



## Charitable Contributions In Lieu Of Payment For Services

On occasion a speaker at the University may request that the University donate the speaking fee to a charity and therefore avoid the tax on the income that would have been received as the speaker fee.

Under current IRS regulations, this is not allowable in most cases.

Per IRS guidelines, the speaker has “constructively received” the income, because 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 amount is taxable to the speaker as income, and the speaker may then be eligible for a charitable contribution deduction.

The opportunity does exist, however, for the speaker to arrange a donation to the University if the following criteria are met:

- If there is an agreement in place prior to the services being rendered, then the speaker can avoid the “constructive receipt” of income issue and the services are donated directly to the University in lieu of compensation. The Compensation Agreement-Waiver of Payment form must be completed prior to the speaker performing any services. Please note, should the request by the speaker occur after the services have been rendered, the speaker fee must be reported as income.
- Payment of the speaker fee cannot be made to another charitable organization other than the University because this would reinstate the “constructive receipt” of income issue explained above. The constructive receipt rule does not apply to the contribution being retained by the University, due to the fact the speaker did not receive any income *nor* exercise any control over the donated funds.
- If a prearranged agreement is made and, as a result, a donation is received by the University, use of the donation should follow the normal charitable contribution process as directed by the University’s Development Office. The University must control how the funds are used following general University processes and policies. The speaker may not have any control over or role in the decision making process for how the forgone income is used.

This IRS regulation also applies to St. Louis University employees who are paid an honorarium and want to donate the payment to the University.