Subscription to “Cheese, Please”

Commercial publication

Valuation based on comparison to similar magazines

\$5 per issue x 4 issues = \$20

# Hypothetical



Car decal in direct mail solicitation

Free, unordered low cost item can be disregarded

Value of all benefits

\$20 for parking

\$3 for pen

\$20 for magazine

= \$43

\$43 is more than 2% of \$50 (\$1), so exception doesn't apply

\$50 membership, \$43 in benefits, \$7 tax deductible contribution

# Substantiation Requirements



- **Contribution of \$250 or more**
  - Written acknowledgement by end of year
  - Amount of payment, value of goods and services
  - Date of payment
  - Acknowledge benefits to be provided next year

# Family Foundations



- Related parties = Disqualified Persons (DPs)
- Impermissible self-dealing if DP uses benefits provided to foundation
- Excise tax penalties
- Exception: if use of benefit by DP is reasonable and necessary to carry out foundation's exempt purpose



# Donor-Advised Funds (DAFs)



- Issue similar to family foundations
- Statutory prohibition on providing more than incidental benefits to donor
- Incidental benefits similar to low cost items