

## COURT CASE

### Recent Tax Court Case - Contributions of Property with a Value over \$250 Documenting Noncash Charitable Contributions (The Tokh Case)

In a recent Tax Court decision, Mr. and Mrs. Tokh donated over 300 items of used clothing and household items during a two-year period. The value of the donations totaled \$680 in one year, and \$891 in the second. The receipts for these donations were on forms provided by the charities, but the lists of times and their estimated and fair market values were attached by the taxpayers. Does this sound familiar?

The IRS said the Tokhs' **contemporaneously prepared receipts** for the donations were **inadequate** because the paperwork didn't show the **original cost, age, or condition** of the **donated items**. Because of this, the IRS disallowed most of their donations and the Tax Court upheld the disallowance, noting that the taxpayer's **self-generated** "receipts" were **unreliable**.

The receipts the Tokhs got from the charitable organizations in return for their noncash donations **didn't comply** with the **regulations**. Reg. 1.170A-13(b) normally requires a receipt that shows:

1. The donee's name,
2. The date and location of the contribution, and
3. A description of (but not necessarily a value for) the property "in detail reasonably sufficient under the circumstances." This was the Tokhs' downfall.

The charities **didn't describe** the **donated property** on their **receipts** – **instead**, the Tokhs added the description by attaching a **list** of the **items** to the **receipts**. Although the Tokhs brought some of their problems on themselves, their court decision should serve as a **warning to charities** and their **donors alike**. The **receipts charities** give out are not just a **formality**; it's important what **goes on them** and who puts the **information there**. The Tokhs had problems because the charities didn't give them **properly prepared receipts**.

Could the deduction be salvaged? Alternative methods of proof, such as producing other evidence of the donations, such as **pictures** of the donated items or **credible testimony** about the items, or **purchase receipts** for the items, could be used.

***Practitioner's Alert:*** *Although not mentioned in the case, if a single donation of noncash property is \$250 or more, charities also need to include a statement on their receipts saying "no goods or services were rendered in return for the donation," or if goods or services were provided, to describe what they were – IRC Sec. 170(f)(8).*

**Non-Cash Contributions - Substantiation  
Donation of Clothing and Household Items**

Taxpayer \_\_\_\_\_

Tax Year \_\_\_\_\_

Name of Organization (Donee) \_\_\_\_\_

Date and Place of Contribution \_\_\_\_\_

Description of Property Given	Date Acquired and How (1)	Cost or Other Basis (2)	Fair Market Value (3)	Condition of Item Must be in "Good Used or Better Condition"		Tested Appliances Is Appliance in Good Working Condition? (5)
				Yes (4)	No	
						Yes <input type="checkbox"/> No <input type="checkbox"/>
						Yes <input type="checkbox"/> No <input type="checkbox"/>
						Yes <input type="checkbox"/> No <input type="checkbox"/>
						Yes <input type="checkbox"/> No <input type="checkbox"/>
						Yes <input type="checkbox"/> No <input type="checkbox"/>
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						Yes <input type="checkbox"/> No <input type="checkbox"/>
						Yes <input type="checkbox"/> No <input type="checkbox"/>
						Yes <input type="checkbox"/> No <input type="checkbox"/>
						Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Totals:</b>						

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 Official of Donee Organization

- (1) Date acquired and cost not necessary unless the amount is greater than \$250 (Columns 1 and 2). If more than \$500, need Form 8283.
- (2) How was the Fair Market Value established (Column 3) - some organizations such as Goodwill and the Salvation Army provide a standard "value list" to assist taxpayers in determining the value of their clothing and household items donated (Columns 4 and 5).
- (3) Under the Pension Protection Act of 2006, the clothing and household items must be in "good used condition or better." Have Donee **test household items** as to working condition and have **snapshots** (camera) of clothing and household items to **illustrate condition**.