

**TaxNewsFlash**  
EXEMPT ORGANIZATIONS

## Taxable Gifts? IRS Examining Contributions Made to Section 501(c)(4) Organizations

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The IRS Small Business/Self-Employed Division (in a redacted letter, dated February 16, 2011, and recently made publicly available) notified an individual taxpayer that the IRS had opened an examination of the taxpayer's 2008 gift tax return for failure to report contributions made to a section 501(c)(4) organization. For an electronic version of the letter: [IRS SB/SE Letter \(2011\)](#)

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Separately, the IRS issued a statement to numerous media outlets confirming that the IRS Estate and Gift Tax Unit had initiated examinations of five donors who had not filed gift tax returns to determine whether gift tax returns were to have been filed. The IRS stated, however, that these examinations were not part of a broader effort looking at donations to section 501(c)(4) organizations.

### KPMG Observation

Observers note that with the 2012 election season gaining momentum, publicity of these IRS examinations may affect giving to section 501(c)(4) organizations engaged in political campaign activity. Also, it has been observed that in 1982, the IRS issued Rev. Rul. 82-216 asserting its position that gratuitous transfers are subject to the gift tax—absent any specific statute to the contrary (*e.g.*, contributions to organizations described in section 501(c)(3) or political organizations described in section 527)—even if motivated by the desire to advance the donor's own social, political, or charitable goals.

For more information, contact Rick Speizman, National Partner-In-Charge, KPMG's Exempt Organizations Tax Practice (ExoTax), at (202) 533-3084 or [rspeizma@kpmg.com](mailto:rspeizma@kpmg.com)

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DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
Washington, D.C. 20224

SMALL BUSINESS / SELF-EMPLOYED DIVISION

February 16, 2011  
SB/SE Estate & Gift Tax  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

Re: [REDACTED] 2008 Gift

Dear [REDACTED]:

Your 2008 gift tax return (Form 709) has been assigned to me for examination. The Internal Revenue Service has received information that you donated cash to [REDACTED], a IRC Section 501(c)(4) organization. Donations to 501(c)(4) organizations are taxable gifts and your contribution in 2008 should have been reported on your 2008 Federal Gift Tax Return (Form 709). As part of this examination please provide the following information by March 16, 2011:


1. Please provide a list of all donations from 2008 (include the donee, the amount donated, and the date of donation).
2. State whether the donation(s) consisted of community property.
3. For each donation, state whether the donation was included on your 2008 gift tax return, and if the donation was not included, state your reason for exclusion.

The Internal Revenue Service attempts to close examinations as expeditiously as possible. As part of that process, my goal is to conclude this examination by November 2011. If this timeframe does not work for you we can discuss a more agreeable time.

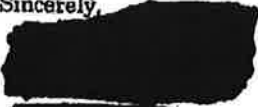


As part of the examination (as authorized under IRC § 7602), I may need to contact third parties for additional information. Please find enclosed a copy of IRS Publication 1, *Your Rights as a Taxpayer*, and Notice 609, *Privacy Act and Paperwork Reduction Notice*. These publications will help you understand your rights in dealing with the IRS.

Also enclosed is a copy of Form 2848, *Power of Attorney and Declaration of Representative*. You should complete the Form 2848 for any representative who is not already authorized to act for you and receive confidential information regarding this gift tax return.

After I analyze the above-referenced information, I will likely request additional documents or a conference with you or your representative to discuss the issues. I look

  
forward to your response. If you have any questions or concerns, please contact me at the address or phone number referenced above.

Sincerely,

  
  
Attorney, Estate & Gift Tax  
I.D. # 

Enclosures: Form 2848 & Instructions  
Publication 1  
Notice 609