



Steve Leimberg's Charitable Planning Email Newsletter - Archive Message #345

Date: 08-Sep-25

From: Steve Leimberg's Charitable Planning Newsletter

Subject: Marc Soss on Besaw v. Commissioner: Do You Have a Proper Receipt for that Charitable Donation?

In *Besaw v. Commissioner*, the Internal Revenue Service and U.S. Tax Court placed all taxpayers on notice that proper documentation is required to claim a charitable deduction. The U.S. Tax Court's decision in *Besaw v. Commissioner* on July 21, 2025, delivers a clear message to anyone claiming charitable deductions: Proper documentation is not just recommended, it is absolutely mandatory. The United States Tax Court, despite acknowledging that it believed that Besaw had made the charitable donations, disallowed the entire deduction due to incomplete charity receipts. This ruling reinforces that even undisputed charitable giving provides zero tax benefit without meticulous documentation.”

Marc Soss, J.D., LL.M., provides members with commentary on *Henry Besaw v. Commissioner*, T.C. Summary Opinion 2025-7, Docket No. 19222-22S (July 21, 2025), and its application to the deductibility of charitable donations.

Marc Soss’ practice focuses on estate planning, probate and trust administration, and corporate matters in Southwest Florida. Marc is a frequent contributor to LISI and has published articles in the Florida Bar, Rhode Island Bar, North Carolina Bar and National Contract Management Association magazine. Marc is also a retired United States Navy Supply Corps Officer.

Here is his commentary:

EXECUTIVE SUMMARY:

In *Besaw v. Commissioner*, the Internal Revenue Service (“IRS”) and U.S. Tax Court placed all taxpayers on notice that proper documentation is required to claim a charitable deduction. The U.S. Tax Court's decision in *Besaw v. Commissioner* on July 21, 2025, delivers a clear message to anyone claiming charitable deductions: Proper documentation is not just recommended, it is absolutely mandatory. The United States Tax Court, despite acknowledging that it believed that Besaw had made the charitable donations, disallowed the entire deduction due to incomplete charity receipts. This ruling reinforces that even undisputed charitable giving provides zero tax benefit without meticulous documentation.

COMMENT:

On April 15, 2020, John Henry Besaw (“Besaw”) and his spouse filed their 2019 joint federal income tax return. On Schedule A, Itemized Deductions, Besaw claimed a deduction of \$6,760 for noncash charitable contributions. To substantiate the charitable contributions he included Form 8283, Noncash Charitable Contributions, and continuation sheets, identified each charitable

organization by name and address, and provided short descriptions of the donations. Form 8283 was incomplete in that it lacked dates and the values of the donations. During an IRS examination of the 2019 tax return, Besaw produced documentation to substantiate the claimed deductions, including dated and signed receipts from the charitable organizations. However, the receipts did not identify the specific items donated and their values. In 2022, Besaw provided the IRS with a document titled "2019 Reconstructed from Form 8283 and Continuation Sheet," which included the name of each charitable organization, dates of each donation, descriptions of the donated items, and their value.

On August 10, 2022, the IRS issued a Notice of Deficiency disallowing the \$6,760 noncash charitable contributions deduction. The IRS's explained that Besaw failed to meet the "substantiation requirements, specifically noting the absence of the name and address of the qualifying organization(s), a list of what was donated, and the fair market value of each item on the date of contribution." In response, Besaw filed a petition with the Tax Court.

U.S. Tax Court:

The Tax Court first addressed the burden of proof and that the "Commissioner's determination in a Notice of Deficiency is presumed correct, and the taxpayer bears the burden of proving that the determination is in error [Rule 142(a); *Welch v. Helvering*, 290 U.S. 111, 115 (1933)]." "Deductions are a matter of legislative grace, and the taxpayer bears the burden of proving entitlement to any claimed deduction [Rule 142(a); *INDOPCO, Inc. v. Commissioner*, 503 U.S. 79, 84 (1992); *New Colonial Ice Co. v. Helvering*, 292 U.S. 435, 440 (1934)]." The Tax Court noted that "[t]axpayers are required to maintain records sufficient to enable the Commissioner to determine the correct tax liability, substantiating both the amount and purpose of the related expense [I.R.C. § 6001; *Treas. Reg. § 1.6001-1(a)*; *Higbee v. Commissioner*, 116 T.C. 438, 440 (2001)]."

Before the Tax Court, Besaw argued that the "legal requirements for noncash charitable contribution deductions only mandated the name and address of the donee organization and a description of the donated property, not the value of the donated items." In response, the IRS cited to IRC Section 170(a)(1) which permits charitable deductions only if the taxpayer satisfies specific statutory and regulatory substantiation requirements. These include for non-cash contributions, a receipt showing the name of the charitable organization, date and location of the contribution, and a detailed description of the donation. IRS noted that "while the fair market value of the property is a factor in determining the detail needed, such value does not need to be stated on the receipt itself [*Treas. Reg. § 1.170A-13(b)(1)(iii)*]." For charitable donations exceeding \$500 in value, written records are required to establish the item's manner of acquisition, the date of acquisition or the date the property was substantially completed, and the cost or other basis (adjusted as per Section 1016).\

In denying the charitable deduction, despite believing that Besaw had made the donations, the Tax Court cited to the charitable donation receipts provided by Besaw and their failure to specifically identify the donated items and their values. Further, Besaw's attempt to rectify this problem with the reconstructed documents in 2022 was insufficient as it was not contemporaneous. Besaw then appealed the ruling to the Ninth Circuit. The Ninth Circuit, in affirming the Tax Court, did not find

error in the determination that Besaw failed to produce sufficient evidence to demonstrate his entitlement to deductions.

CONCLUSION

This Tax Court ruling reinforces the need to properly document every charitable contribution. For contributions of less than \$250, donors must maintain bank records or written communications from the charity showing the organization's name, date and amount. For contributions of \$250 or greater, donors must obtain a "contemporaneous written acknowledgment" that includes whether any goods or services were provided in return and an adequate description of the donated items. For noncash contributions greater than \$500, donors must complete Form 8283, and for contributions of \$5,000 or greater a qualified appraisal.

HOPE THIS HELPS YOU HELP OTHERS MAKE A POSITIVE DIFFERENCE!

Marc Soss

CITATIONS:

§ 170; § 6001; § 6662; § 7463; § 7491; Treas. Reg. § 1.6001-1(a); Treas. Reg. § 1.170A-13; Welch v. Helvering, 290 U.S. 111, 115 (1933); INDOPCO, Inc. v. Commissioner, 503 U.S. 79, 84 (1992); New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440 (1934); Hradesky v. Commissioner, 65 T.C. 87, 89–90 (1975), aff'd per curiam, 540 F.2d 821 (5th Cir. 1976); Meneguzzo v. Commissioner, 43 T.C. 824, 831–32 (1965); Higbee v. Commissioner, 116 T.C. 438, 440 (2001).