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Trump Donates Presidential Pay, Reminding Us IRS Rules Apply To Everyone

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Even before he was elected, President Trump suggested that he would not accept a presidential salary, [saying](#), “The first thing I’m going to do is tell you that if I’m elected president, I’m accepting no salary, OK? That’s no big deal for me.” Then, post-election, President Elect Donald Trump said he would [turn down](#) his \$400,000 salary: “Well, I’ve never commented on this, but the answer is no. I think I have to by law take \$1, so I’ll take \$1 a year. But it’s a — I don’t even know what it is.” CBS news anchor Lesley Stahl reminded him that it was \$400,000 per year, he replied, “No, I’m not gonna take the salary. I’m not taking it.”

Now he has done it, at least in part. It may not be legally possible to actually forgo Presidential pay. But donations are another matter. White House press secretary Sean Spicer announced that the President [donated his first three months of salary to the National Park Service](#): “The president has spoken with counsel and made the decision to donate his first-quarter salary to a government entity,” Mr. Spicer said. Mr. Spicer then handed a check for \$78,333.32 for the National Park Service to Interior Secretary Ryan Zinke. JFK donated his salary, as did Herbert Hoover. But the practice is still unusual, and can be messier from a tax viewpoint than you might think.

The circumstances in which you can turn down pay to which you are entitled—and have the IRS respect it—are pretty few. Two tax doctrines, constructive receipt, and the assignment of income doctrine, can stand in the way. Usually, you end up taxed on the money anyway, even if you immediately give the money to someone else. And there are various limitations that can make charitable giving not simple math. In some cases, you can end up giving all the money away, but unable to deduct it all in that year. You can carryover the unused amount to next year, but in the meantime, you are paying tax on money you didn’t keep.

That may be one reason why many charitable contributions are made at year-end. At that point, people generally have a much better idea what their overall gross and adjusted gross income might be. Of course, that is also the time of year when you may be hunting for tax deductions. The real home run, of course, would be if you could turn down pay and have it go *direct* to your chosen charity, without having you first take it into income, and then deduct it.

But that may not be possible here. President Obama did it with the money from his Nobel Peace Prize. He took advantage of a special IRS rule that allows it in such cases. If you win a Nobel and are handed \$1.4 million, you can turn around and give it to charity. Unfortunately, though, the tax consequences of regifting can be problematic. You get stuck with all the income and have limited deductions. That's why President Obama arranged to have his \$1.4 million Nobel money go *direct* to charity. If he had collected his prize money and *then* donated it to a qualified charity, he wouldn't necessarily be able to write off the entire \$1.4 million.

There is no suggestion that this rule could work with wages, not even wages of a President. And that means President Trump's situation is less clear, even if those dollars are small for a billionaire. There are analogs, such as where a savvy CEO might say they are working for \$1 dollar. Volunteering to take a nominal \$1 salary can be tax savvy. After all, stock growth and capital gain is taxed much more favorably. At times, [Mark Zuckerberg](#) has had one of Facebook's lowest salaries, but the tax-smart play is on the increase in the stock value. Rather than drawing large amounts of cash, taking a big equity stake and virtually no cash looks egalitarian. It also makes the CEO focused on growing the company's stock.

One dollar pay suggests that a CEO is really looking out for shareholders. That's one reason it's become popular. Google's [Sergey Brin](#) and [Larry Page](#) are examples. Compensation tied to stock value is attractive to both sides, a good deal for both company and exec. In the past, even some elected officials have taken the \$1 challenge, including former Mayor Bloomberg, former Governor Arnold Schwarzenegger, and former Governor Mitt Romney.

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