

Excise Tax Deduction for Donations to a Nonprofit Corporation, Association or Organization

Excise
tax notice
#05-04

[Public Chapter 98 \(2005\)](#)

Effective for all tax years beginning on or after July 1, 2005, Public Chapter 98 amends Tenn. Code Ann. Section 67-4-2006(b)(2) relative to charitable donations to nonprofit corporations, associations or organizations.

Under the provisions of Public Chapter 98, a taxpayer may deduct from net earnings for excise tax purposes 75% of the value of a charitable donation made to a nonprofit corporation, association or organization when the donation meets specified criteria. To qualify for the deduction, the charitable donation must meet the following requirements:

- (1) The donation must be made to a nonprofit corporation, association or organization that is exempt from federal income tax under Section 501(c)(3), a nonprofit civic league or organization that is exempt from federal income tax under Section 501(c)(4), or an association or organization that is exempt from federal income tax under Sections 501(c)(5) or 501(c)(6) of the Internal Revenue Code;
- (2) The nonprofit corporation, association, or organization must certify to the taxpayer that the donation was spent to purchase goods or services subject to Tennessee sales and use tax and that the corporation, association or organization actually paid Tennessee sales or use tax on those purchases. The deduction is only applicable in the tax year in which the nonprofit corporation, association, or organization makes such certification. The taxpayer is responsible for maintaining a copy of the certification to support the deduction taken;
- (3) Donations must be monetary. Donations of goods or services do not qualify for the deduction; and
- (4) The taxpayer making the donation cannot specify a specific purpose for the donation.

A nonprofit corporation, association or organization receiving such a donation must maintain adequate records to prove that the requirements of Public Chapter 98 have been met, including invoices or other documentation to establish that the donation was used to purchase goods or services subject to Tennessee sales or use tax and that such tax was actually paid.

If the nonprofit corporation, association or organization falsely certifies to the taxpayer making the donation that the donation was spent and tax paid as required by Public Chapter 98, the nonprofit corporation, association or organization will be liable for the sales and use tax, including penalties and interest, as if the donation had actually been spent on items subject to Tennessee sales and use tax.

When providing certification to the taxpayer, the nonprofit corporation, association or organization must provide the following information:

- (1) the amount of the donation;
- (2) the nonprofit corporation, association, or organization's sales tax number;
- (3) the amount of Tennessee sales or use tax paid; and
- (4) a certification signature from an officer of the nonprofit corporation, association or organization.

A certification form which the nonprofit corporation, association or organization must provide to the taxpayer once the donation is spent is available on the department's Web site <http://www.tennessee.gov/revenue/forms/fac/excisededuction.pdf>. This information will be used to document the taxpayer's entitlement to the deduction.

If you have any questions about this notice, you may contact the department. Tennessee residents outside the Nashville calling area may call our statewide toll-free number at (800) 342-1003. Callers from Nashville or out-of-state may dial (615) 253-0600. You can access additional information on our Web site at www.Tennessee.gov/revenue.

Publication Date: October 12, 2005