

Safe Harbor Financial Planning

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 **SAFE HARBOR**
FINANCIAL PLANNING &
INVESTMENT ADVISORY, LLC

A REGISTERED INVESTMENT ADVISORY FIRM

Deductions: Charitable Gifts

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What is a charitable gift?

A charitable gift is a contribution of cash or property to, or for the use of, a qualified charity. A gift is "for the use of" an organization when it's held in a legally enforceable trust for the qualified organization or in a similar legal arrangement. Americans give billions of dollars to charities each year, partly because charitable donations are tax deductible. To receive a tax deduction for your gift, you must itemize your deductions and make the gift to a qualified organization, not to a specific person. For example, a gift that's for the benefit of an individual flood victim isn't deductible, but a gift to a qualified organization that helps flood victims generally is deductible.

Tip: For tax years prior to 2015, persons aged 70½ and older can exclude from their gross income qualified charitable distributions of up to \$100,000 a year from a traditional IRA or a Roth IRA. Distributions must be made directly from the IRA to the charity, and all the usual requirements for charitable deductions must be met.

Tip: To deduct a charitable contribution, you must file Form 1040 and itemize deductions on Schedule A.

What is a qualified organization?

In general

Not all contributions to tax-exempt organizations are tax-deductible. Instead, the contribution must be to a qualified organization. Churches, synagogues, temples, mosques, and governments automatically get qualified organization status. Other organizations must apply to the IRS, which provides data on eligible organizations on its website (www.irs.gov) through its Exempt Organizations Select Check tool. The list maintained by the IRS, however, is not all-inclusive (i.e., there are some qualified organizations for which the deductions are tax deductible that aren't yet on the list). If you want to donate to a charity but you're not sure if it's a qualified organization, ask the charity or the IRS.

Five specific types of qualified organizations:

1. Any community chest, corporation, trust, fund, or foundation organized or created in or under the laws of the United States, any state, the District of Columbia, or any U.S. possession and operated solely for religious, charitable, educational, scientific, or literary purposes or for the prevention of cruelty to children or animals. For example, organizations such as the Red Cross, the United Way, and the Salvation Army fall within this category, as does the National Park Foundation.
2. War veterans' organizations, including posts, auxiliaries, trusts, or foundations organized in the United States or its possessions.
3. Domestic fraternal societies, orders, and associations operating under the lodge system--if your contribution is to be used solely for charitable, religious, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals.
4. Certain nonprofit cemetery companies or corporations--if your contribution is not to be used for the care of a specific lot or mausoleum crypt.
5. The United States or any state, the District of Columbia, a U.S. possession, a political subdivision of a state or U.S. possession, or an Indian tribal government or any of its subdivisions that performs a substantial government function--if the contribution is to be used solely for public purposes.

Charitable contributions in general

Generally, you can deduct a contribution of money or property that you make to, or for the use of, a qualified organization. The amount that you can deduct in any given year is limited to a specific percentage of your adjusted gross income (AGI), as discussed in the following sections. If you receive a benefit as a result of making a contribution, you can deduct only the amount of your contribution that exceeds the value of the benefit received.

You may deduct your entire payment to a charity if you receive only a token item in return and the charity correctly tells you (1) that the item's value isn't substantial, and (2) that you can deduct your full payment.

If you make a contribution to a college or university and as a result receive the right to buy tickets to an athletic event in the facility's athletic stadium, you can deduct 80 percent of your payment as a charitable contribution.

Limits based on adjusted gross income (AGI)

Deductions limited to 50 percent of adjusted gross income (AGI)

Your deduction for charitable contributions cannot amount to more than 50 percent of your AGI for the year, and lower percentage limits can apply, depending on the type of property that you give and the type of organization to which you contribute. The 50 percent limit applies to gifts you make to qualified organizations that are public charities or private operating foundations, such as churches, certain educational organizations, hospitals, and certain medical research organizations associated with the hospitals. Most organizations can tell you whether or not they are 50 percent limit organizations.

Deductions limited to 30 percent of adjusted gross income (AGI)

- Your deduction for charitable contributions made to organizations that are not 50 percent limit organizations (see above) cannot be more than 30 percent of your AGI for the year. Organizations that are not considered 50 percent limit organizations include veterans' organizations, fraternal societies, nonprofit cemeteries, and certain private nonoperating foundations.
- In addition, if you make a charitable contribution for the use of any organization (e.g., you make a gift in trust), as compared with an outright gift, your deduction is limited to 30 percent of your AGI.
- Capital gain property (property that would have resulted in realized long-term capital gains if sold) given to a 50 percent limit organization is also subject to the 30 percent limit.

Caution: *The 30 percent limit does not apply when you choose to reduce the fair market value (FMV) of the property by the amount that represents the long-term gain that would result if you sold the property. In this case, the 50 percent limit applies.*

Deductions limited to 20 percent of adjusted gross income

All gifts of capital gain property, to or for the use of organizations that are not 50 percent limit organizations, are limited to 20 percent of your AGI.

Five-year carryover of unused charitable deductions

You can carry over your contributions that you aren't able to deduct in the current year because they exceed your AGI limits. You can deduct this carryover amount until it is used up but not beyond five years. The same AGI percentage limitations that apply in the year the deduction originated will apply in the year(s) to which it is carried. So, for example, contributions subject to a 20 percent AGI limitation this year will be subject to a 20 percent AGI limitation if carried forward to a future year.

Caution: *Special rules apply if you use the standard deduction (rather than itemizing) in any of the years in which you carry forward unused charitable deductions. Essentially, the carryover amount must be reduced by the amount that you would have been able to deduct had you itemized.*

Example(s): *Jack's AGI for the current tax year is \$50,000. In August of the current tax year, he gave his church \$2,000 in cash (a 50 percent charity). He also gave his church land with an FMV of \$30,000 and a basis of \$22,000. The land was held for investment for more than 12 months. The donation of the land is subject to the special 30 percent limitation. He also gave \$5,000 of capital gain property to a private foundation that is a non-50 percent charity. The \$5,000 contribution is subject to the 20 percent limitation.*

Example(s): *Jack's charitable contribution deduction is computed as follows: The total charitable contribution deduction can't exceed \$25,000 (50 percent of \$50,000). The cash contribution is considered first, since Jack made it to a 50 percent charity. Other charitable contributions are considered in the following order, not to exceed 50 percent of AGI in the aggregate:*

1. Contributions of noncapital gain property to non-50 percent charities, to the extent of the lesser of: (a) 30 percent of AGI, or (b) 50 percent of AGI reduced by all contributions to 50 percent charities.
2. Contributions of capital gain property to 50 percent charities, up to 30 percent of AGI.
3. Contributions of capital gain property to non-50 percent charities, to the extent of the lesser of: (a) 20 percent of AGI, or (b) 30 percent of AGI less contributions of capital gain property to 50 percent charities.

Example(s): Jack's donation of land to the church is subject to the special 30 percent of AGI limit described in item 2. It is included at FMV (\$30,000) in applying the 30 percent limitation. Therefore, Jack can deduct a maximum of \$15,000 (30 percent of \$50,000 AGI) for the donation of the land. The unused special 30 percent contribution (\$15,000) may be carried over to later years. The \$5,000 contribution to the private foundation is nondeductible because of the limitation described in item 3 [(30 percent of \$50,000 AGI) - \$30,000 contribution of land = 0] and carries over to the following tax year.

Example(s): Therefore, Jack's current tax year deduction is limited to \$17,000 (\$2,000 + \$15,000). The aggregate 50 percent limitation wasn't reached. Both carryovers continue to be subject to the special 30 percent and 20 percent limits, respectively.

What if you give property instead of cash?

You generally can deduct the fair market value (FMV) of the property at the time you give it to the charity. FMV is the price a willing seller receives from a willing buyer for the property, with both knowing relevant facts about the property. If the property has gone up in value since you purchased it, you may have to make an adjustment to the amount of your deduction (generally this is true if, had you sold the property, you would have recognized ordinary income or short-term capital gain--in such a case, the amount you can deduct may be limited to FMV less the amount that would have been ordinary income or short-term capital gain if you had sold the property). If the property has decreased in value, you may deduct its FMV. IRS Publication 561 (Determining the Value of Donated Property) can help you to determine FMV.

Caution: An accurate assessment is important because you may be liable for a special penalty if you overstate the value of donated property and underpay your tax by more than \$5,000 due to the overstatement.

In general, you cannot deduct a charitable contribution of less than your entire interest in property. That normally includes a contribution of the right to use your property (since that represents less than your entire interest in the property). There are exceptions to the partial interest rule, however, including the donation of a remainder interest in your home.

If you contribute property that's subject to a debt or mortgage, for purposes of calculating your deduction you generally have to reduce the FMV of the property by any allowable deduction for interest you have paid (or will pay) that is attributable to any period after the contribution. (This prevents you from taking the same amount as both an interest deduction and a charitable deduction.)

Special rules apply to the contribution of certain types of property, including clothing and household items, as well as cars, boats, and airplanes. For example, you cannot take a deduction for clothing or household items donated unless the clothing or household items are in good used condition or better. However, an exception exists if you claim more than \$500 for an individual item and include a qualified appraisal with your return.

If you donate a patent or other intellectual property, your deduction is limited to the basis of the property or the FMV of the property, whichever is less. You also may be able to claim additional charitable contribution deductions in the year of the contribution and years following, based on any income generated by the donated property. Your ability to claim additional deductions based on the earnings of the donated intellectual property is subject to limitation, and is phased out over a 12-year period. Consult a tax professional.

Can you deduct your out-of-pocket expenses?

If you incur expenses while providing services to a qualified organization, you may generally deduct unreimbursed amounts that are directly connected with the services you provided. For example, you may deduct the cost and upkeep of uniforms that you must wear while performing charitable services if the uniforms aren't appropriate for everyday use. You can also deduct car expenses, such as gas and oil, if they're directly related to using your car to provide services and you can provide reliable written records of your expenses. Instead of deducting actual expenses, you can choose to deduct a standard mileage rate of 14 cents per mile. You can also deduct parking and tolls. Depreciation and insurance are not deductible.

If you travel away from home to perform services as a chosen representative for the qualified charity, you can deduct the expenses you incur if there's no significant element of personal pleasure, recreation, or vacation in the travel. This doesn't mean you can't enjoy yourself while providing charitable services. It does mean, however, that you can't deduct the expenses of a Caribbean cruise just because you provide nominal charitable services while on the boat. If you receive a daily allowance from the charity to cover your reasonable travel expenses, you must include in your income the amount of that allowance that is more than your deductible travel expenses. You may still be able to deduct the amount you spend over the allowance. Deductible travel expenses include air, rail, or bus transportation; out-of-pocket expenses for your car; transportation between the airport or station and your hotel; lodging costs; and the cost of meals.

What kinds of contributions aren't deductible?

In general, the following cannot be deducted as charitable contributions:

- **A contribution to a specific person** --You may deduct a donation to a qualified organization that provides aid to the homeless but not a donation to a homeless person you encounter on the street.
- **A contribution to a nonqualified organization** --The organization must meet IRS criteria of a qualified organization.
- **Any part of your contribution from which you receive or expect to receive a benefit** --You can deduct only the amount of your donation that exceeds the value of the benefit you receive. If you pay more than FMV to a charity for merchandise, goods, or services, you may deduct the amount you pay that's more than the value of the item if you pay it with the intent to make a charitable contribution. (You may deduct your entire payment to a charity if you receive only a token item and the charity correctly tells you (1) that the item's value isn't substantial, and (2) that you can deduct your full payment.)
- **The value of your time or services** --You may deduct unreimbursed amounts that are directly connected with the services you provide and which you incurred only because of the services you gave, but you may not deduct the value of your time or services.
- **Your personal expenses** --You may not deduct expenses that are your personal, living, or family expenses.
- **Certain contributions of partial interests in property** --Generally, you may not deduct a transfer of a partial interest in property to a qualified organization. There are some exceptions to the general rule, however, including a contribution of a remainder interest in your personal home or farm; an undivided part of your entire interest; a partial interest that would be deductible if transferred to certain types of trusts; and a qualified conservation contribution.

Qualified conservation contributions

In general, the charitable contribution of a partial interest in property is not deductible. A qualified conservation contribution is an exception to this rule. A qualified conservation contribution is a contribution of a qualified real property interest to a qualified organization exclusively for conservation purposes.

Technical Note: A qualified real property interest is (1) the entire interest of the donor other than a qualified mineral interest, (2) a remainder interest, or (3) a restriction (granted in perpetuity) on the use that may be made of the real property.

Technical Note: Qualified organizations include certain governmental units, public charities that meet certain public support tests, and certain supporting organizations.

Technical Note: Conservation purposes include (1) the preservation of land areas for outdoor recreation by, or for the education of, the general public; (2) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem; (3) the preservation of open space (including farmland and forest land) where such preservation will yield a significant public benefit and is either for the scenic enjoyment of the general public or pursuant to a clearly delineated Federal, State, or local governmental conservation policy; and (4) the preservation of an historically important land area or a certified historic structure.

Qualified conservation contributions of capital gain property are generally subject to the same limitations and carryover rules as other charitable contributions of capital gain property (i.e., a related deduction would generally be subject to a 30-percent AGI limitation). However, special rules apply to qualified conservation contributions made prior to tax year 2014.

Under the special rules, the 30-percent AGI limitation that applies to contributions of capital gain property does not apply to qualified conservation contributions. Instead, individuals may deduct the fair market value of any qualified conservation contribution, up to 50 percent (100 percent for qualified farmers and ranchers) of AGI reduced by the total deduction for all other allowable charitable contributions. Qualified conservation contributions are not taken into account in determining the amount of other allowable charitable contributions. Individuals are allowed to carry over any qualified conservation contributions that exceed the AGI limitation for up to 15 years.

Can you deduct the costs of having a foreign exchange student live with you?

Yes. If you meet the criteria, you can deduct qualifying expenses for a foreign or American exchange student. The student must:

- Live in your home under a written agreement between you and a charity as part of a program to provide educational opportunities for the student

- Not be your dependent or relative
- Be a full-time student in the 12th grade or lower at a U.S. school

You can deduct up to \$50 per month for each month the student lives with you at least 15 days. Qualifying expenses include books, tuition, food, clothing, transportation, medical and dental care, entertainment, and other amounts you actually spent for the well-being of the student. You may not deduct expenses such as home depreciation, lodging, and general household expenses. You also may not deduct expenses if the student is living with you under a mutual exchange program whereby your child will live with a family in a foreign country.

Record keeping

Cash contributions

For your cash contributions, regardless of the amount, you must keep either a bank record (e.g., cancelled check, credit card statement) or a written communication (receipt or letter) from the charitable organization that shows (1) the name of the charitable organization, (2) the date of the contribution, and (3) the amount of the contribution. If you make a charitable contribution through payroll deduction, you must keep a pay stub, W-2, or other documentation from your employer showing the date and amount of contribution, and a pledge card or other documentation from the qualified organization.

If you claim a deduction for a contribution of \$250 or more, you must have an acknowledgment of your contribution from the qualified organization (or certain payroll deduction records). The acknowledgment:

- Must be written
- Must include the amount of cash you contributed; whether the organization provided goods or services as a result of your contribution (and an estimate of the value of such goods or services); and a statement that the only benefit you received was an intangible religious benefit, if that was the case
- Must be in your possession on or before the earlier of the date you file your return for the year you make the contribution, or the due date, including extensions, for filing the return

If the acknowledgment does not show the date of the contribution, you will also need a bank record or receipt that shows when the contribution was made.

A noncash contribution under \$250

To deduct a noncash contribution under \$250, you must get a receipt from the organization that includes your name, the date, the location of the organization, and a reasonably detailed description of the property. You must also have reliable written records for each item you donated. You are not required to get a written receipt when it is impractical to get one (e.g., at an unattended drop-off site).

A noncash contribution between \$250 and \$500

You need a receipt like the one required for a noncash contribution under \$250, but it must also include details on whether the charity gave you any substantial goods or services for your contribution, as well as a description and good faith estimate of the value of any goods or services you received. You have to get this receipt on or before the earlier of the date you file your return or the due date (including extensions) for filing the return.

A noncash contribution between \$500 and \$5,000

You need a receipt that includes details on whether the charity gave you any substantial goods or services for your contribution and a description and good faith estimate of the value of any goods or services you received. Additionally, your records must include how and when you got the property and how much you paid for it. You must also complete Form 8283, Noncash Charitable Contributions, and attach it to your return.

A noncash contribution over \$5,000

You need a receipt and records like those required for noncash contributions between \$500 and \$5,000, but you also need a qualified written appraisal of the property from a qualified appraiser. Appraisal fees incurred in determining FMV of donated property are not part of a charitable contribution but can be deducted as a miscellaneous deduction on Schedule A.

Technical Note: *The IRS defines a qualified appraiser as an individual who (1) has earned an appraisal designation from a recognized professional appraisal organization or has otherwise met minimum education and experience requirements, (2) regularly performs appraisals for which he or she receives compensation, (3) can demonstrate verifiable education and experience in valuing the type of property for which the appraisal is being made, (4) has not been prohibited from practicing before the IRS at any time during the three years preceding the appraisal, and (5) is not excluded from being a qualified appraiser under Treasury regulations.*

A noncash contribution over \$500,000

If you claim a deduction of more than \$500,000 for a contribution of property, you must attach a qualified appraisal of the property to your return. If you do not attach the appraisal, you cannot deduct your contribution. This does not apply to contributions of cash, inventory, publicly traded stock, or intellectual property.

IMPORTANT DISCLOSURES

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