

Charitable Contributions of Volunteers' Unreimbursed Expenses to Animal Welfare/Rescue Organizations

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The Cat Lady of San Francisco Beats the IRS

When Jan Van Dusen appeared before a U.S. Tax Court judge and a team of Internal Revenue Service lawyers, there was more at stake than her own tax deductions of \$12,068 she had spent taking care of 70 stray cats for the local animal rescue organization. Also hanging in the balance were the millions of dollars in annual tax deductions for charitable unreimbursed expenses that may be claimed by animal-rescue volunteers across the nation, as well as the treatment of volunteers' unreimbursed expenses for other IRS recognized charities.

The decision of the Tax Court allowed her to take a charitable deduction for expenses she incurred while taking care of the cats in her home for an IRS-approved charity, Fix Our Ferals. Fix Our Ferals captured stray homeless cats, neutered them, and placed them in volunteers' homes for foster care, pending adoption by a family. Among the \$12,068 in expenses she deducted for her foster cats: food, veterinarian bills, litter, a portion of utility bills, and other items such as paper towels and garbage bags.

The decision, in *Van Dusen v. Commissioner*, 136 TC 25, filed June 2, 2011, provides clear guidance under which volunteers of animal-rescue groups like the ASPCA and Humane Society of the U.S. may deduct their unreimbursed expenses that further the groups' missions, such as fostering stray animals.

It also clarifies rules for anybody deducting unreimbursed charitable expenses, including expenses of \$250 or more, especially if they involve use of a home, incurred by volunteers for charitable organizations. It affects donors to charities and religious groups, but not political organizations.

Previously, some accountants had advised clients taking such deductions to be prepared for an IRS challenge. Now, "if you host and pay for a catered fund-raiser (for an IRS-recognized charity) in your home, we know what to do," said Laura Peebles, a director with Deloitte Tax in Washington. "Specifically, the taxpayer must keep records of

pertinent expenses, and the charity must write a letter acknowledging the gift," according to a recent Wall Street Journal article.

Ms. Van Dusen, 59 years old, is a former family-law attorney living in Oakland, Calif., who lives alone in a 1,500-square-foot home in a modest neighborhood, with seven cats of her own. As a volunteer for Fix Our Ferals, whose mission is to trap stray cats, neuter them and care for them until they can be adopted by owners or released, Ms. Van Dusen provided foster care for about 70 feral cats. Some neighbors approved of her activities, while others didn't. One, she suspects, threw a chunk of concrete through her window.

Ms. Van Dusen tried to take the deductions on her 2004 tax return, but the IRS considered them nondeductible personal expenses, disallowed her deduction of the expenses, and "wouldn't budge," said Ms. Van Dusen.

In 2009, the case got to the U.S. Tax Court, a national venue for tax disputes of all sizes. Taxpayers can have a US Tax Court Judge determine a tax dispute without having to pay the tax first if they have filed a timely appeal of the IRS proposed adjustments to their tax return. Tax Court decisions set precedents, and taxpayers may argue their own cases pro se, although many taxpayers choose to be represented by attorneys who have been admitted to practice before the US Tax Court.

Ms. Van Dusen knew very little about tax law before the trial, but represented herself because she couldn't afford a lawyer. "If it came down to helping a cat with a medical problem or saving for retirement, I would spend on the cat's care—as will a lot of rescue workers," she said.

She said her pretrial encounters with IRS agents were "intimidating," and she felt that in court the IRS lawyers "tried to portray me as a crazy cat lady." She said she felt more comfortable with Judge Richard Morrison, who showed great patience: "He had to go through all these receipts from Costco and ask questions like, 'What were these paper towels used for?'"

She was also heartened when a friend told her court workers were sympathetic, saying, "Why is the IRS wasting taxpayer dollars to prosecute a Cat Lady?"

In his decision, Judge Morrison agreed with many of her arguments. He allowed her to deduct most of some bills and half of others for care of the feral cats, ruling they were unreimbursed expenses incurred to help a charitable group in its mission. He curtailed the total deduction somewhat because she didn't have a valid letter from the charity acknowledging her volunteer work for expenses of \$250 or more. .

The Humane Society says it has "tens of thousands" of members out of 11 million nationwide who do volunteer work with local shelters and rescue groups. It estimates that many of these volunteers spend up to \$2,000 of their own money a year to help animals in need, with some spending up to \$15,000 a year when all expenses are counted.

"This is the first time the court has addressed these expenses," said Jonathan Lovvorn, chief counsel of the Humane Society. "Now we want to get the word out."

Summary of Charitable contribution substantiation rules enacted 2009: limitations, receipts, records, acknowledgements and appraisals requirements.

Charitable contributions substantiation limits:

Contribution of money of less than \$250 requires cancelled check, receipt, or other written documentation showing donee name, amount and date. Any cash, check or monetary contribution must have a bank record or receipt, letter or other written document showing donee name, amount and date.

Noncash contributions for less than \$250 requires receipt or other reliable written record showing donee name, location and date, and description of donated property.

Contributions of \$250 or more requires contemporaneous written acknowledgement from donee showing monetary amount or property description with estimate of fair value, or filing of 1099C by donee. "Contemporaneous" means the acknowledgement is obtained by the due date or extended due date of the tax return.

Non-cash donations of property greater than \$500 must include on return description of property with other required information (date acquired, cost, date donated, method of determining value on Section A of Form 8263). All similar property items contributed to one or more donees are aggregated to determine \$500 limit.

Donations of clothing and household goods: Must be in good used condition or better.

Vehicle donations: Must attach receipt from charity for any car, truck, boat or aircraft valued at more than \$500 and attach donee's Form 1098C or similar contemporaneous writing showing donor and donee name, VIN, date, description, and value. If charity sells vehicle, taxpayer must attach donee's acknowledgement of sale and amount to claim more than \$500.

Noncash contributions greater than \$5,000 require a qualified appraisal and attachment to return of required appraisal information.

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