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‘Don’t Pay Me, Pay My Charity’ Worked For Trump, Will IRS Agree?



President Donald Trump is not the only one to use the “don’t pay me, pay my charity” idea. His \$16 million settlement with [Paramount](#) over “60 Minutes” involved his claims that the network’s edits favored then Vice President Kamala Harris. The settlement went to Trump’s legal fees and to his presidential library. He used similar techniques in his \$15 million settlement with ABC News, a [\\$25 Million deal with Meta](#), a \$10 million from Twitter/X. The latest is his \$24.5 million settlement with YouTube.

Tax on Lawsuits and Legal Fees

The widespread assumption is that all of his techniques avoids taxes, but is that so clear? In some cases, a plaintiff’s request to have settlement funds paid to charity are viewed by the IRS as a payment first to the plaintiff, and then a contribution by him to charity. That may be subject to percentage income limits, which in some cases means that the whole charitable contribution deduction may not be available in the year of the settlement. If the settlement pays legal bills that Trump would otherwise owe, the IRS could call that taxable income.

When someone discharges your liability, the IRS often views that as income, even if you never handle the cash. Similarly, if Trump receives a reimbursement out of the Paramount settlement for legal fees that he has already paid, is that income? It depends on whether Trump has deducted the legal fees on his taxes that are later reimbursed. If he has deducted the fees, the IRS usually requires reimbursed amounts to be treated as income. The IRS calls it the tax benefit rule. Since you got a tax benefit from a deduction, if you are later reimbursed you can be required to take the reimbursement into income.

Partial Payments To Charity

Many settlements involving payments to charity involve only a small part of a settlement, something like this. Sally has negotiated a sexual harassment settlement with her former employer, and part of the deal is that 10% of the funds will go to a designated charity. Will Sally be taxed on that? Some defendants would agree not to issue a Form 1099 to Sally for that 10%. But in my experience, most companies will treat that payment as made to Sally, even if the payment goes directly to the charity.

This is because Sally is viewed as the one requesting and directing the payment. Sally can still claim a charitable contribution deduction on her tax return, even if she does not write the check to the charity. There can be some difficult tax problems in the case of large payments to charity, such as 50% or 100% of the funds going to charity. In that case, extra caution is needed before the deal is signed. There are annual limits on charitable contributions, and since the IRS may view the settlement as paid to the plaintiff who then is deemed to make the donation, you don't want to have trouble with the size of your charitable contribution deduction.

Paying Friends or Relatives

Directing settlement money to charity can work in some cases, but even that is not foolproof, as noted above. And having the settlement agreement direct the money to someone else — say a friend or relative — usually does not avoid taxes to the plaintiff either. The IRS taxes the person who had a legal right to payment.