



Charitable Contributions in Lieu of Compensation/Payment for Services

POLICY STATEMENT

Periodically a question is raised by faculty, staff and visiting speakers (“speakers”): “Can I donate my speaking fee to a charity and avoid the tax on the income that I would have received?” In most cases, this is not permitted under current IRS regulations. The IRS believes the speaker has “constructively received” the income, because in the absence of any pre-arrangement made with the sponsor, control over the income was exercised by the speaker. Therefore, even if the donation is made directly to a charity on the speaker’s behalf after the speaking engagement, this income is taxable to the speaker who would then be eligible for a charitable contribution deduction. However, there is an opportunity for the speaker to arrange a donation to the University if the following steps are followed:

1. Speakers can avoid the “constructive receipt” of income issue if there is an agreement in place prior to the services being rendered, that services will be donated directly to the University in lieu of compensation. Contemporaneous written documentation is important; see [Waiver of Payment form](#). However, if this request by the speaker occurs after the services have been provided, the speaker must report the fee as income.
2. As indicated above, if properly planned, the speaker’s foregone income could be donated to the University. The payment may not be made to another charitable organization other than the University, since this would then resurrect the “constructive receipt” issue. The reason that the contribution being retained by the University doesn’t fall under the “constructive receipt” rule is due to the speaker not receiving any income nor exercising any control over the donated funds.
3. In the case where a donation is received as a result of a pre-arranged agreement, the donation to the University should follow the normal charitable contribution process. The University must be able to show that any donation was awarded as a result of the established University processes and not directly controlled by the speaker. A key element in keeping the speaker distinct from “constructive receipt” would be his/her detachment from the ultimate decision process. To the extent that these funds (the foregone income) are controlled by the University (and there is related detachment on the part of the speaker as donor), and the University is allowed to distribute the funds donated in accordance with its general policies and for its exempt purposes, there is no income to the speaker. See also [Charitable Contributions Directed](#) for further guidance.