



Robert W. Wood

THE TAX LAWYER

TAXES 12/18/19

Holiday Gifts As Tax Write-Offs

This time of year, it is hard not to spend, with parties, gift giving and more. For some, it is a religious time of year too. A central theme of the Bible is that it is [better to give than to receive](#), even when you give up a great deal. At the holidays, many people give gifts or donations, but telling them apart is pretty important for tax purposes. Can't you get some tax write-offs? The holiday season starts with Thanksgiving, and [Two Thanksgiving Gentlemen](#) by O. Henry illustrates the giving spirit. Each year, a homeless man gets a grand dinner hosted by a successful businessman. However, the charity the two Thanksgiving gentlemen exchange isn't tax deductible. However, the IRS says business gifts you make in the course of your trade or business are deductible up to \$25 per person. Donations to recognized charities are different, but even if you are giving to a charity, you can't deduct the value of your time or your services. This is so even if you usually bill by the hour and donate many hours of otherwise billable time to charity. You also can't deduct gifts made directly to the needy even if you're trying to get your money where it will do some good. You can read the IRS's [take on charitable contributions here](#).

How about legit charities? Even if you've [checked the credentials and IRS tax exemption](#) of an organization, how do you know how much goes to overhead and what your money really supports? Public charities and churches are supposed to benefit the general public, not private individuals. Some charities pay executive salaries and other perks that can make you squirm. Many types funnel money to charities of the full 501(c)(3) variety, making contributions to those charities tax deductible by donors. The stakes are large, and nonprofits often face scrutiny from the IRS. Lavish spending and private inurement are classic problems with some non-profits. When the IRS finds this, penalties can be assessed, and in extreme cases, the government can threaten to actually revoke the charity's tax exemption. Big payments for

goods or services don't necessarily violate the law, but there is IRS scrutiny to be sure there's no private inurement.



The usual key to such arrangements is whether the terms and conditions are at arm's length—the kind of deal unrelated parties strike. If a tax exempt church or charity pays a founder or someone else more money than is fair for goods or services, it can jeopardize the tax-exempt status of the organization. There's a particularly big risk if it looks like the charity is the founder's own private fiefdom. How does the IRS find out? Although tax-exempt, these charities must file tax returns on [IRS Form 990](#).

The moral? When it comes to giving don't be controlled solely by taxes, like the Thanksgiving gentlemen. Alternatively, get some tax advice before you act. Incidentally, make sure your donee can use what you give too. In O. Henry's "[The Gift of the Magi](#)," a struggling young couple wants to exchange something special for Christmas. Della cuts off her flowing hair and sells it to a wig maker to buy a platinum chain for her husband Jim's heirloom pocket watch. You guessed it, Jim sells his prized watch to buy combs for Della's hair.

Check out my [website](#).