



# GAO Technical Bulletin

Arizona Department of Administration ♦ General Accounting Office

Subject:	<b><i>The State's Tax Exempt Status and the Receipt of Charitable Contributions</i></b>	Issued:	04/07/11
Manual Section(s):	N/A	Effective:	04/07/11
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TO: Technical Bulletin Administrators  
All Agencies

FROM: D. Clark Partridge  
State Comptroller

## **AUTHORITY**

26 USC 170(c)(1)	Charitable contributions defined
26 USC 170(f)(8)	Charitable, etc., contributions and gifts
A.R.S. § 35-149	Depositing of private funds; contributions and suspense funds; exception.
A.R.S. § 35-302	Public money defined
A.R.S. § 41-101.01	Authority to accept and expend certain funds
A.R.S. § 41-703	Duties of director
A.R.S. § 41-722	Powers and duties relating to finance
A.R.S. § 41-732	Powers and duties relating to general accounting activities
A.R.S. § 41-776	Gifts and donations for employee recognition
A.R.S. § 41-1105	Monies for promotion of state interests and public service; procedures; uses
A.R.S. § 43-1042.A.	Itemized deductions
A.A.C. R2-5-501(C)(4)	Standards of Conduct

## **DEFINITIONS**

**Agency:** Any department, authority, board, commission, council, administration, court, registrar, office, institution, or other entity in the Executive, Legislative, or Judicial branch of Arizona State Government. In contexts that are directive in nature, the use of the term “agency” may imply that employee or those employees within the organization—such as the agency head, the CFO, etc.—responsible for carrying out the procedures under consideration.

**Apparent value:** The evident or obvious monetary or material worth of an item or services, determined upon review but without the utilization of a formal appraisal or other comparable research.

**Donee:** The recipient of a gift, contribution, donation, etc.

**Donor:** A person or an organization that makes a gift, contribution, donation, etc.

**Form GAO-801:** A form, available on the GAO Website, entitled, “Declaration of the State Comptroller,” which advises potential donors of the possible tax deductibility of their contributions to the State.

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Form GAO-802: A form, available on the GAO Website, entitled “Donation Acknowledgment and Receipt,” which donors may use in specifying their preference for the use of funds donated to the State of Arizona or its agencies.

GAO: General Accounting Office; a division of the Arizona Department of Administration.

Gross donation: The amount of a donation before it is reduced by the value of anything received by the donor in return for the donation. If the donation is in the form of cash, its dollar amount, otherwise its fair market value (actual, if ascertainable, otherwise estimated) at the time of the donation (cf., net donative value).

Internal Revenue Code: The main body of domestic statutory tax law of the United States of America.

Net donative value: The value of a donation less the worth of anything the donor receives in return. For example, if a donor gives the State \$100 and receives in return a ticket to a sporting event worth \$20, the net donative value of the gift is \$80.

Political subdivision: An identifiably separate governmental organization that forms a part of a more extensive governmental organization. While quasi-independent and largely self-administered, a political subdivision remains subject to the laws of the more extensive governmental organization of which it constitutes a part.

State Comptroller: A chief financial officer of the State of Arizona and principal executive of the GAO.

**INTRODUCTION**

From time to time, individuals or organizations express an interest to donate money, goods or services to the State of Arizona, one of its agencies or one of the State’s political subdivisions. Often in such circumstances the donee is requested to present proof of its tax exempt status so that the donor may have additional support in claiming an income tax deduction. This technical bulletin provides such support.

This technical bulletin also promulgates a form that may be used to acknowledge donations and establishes certain requirements for the acceptance and receipting of donations.

Soon after the publication of Technical Bulletin No. 11-02, bearing the same title as this publication, the Internal Revenue Service promulgated additional guidance on the topic of charitable contributions made to governmental organizations. This technical bulletin updates and supersedes TB 11-02 by including that guidance and describing those circumstances under which the issuance of a receipt or acknowledgement of donations to the State is mandatory. The

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directives of this policy are in some circumstances stricter than those imposed by Federal guidelines.

**POLICIES & PROCEDURES**

1. Donations made to the State of Arizona, its agencies and political subdivisions, as established by the laws cited below, qualify as deductions for Federal and State income tax purposes:

a. Section 170(c)(1) of the Internal Revenue Code, when defining charitable contributions includes contributions to

*“A State, a possession of the United States, or any political subdivision of any of the foregoing...if such gift is made for exclusively public purposes.”*

b. A.R.S. § 43-1042.A. permits taxpayers to

*“[T]ake the amount of itemized deductions allowable for the taxable year pursuant to...” the relevant sections of the Internal Revenue Code.*

2. In the event a potential donor wishes to validate the fact that donations made for public purposes to the State of Arizona, its agencies and political subdivisions qualify as a deduction in determining the donor’s taxable income, the donor should be presented with a copy of the GAO-801, “Declaration of the State Comptroller.”

3. To aid and better document compliance with Federal and State laws requiring that, in order to qualify as a deduction for the purpose of computing the donor’s taxable income, donations be “for exclusively public purposes,” agencies:

a. Must, whenever practicable, document the receipt of contributions and provide a copy of the documentation to the donor when:

i. The contribution is in the form of cash and the amount of the contribution equals or exceeds one hundred dollars (\$100), or

ii. The contribution takes the form of property other than cash (e.g., land, merchandise, services, etc.) and the apparent value of the contribution equals or exceeds one hundred dollars (\$100), or

iii. Any goods or services, irrespective of value, are provided to the donor in consideration of the contribution, or

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- iv. The donor requests a receipt or acknowledgement of the contribution at the time the contribution is made.
  - b. May document the receipt of contributions under any set of circumstances not set forth in paragraph 3.a. above.
4. Documentation of receipt of a donation is to include:
- a. The type of donation (e.g., cash, land, automobile (make, model and vehicle identification number), etc.).
    - i. The amount of cash received, if the donation was made in cash, and/or
    - ii. A description of the property received (e.g. in the case of an automobile, its make, model and vehicle identification number), but not the value of that property.
  - b. The value of any goods or services, if any, provided to the donor in consideration for the contribution.
  - c. The purpose for which the donation was made or how the donor wishes the State to use the donation.
  - d. Any terms, conditions or restrictions to which the donation is subject.
  - e. The name, signature and address of the donor or, if applicable, the donor's agent.
  - f. The name, signature, title and agency of the employee receiving the donation on behalf of the State.
  - g. The date of the donation.
5. A donor of goods and services other than cash shall not be provided, under any circumstances, by verbal or written communication, an appraisal, assessment, estimate or other valuation of the donor's donation.
6. Agencies may, but are not required to, adopt the use of the Form GAO-802, "Donation Acknowledgement and Receipt," with respect to all donations tendered and accepted.
- a. Agencies may, without additional GAO approval, use their own forms to document the receipt of charitable contributions.
  - b. Agencies may, without additional GAO approval, modify the Form GAO-802 to suit their particular needs.

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- c. If an agency uses its own form or modifies the Form GAO-802, such form must contain all of elements of and collect all of the information collected by the Form GAO-802.
- 7. An agency should not accept a donation when or if:
  - a. The agency does not have explicit statutory authority to accept donations.
    - i. Such authority, if it exists, is to be found in an agency’s enabling statutes, which are contained in the agency-specific sections of the Arizona Revised Statutes.
    - ii. An agency’s “explicit statutory authority” will be expressed in terms such as, but not necessarily limited to:
      - 1) “Acquire through donation or bequest...”
      - 2) “Accept gifts...”
      - 3) “Accept and expend gifts and legacies...”
  - b. The donation or the intent of the donation is not for a valid public purpose.
  - c. The donation is for a purpose or is subject to conditions or restriction that is inconsistent with the agency’s statutory authority and mandate.
  - d. Accepting the donation would violate any Federal or State law, rule or policy or would be in contravention of the terms of any relevant grant or contract.
  - e. Accepting the donation constitutes or could be interpreted as constituting a conflict of interest.
  - f. Taking into account all administrative and collateral costs, the value of the donation is not significantly greater than the cost of administering and accounting for the donation or complying with terms, conditions or restrictions that apply to the donation.
- 8. Nothing in this technical bulletin confers or should be construed as conferring upon an agency the authority to accept donations.
- 9. Agencies without explicit statutory authority to accept donations should, if offered a donation, contact the GAO for further assistance.
- 10. No solicitation of funds or related activity shall violate the Standard of Conduct imposed by A.A.C. R2-5-501(C)(4).

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11. Though originating from private sources, all monies accepted as donations or the proceeds from the sale of non-monetary donations are public money in the context of A.R.S. § 35-302 and are, hence, subject to State laws, rules and policies.
12. All non-monetary donations received are, unless and until converted to cash, subject to the stewardship and internal control procedures most appropriate to the character of the donation.
13. With respect to any donation, donors are to be advised that only the net donative value of a contribution may potentially qualify as a charitable contribution.
14. Donors and potential donors to the State of Arizona are to consult their own tax advisors concerning their individual tax situations. Nothing in this technical bulletin is to be construed as giving legal or tax advice.

**ON-LINE AVAILABILITY**

Copies of all Technical Bulletins and many GAO Forms are available for viewing and downloading from the General Accounting Office Website located at:

<http://www.gao.az.gov>

**AREAS IMPACTED**

All State agencies.

**CONTACTS**

If you have any questions concerning this Technical Bulletin, please contact your GAO Liaison. You may also e-mail questions or comments concerning State policy and procedure to us at:

[gaopolicy@azdoa.gov](mailto:gaopolicy@azdoa.gov)