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Federal Tax Coordinator 2d

Chapter K Deductions: Taxes, Interest, Charitable, Medical, Others

K-3600 Expenses Incurred in Performing Services for Charitable Organizations.

K-3614 Transportation expenses related to providing charitable services are deductible.

Federal Tax Coordinator 2d

¶K-3614. Transportation expenses related to providing charitable services are deductible.

Under the principles discussed at ¶ K-3601 , a deduction is allowed for out-of- pocket transportation expenses (including certain automobile expenses) necessarily incurred in contributing services to a charity. 28

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Reg § 1.170A-1(g) ; Rev Rul 58-240, 1958-1 CB 141 .

However, the expenses of traveling between a taxpayer's home and a place of worship, and the expenses of travel related to attending religious functions, are personal, and aren't deductible as charitable contributions. 29

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Tokh, Aziz A., (2001) TC Memo 2001-45 , RIA TC Memo ¶2001-045 , 81 CCH TCM 1207 .

Taxpayer, an ordained minister, working for his church for no compensation, could deduct the cost of operating his car to perform ministerial duties. 30 And a volunteer for a charitable organization can deduct the cost of driving to and from the volunteer activity. 31

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Rev Rul 69-645, 1969-2 CB 37 .

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IRS Pub No. 526, (2006), p. 5 .

On the other hand, a member of a church choir could not deduct her transportation costs between church and home for rehearsals. Her activity was primarily a personal religious pursuit and the church's benefit was only incidental. 32

32

Churukian, Aram A., (1980) TC Memo 1980-205 , PH TCM ¶80205 , 40 CCH TCM 475 .

For expenses of operating taxpayer's privately-owned vehicle in connection with the contribution of services to a charity, see ¶ K-3615 et seq.

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Chapter K Deductions: Taxes, Interest, Charitable, Medical, Others

K-3600 Expenses Incurred in Performing Services for Charitable Organizations.

K-3601 When are expenses incurred in connection with providing services to a charity deductible?

Federal Tax Coordinator 2d**¶K-3601. When are expenses incurred in connection with providing services to a charity deductible?**

A taxpayer's unreimbursed expenses incurred in connection with providing services to a charity are deductible as contributions ¹ if the expenditures' *primary purpose* is to further the charitable organization's aims, rather than those of the taxpayer. ² See ¶ K-3602 et seq. For the types of expenses that have been held deductible or nondeductible, see ¶ K-3607 . For the rules on meals related to charitable services, see ¶ K-3608 . For the requirement that the charity be a qualifying organization, see ¶ K-3610 .

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Reg § 1.170A-1(g) .

²

White, Don v. U.S., (1984, CA10) 53 AFTR 2d 84-621 , 725 F2d 1269 , 84-1 USTC ¶9170 , revg (1981, DC UT) 49 AFTR 2d 82-364 , 514 F Supp 1057 , 82-1 USTC ¶9232 ;Sheffels, Gilbert v. U.S., (1967, DC WA) 19 AFTR 2d 668 , 264 F Supp 85 , 67-1 USTC ¶9247 ;Babilonia, Constancio, (1980) TC Memo 1980-207 , PH TCM ¶80207 , 40 CCH TCM 485 , affd (1982, CA9) 50 AFTR 2d 82-5442 , 681 F2d 678 , 82-2 USTC ¶9478 .

For the rules on local transportation expenses, see ¶ K-3614 , and for those on how to determine automobile expenses, see ¶ K-3615 et seq.



sample client letter: A sample client letter explaining when expenses connected with providing services to a charitable organization are deductible appears at Client Letters ¶ 1162 .

Expenses are deductible under these rules even if they are personal in nature. ³ However, if the provision of services involves travel away from home (¶ K-3618) which provides the taxpayer with an element of significant personal pleasure, related expenses won't be deductible, see ¶ K-3620 et seq.

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Reg § 1.262-1(c)(5) .

Expenses incurred by a taxpayer in connection with the provision of services to a charity are only deductible where the taxpayer himself is the one providing the services. Thus, where taxpayers provided funds to help their children defray living expenses while the children worked as church missionaries, no deduction was allowed. ⁴ Even if the taxpayer is providing services to a charity himself, he cannot deduct expenses incurred on behalf of someone else who is also providing services.

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Davis, Harold v. U.S., (1987, DC ID) 60 AFTR 2d 87-5576 , 664 F Supp 468 , 87-2 USTC ¶9490 , affd (1988, CA9) 63 AFTR 2d 89-400 , 861 F2d 558 , 88-2 USTC ¶9594 , affd (1990, S Ct) 65 AFTR 2d 90-1051 , 495 US 472 , 109 L Ed 2d 457 , 90-1 USTC ¶50270 .

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Cavalaris, Harry T., (1996) TC Memo 1996-308 , RIA TC Memo ¶96308 , 72 CCH TCM 46 .

There is no requirement that the donee organization control or supervise the services provided by the taxpayer for related expenses to be deductible. Where taxpayer incurred expenses in connection with evangelical activities undertaken with his church's approval he was serving the church's basic objectives and was thus rendering services to it. It didn't matter that the church didn't control or supervise taxpayer's activities.⁶ Similarly, a taxpayer's expenses incurred in providing services to aid his community's war on drugs were deductible despite the fact that state and local authorities had no control over the services or expenditures. In response to a drug-related family tragedy, taxpayer financed undercover agents and bought information related to drug activities. The Tax Court held taxpayer provided services "related to and in furtherance of" the state's basic law enforcement function and allowed the deduction.⁷ For expenses related to services provided to religious organizations, see ¶ K-3611 , and to government, see ¶ K-3612 .

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Smith, Travis, (1973) 60 TC 988 .

7

Sampson, Sherman H., (1982) TC Memo 1982-276 , PH TCM ¶82276 , 43 CCH TCM 1408 .

The taxpayer may deduct an expense that is deductible under these rules even if he could have been reimbursed for it and elected not to claim the reimbursement.⁸

8

Upham, Roy, (1929) 16 BTA 950 .

For the rules on property acquired in connection with charitable services, see ¶ K-3609 .

For the rule denying lobbying expenses, see ¶ K-3613 .

For a charitable deduction for certain expenses incurred in support of Native Alaskan subsistence whaling, see ¶ K-3625 .

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K-3600 Expenses Incurred in Performing Services for Charitable Organizations.

K-3607 Types of expenses held to be deductible or nondeductible when incurred in connection with providing services to a charity.

Federal Tax Coordinator 2d**¶K-3607. Types of expenses held to be deductible or nondeductible when incurred in connection with providing services to a charity.**

The following cases discuss the types of expenses held to be deductible or nondeductible under the rules described at ¶ K-3601 et seq. when incurred by a taxpayer in connection with providing services to a charity:

... *Advertising*. Unpaid volunteers for the Volunteer Income Tax Assistance (VITA) Program (which assists the poor and elderly prepare their tax returns), could deduct costs they incurred to advertise the program's availability to the public. ²⁷

... *Athletic training*. The cost of an athlete's training (skating lessons) wasn't deductible. It primarily benefited the athlete and not the organization sponsoring the athletic event for which he or she was training. ²⁸

... *Babysitting costs*. Taxpayer couldn't deduct babysitting costs incurred to enable taxpayer to provide services to a charity. Such costs are nondeductible personal expenses. ²⁹

... *Broadcasting expenses*. Taxpayer provided services to his church by acting as minister. His payments to a radio station to broadcast weekly programs were deductible. The programs were an extension of church activities. ³⁰

... *Entertainment*. Costs incurred by taxpayer to entertain individuals who might be instrumental in promoting an organization's student exchange program were deductible (except for the cost of meals consumed by taxpayer). The entertainment was incidental to taxpayer's rendition of services to the organization. ³¹ Similarly, taxpayer's unreimbursed expenses to sponsor cocktail and dinner parties to promote a charity ball were deductible (to the extent they exceeded the value of food and beverages received by him and his family at the parties). ³²

... *Foster care expenses*. Taxpayers could deduct the costs incurred in caring for a foster child in excess of the amounts they were reimbursed by the county social service agency. ³³ (For a full discussion of deductions allowable for foster care, see ¶ K-3607.6 .)

... *Home office expense*. Taxpayer's deduction of 15% of his rent on the grounds that he used part of his apartment in his capacity as charity's board member was denied. He couldn't substantiate any out-of-pocket unreimbursed expenses incurred in connection with furnishing services to the charity. ³⁴

... *Horse-related costs*. The costs of maintaining a horse were deductible by taxpayer who participated in a posse which was a civilian reserve unit of the county sheriff's office. The costs for a second horse were disallowed because only one horse was needed for posse purposes. ³⁵

... *Host family expenses*. Taxpayer was allowed to deduct the expenses related to hosting athletes participating in international amateur sports competitions sponsored by an exempt organization. Deductions were allowed for the cost of meals and transportation, but not for a share of taxpayer's rent, mortgage payments, utilities, or similar items. ³⁶ Similarly, expenses for food, clothing, shelter, etc., to maintain a Vietnamese refugee family placed in taxpayer's home temporarily through a charitable resettlement agency, ³⁷ a needy unmarried pregnant woman taken in for two months under a program run by a charity, ³⁸ and disaster victims

selected by a charitable organization, ³⁹ were deductible. (For the rules for a taxpayer maintaining a student in his home, see ¶ K-3651 et seq.)

... *Legal fees.* Legal fees incurred by taxpayer weren't deductible where the taxpayer couldn't establish they were related to any services provided to a charity or governmental agency. In one case, legal fees were incurred to force the Montana State Democratic Central Committee to abide by the one-person one-vote principle in selecting candidates for the national nominating convention. Taxpayer rendered no services to Montana or the U.S. ⁴⁰ In another case, taxpayer incurred legal fees to defend against the charge that she fraudulently induced a decedent to name a charitable trust the beneficiary of a life insurance policy. Taxpayer was attempting to clear her own name and wasn't providing services to the charity. ⁴¹

... *Meals.* For the deductibility of the cost of meals related to providing charitable services, see ¶ K-3608 .

... *Office supplies.* Unpaid volunteers for the VITA (Volunteer Income Tax Assistance) Program could deduct costs they incurred for paper, pencils, etc., used in assisting the poor and elderly prepare their tax returns. ⁴²

... *Piloting costs.* Taxpayer was allowed to deduct costs of piloting his plane in connection with volunteer activities for the Civil Air Patrol. The cost of fuel, maintenance and repairs relating to the donated services could be deducted. No deduction was allowed for the fair rental value of the plane or for depreciation. ⁴³

... *Radio operating costs.* Taxpayer was allowed to deduct the costs of operating his ham radio on behalf of the Military Affiliate Radio System (MARS), an organization of military facilities promoting interest and training in military communications. ⁴⁴

... *Religious training supplies.* A taxpayer who volunteered to train as a deacon candidate and later to serve as an ordained deacon, could deduct unreimbursed costs incurred for vestments and books required for his training. ⁴⁵

... *Sponsorship of charity sports team.* Taxpayer sponsored and coached a softball team in a tax-exempt organization's league organized for poor families. Entry fees paid directly to exempt organizations in taxpayer's capacity as sponsor were deductible since they primarily benefited the organizations. However, his expenses for uniforms, equipment, team travel, etc. were disallowed because these primarily benefited the players and not the charity. ⁴⁶

... *Telephone bills.* The cost of phone calls made incident to providing services to a charity are deductible. ⁴⁷

... *Transportation and travel.* For transportation costs, see ¶ K-3615 . For travel away from home, see ¶ K-3618 .

... *Uniforms and accessories.* The cost of uniforms required to be worn when providing services to a charity are deductible as long as the uniforms have no general utility. ⁴⁸ The cost of cleaning the uniform may also be deducted. ⁴⁹ Similarly, the cost of white accessories (shoes and gloves) worn by Red Cross volunteers exclusively with their uniforms is deductible. ⁵⁰

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Rev Rul 80-45, 1980-1 CB 54 .

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Babilonia, Constancio, (1980) TC Memo 1980-207 , PH TCM ¶80207 , 40 CCH TCM 485 , affd (1982, CA9) 50 AFTR 2d 82-5442 , 681 F2d 678 , 82-2 USTC ¶9478 .

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Rev Rul 73-597, 1973-2 CB 69 .

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K-3600 Expenses Incurred in Performing Services for Charitable Organizations.

K-3618 When are costs of travel away from home incurred in providing charitable services deductible?

Federal Tax Coordinator 2d

¶K-3618. When are costs of travel away from home incurred in providing charitable services deductible?

Under the principles discussed at ¶ K-3601 , a charitable deduction is allowed for the costs of travel, including meals and lodging expenses, incurred while away from home overnight in rendering charitable services. ⁵⁰

⁵⁰

Reg § 1.170A-1(g) ; Rev Rul 56-508, 1956-2 CB 126 ;Cartan, Henry, (1958) 30 TC 308 .

For these purposes, "while away from home" has the same meaning it has for purposes of the deduction for business travel in Code Sec. 162 (¶ L-1800 et seq.). ¹ Thus, where taxpayer flew to Atlanta for a diocese meeting related to his serving on the diocesan council for the Greek Orthodox Church, and returned to his home in Charlotte, NC later that evening, he couldn't deduct meal expenses because the trip didn't require sleep or rest. ²

¹

Reg § 1.170A-1(g) ;Mitchell, Clinton, (1964) 42 TC 953 .

²

Cavalaris, Harry T., (1996) TC Memo 1996-308 , RIA TC Memo ¶96308 , 72 CCH TCM 46 .

Where a taxpayer performs charitable services at an out-of-town location for less than a year and retains his previous home, he will be treated as away from home. However, if the services are to be performed for a year or more, his tax home will be treated as having moved to the location of the services. Thus, taxpayer will not be "away from home" in these circumstances and no deduction will be allowed for travel costs. ³

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IRS Letter Ruling 7829001 .

IRS states deductible travel costs include those for air, rail, and bus transportation; car expenses; taxi or other fares between hotel and airport (or other station); and lodging and meals. Since the costs are not "business-related," they are not subject to the limits that apply to business expenses (see ¶ L-2135 et seq.) ⁴

⁴

IRS Pub No. 526, (2006), p. 6 .

Where a per diem allowance is received in connection with charitable services, the excess of actual travel expenditures necessarily incurred over the allowance is deductible. ⁵

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Rev Rul 67-30, 1967-1 CB 9 .

For whether taxpayer's travel qualifies as related to charitable services, see ¶ K-3619 .

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