

Attention: The IRS is Revising Publication 4302, *A Charity's Guide to Car Donations*

The IRS is in the process of revising Publication 4302 dated August 2004. This version does not include the tax law changes enacted under section 884 of the American Jobs Creation Act of 2004. If an individual donated a car to your charity before January 1, 2005, or if the value or gross proceeds from the car's sale are \$500 or less, use the information in this publication. If an individual donates a car after December 31, 2004, and the value or gross proceeds from the car's sale are more than \$500, see below for an explanation of the new rules.

New Rules for Certain Car Donations Made After December 31, 2004

If the charity receives a car donation after December 31, 2004, with a value of more than \$500 or which generates gross proceeds of more than \$500, the deduction is determined in one of two ways.

1. If the car is sold without any significant intervening use or material improvement by the charity, the deduction is limited to the amount of gross proceeds received from the sale.
2. If the charity intends to make significant intervening use of or materially improve the car, the donor generally can deduct its fair market value.

Significant intervening use means that a charity must actually use the car to substantially further its regularly conducted activities, and the use must be considerable. There is no significant intervening use if the charity's use is incidental or not intended at the time of the contribution.

Material improvement includes a major repair or improvement that results in a significant increase in the car's value. Cleaning, minor repairs, and routine maintenance are not material improvements.

The charity must provide the donor with a contemporaneous written acknowledgement of the donation. Without an acknowledgement, the donor cannot deduct the contribution. The acknowledgement must include:

- the individual's name and taxpayer identification number,
- the vehicle identification number, and
 - a statement certifying that the car was sold in an arm's length transaction between unrelated parties, the gross proceeds received from the sale, and a statement that the donor may not deduct more than the gross proceeds from the sale, **or**
 - if the charity intends a significant intervening use, a statement certifying the intended significant intervening use, the duration of that use, and that the charity will not sell the car before completion of that use, **or**

- if the charity intends to make a material improvement to the car, a statement certifying the intended material improvement and that the charity will not sell the car before completion of the improvement.

The acknowledgement is considered contemporaneous if the charity furnishes it to the donor no later than 30 days after the date it sells the car, or 30 days from the date of the contribution if the charity intends to make significant intervening use of or materially improve the car. The charity also must provide the IRS with the same information it included in the acknowledgement.

A penalty applies if a charity knowingly furnishes the donor with a false or fraudulent acknowledgement, or knowingly fails to furnish an acknowledgement with the required information. In the case of an acknowledgement related to the sale of a car, the penalty is the greater of the product of the highest tax rate (currently 35%) and the sales price stated on the acknowledgement or the gross proceeds from the sale. For all other acknowledgments, the penalty is the greater of the product of the highest tax rate (currently 35%) and the claimed value of the car, or \$5,000.

For additional guidance, see Notice 2005-44 at www.irs.gov/eo.



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