

## Determining the Date of a Charitable Gift

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The date a charitable gift is “made” can be critical to the timing and valuation of the donor’s charitable contribution deduction. In general, a gift is made when it is delivered to the charity. In the simplest case, when a donor hands a check directly to the charity’s representative, that’s delivery and hence that’s the date of the gift. It does not matter when the charity deposits the check or when the check clears – although the rule assumes the check does clear “in due course.” The concept is simple, but there are many special rules that have developed to deal with special situations.

For example, what if the donor mails the check? The U.S. Post Office has a legal obligation to deliver the mail to the addressee, and the sender has no right to get it back once put under the control of the Post Office. So, in that case, “delivery” occurs when the envelope is deposited in the mail, not on the post-mark date or date the envelope arrives at the charity. Unlike the Post Office, private delivery services such as FedEx and couriers are usually considered to be acting as agents of the sender. For that reason, a check sent using FedEx is not deemed “delivered” until the check actually arrives at the charity.

### For gifts of stock, the rules are somewhat more complicated:

| Situation:   | Delivery Date:   |
|--|--|
| Donor endorses stock certificate on the back and hands it to charity’s representative.   | Date stock certificate is received by charity representative.                |
| Donor hands the stock certificate to the charity, together with a signed stock power.  | Date documents are received by the charity.                                  |
| No certificate is delivered; donor notifies corporation that issued the stock that he/she wants ownership transferred to charity.              | Date corporate records of issuer are changed to reflect change in ownership. |
| No certificate is delivered; shares held by broker in “street name”; donor notifies broker that he/she wants ownership transferred to charity. | Date broker’s records are changed to reflect change in ownership.            |
| Donor mails stock certificate with endorsement or stock power to charity.  | Date documents are placed in the mail.                                       |
| Donor sends stock certificate with endorsement or stock power by FedEx.  | Date documents arrive at the charity.  |

Note that the date on which the donor agrees to transfer stock is not relevant – the gift is not complete until either the stock certificate is delivered, or until ownership is changed in either the corporation’s or the broker’s records.

In many cases, the charity may not know the date on which the operative action occurred, such as the date on which the donor placed the check in the mail, or the date the corporate issuer changed its ownership records. The charity is not required to state when *the donor made the gift*; it is required to state the date *it received the gift*. Our advice is that the charity provide, in its receipt to the donor, only date(s) of which it has direct knowledge. So, for example, the charity could state in the receipt that “your stock gift was received in our brokerage account on [date]” or “your check was received in our offices on [date].” If it would be helpful to the donor, a charity could also recite additional dates as to which it has actual knowledge, such as the date written on the check or the postmark date on the envelope. However, the charity should not state any dates of which it is not certain, and should not advise the donor as to the “date of gift” for deduction or valuation purposes.

Finally, note that the date and valuation of the gift for purposes of the donor’s charitable deduction may be different from the date and valuation of the gift for purposes of the charity’s books and reporting.