

October, 2012

FOR IMMEDIATE RELEASE:

Church Error Causes Loss of Charitable Deduction: Are your donors at risk?

By David P. Atkins, Executive Director, Missouri United Methodist Foundation

On May 17, 2012, the US Tax Court ruled that David & Veronica Durden's \$22,517 donation to their church could not be counted as a charitable tax deduction. The Durdens had claimed this deduction on their 2007 joint income tax return for charitable contributions of cash and checks to their church.

The IRS denied the Durdens' deduction because they did not have the proper acknowledgement of their contributions from the church. The Durdens sued in Tax Court arguing, among other things, that they "substantially complied" with the statutory acknowledgment requirements. They had statements acknowledging the gifts from their church, along with canceled checks, and produced these as evidence.

The court disagreed with the Durdens and did not allow their deduction. The court said that the acknowledgement did not contain the wording, "no goods or services were received in exchange for this gift." The church attempted to issue new acknowledgements to the Durdens, however these were not allowed. The court referred to tax code provisions that require gift acknowledgements to be issued on or before the date that the tax payer return is filed.

Is your church in compliance?

In order to protect committed church members from a fate similar to the Durdens, church acknowledgements must contain 1) the date of the gift, 2) either the amount (cash/check) or description (non-cash) of the gift, and 3) the phrase "No goods or services were provided in exchange for your contributions other than intangible religious benefits." (Generally, a donor must reduce the amount of the contribution deduction by the fair market value of the goods and services provided by the church. If tangible goods or services are provided in return for a gift, the gift receipt must indicate the value of the goods or services that must be subtracted from the contribution amount. A modest thank you gift from the church – such as a coffee mug or bookmark – with an "insubstantial" value usually does not require reporting.)

To view and download sample gift receipt letters for various types of gifts, visit the Foundation website www.mumf.org and go to the Church Resources page under Churches & Organizations.

Furthermore, the acknowledgement must be provided to the donor before the donor files a tax return for the year. Therefore, churches should strive to deliver gift acknowledgements and/or year-end gift summary statements as soon after the end of the calendar year as possible. Summary statements must include itemized lines showing each gift date, amounts(descriptions), and the language cited above should be included at the bottom of the statement.

With larger gifts, it is recommended that personal thank you notes that also meet the IRS requirements be sent as soon after receipt of the gift as possible. This helps nurture positive relationships with donors, demonstrates conscientious financial operations, and ensures the receipt requirements are fulfilled. Special rules and reporting may apply to certain property gifts such as cars, artwork, or collections.

IRS tax code references:

26 USC § 170 - Charitable, etc., contributions and gifts

(f) Disallowance of deduction in certain cases and special rules

(8) Substantiation requirement for certain contributions

(A) General rule

No deduction shall be allowed under subsection (a) for any contribution of \$250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

(B) Content of acknowledgement

An acknowledgement meets the requirements of this subparagraph if it includes the following information:

(i) The amount of cash and a description (but not value) of any property other than cash contributed.

(ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any property described in clause (i).

(iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

For purposes of this subparagraph, the term “intangible religious benefit” means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.

26 USC § 170 - Charitable, etc., contributions and gifts

(f) Disallowance of deduction in certain cases and special rules

(8) Substantiation requirement for certain contributions

(C) Contemporaneous

For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of —
(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

(ii) the due date (including extensions) for filing such return.

The court case referred to was David P. Durden and Veronda L. Durden v. Commissioner. The Memorandum Opinion was issued by Judge Cohen of the U.S. Tax Court, Dkt. No. 17441-09, TC Memo. 2012-140 on May 17, 2012.

ABOUT THE MISSOURI UNITED METHODIST FOUNDATION:

The Missouri United Methodist Foundation provides administrative services to UM churches, institutions, and agencies, and provides tools, resources and assistance that help individual givers make a lasting positive difference for the cause of Christ. Contact the Foundation at 800-332-8238, or visit us on the web at www.mumf.org .