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CLIENT ALERT

Deductions for Charitable Contributions during the Pandemic: Five Things to Know

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Overspent on Giving Tuesday? Donated masks to a local organization only to realize the organization is not a Section 501(c)(3) charitable organization? Many organizations and individuals have risen to the challenge and contributed much needed supplies and cash during the COVID-19 pandemic and economic downturn. Here are five things to know about charitable contributions during the pandemic:

Number 1: Increased Corporate Deduction Available for Certain Contributions

Generally, corporate taxpayers may deduct contributions up to 10 percent of their taxable income. In the recent Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), Congress increased this limitation to 25 percent for certain contributions. This is not unprecedented. In the past, Congress has suspended the 10 percent limitation during natural disasters. For example, in 2017, Congress temporarily suspended the 10 percent limit for certain contributions to the relief efforts for Hurricane Harvey, Hurricane Irma, and Hurricane Maria. Congress similarly suspended the 10 percent limitation for contributions to the relief efforts for the California wildfires in the Bipartisan Budget Act of 2018.

Contributions must be made to certain public charities and must be cash contributions. The contribution must further be made in 2020 and the corporate taxpayer must elect to use the CARES Act increased contribution limitation. Of note, the CARES Act increased the limitation for all eligible charitable contributions in 2020, and not just charitable contributions relating to the pandemic.

Number 2: Increased Deduction Available for Individuals

The CARES Act also increased the charitable contribution limitation for cash contributions by individuals to 100 percent of the individual's adjusted gross income in 2020 (up from 60 percent under prior law). Individual taxpayers must itemize and elect to take advantage of this increased charitable deduction limitation.

The CARES Act also provided that individual taxpayers that do not itemize may deduct up to $300 of cash contributions to certain public charities plus the standard deduction. This provision is for all taxable years, not just 2020. As with the other provisions of the CARES Act, individuals may only contribute to certain public charities.

Number 3: Special Rules for Contributions of Property

In response to the crisis, many companies have also donated property, including medical supplies, masks, hand-sanitizer, etc. The deduction available for such donations depends on whether the donated property is inventory. Generally, a corporate taxpayer may deduct charitable contributions of property for up to 10 percent of taxable income. Contributions of property are not eligible for the increased 25 percent deduction limitation under the CARES Act. Taxpayers may, nonetheless, carry forward excess contributions for up to five years. The taxpayer may deduct the fair market value of the property minus any gain that that would not be long-term capital gain if the property was sold at its fair market value. Depending on the amount of the donation, taxpayers may need to appraise the contributed property to determine fair market value and to receive a deduction. Additional record keeping requirements apply.

Number 4: Special Rules for Contributions of Inventory

The rules for donations of property are different for inventory. Inventory is property that is held for sale to customers in the ordinary course of business. C corporations donating inventory may deduct the lesser of the inventory's fair market value or the taxpayer's basis in the inventory (generally the cost to produce or acquire the inventory). However, in some circumstances, C corporations may take an additional deduction of one-half of the difference between the taxpayer's basis in and the fair market value of the inventory (although the deduction may not exceed two times the taxpayer's basis in the inventory). For example, if the contribution of a medical mask is a qualified contribution and the mask costs $1 to make and has a fair market value of $5, then the taxpayer may deduct $2 (twice the taxpayer's $1 basis in the property). If, however, the mask costs $2 to make and has a fair market value of $5, then the taxpayer may deduct $3.50 ($2 of basis plus one-half of the $3 gain). Several rules apply to determine if a contribution is a qualified contribution. For example, the donation must be of inventory to a qualified donee and the donee must use the inventory to care for the ill, the needy, or infants. In addition, several record-keeping requirements apply.

Number 5: Special Rules for Contributions of Food Inventory

There are even more specific rules for contributions of food inventory. Unlike donations of non-food inventory, all companies, not just C Corporations, can deduct contributions of food inventory that meets all quality and labeling standards imposed by law, even though the food may not be marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

The CARES Act permits a deduction of up to 25 percent of taxable income for 2020 (up from 15 percent under prior law). Specific rules apply to the calculation of fair market value and basis for food inventory, and therefore the amount to be deducted for such contributions.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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