

Donating works of art to charity

What is involved in getting a deduction for a donation to a charity of a work of art?

This is a good question because several different tax rules may come into play in connection with such contributions. First of all, a charitable contribution of a work of art is subject to reduction if the charity's use of the work of art is unrelated to the purpose or function that is the basis for its qualification as a tax-exempt organization. The reduction equals the amount of capital gain you would have realized had you sold the property instead of giving it to charity.

Example (1). You bought a painting five years ago for \$10,000 and it's now worth \$20,000. You contribute it to a hospital. Your deduction is limited to \$10,000 because the hospital's use of the painting is unrelated to its charitable function and you would have had a \$10,000 long-term capital gain had you sold it.

Example (2). Now assume you donate the painting to an art museum. Here, your deduction is \$20,000.

One or more substantiation rules may come into play when you donate a work of art. First, if you claim a deduction of \$250 or more, you must get and keep an acknowledgement of the contribution from the donee organization.

If you claim a deduction in excess of \$500, you generally must maintain written records that include information about the donee; a description of the donated property; the fair market value at the time of contribution, the method of determining it and a copy of the signed appraisal, if any; a description of how and when you acquired the property; and the cost or other basis of the property. You also must complete section A of Form 8283 and attach it to your tax return.

Where the claimed value of the property exceeds \$5,000, you must have a qualified appraisal of the property, i.e., an appraisal done by a qualified appraisal not earlier than 60 days before the contribution date and that meets numerous other requirements. You include information about these donations on section B of Form 8283, which you file with your tax return. If total deduction for art is \$20,000 or more, you must attach a complete copy of the signed appraisal. If an item of art has been appraised at \$50,000 or more you can ask IRS to issue a "Statement of Value" which can be used to substantiate the value.

In addition, your deduction may be limited to 20%, 30% or 50% of your contribution base or an even lesser amount. This base, which usually is your adjusted gross income, varies depending on the type of organization involved and whether or not the deduction of the work of art had to be reduced because of the unrelated use rule explained above. The amount not deductible on account of a ceiling may be deductible in a later year under carryover rules.

Donors sometimes make gifts of partial interests in an art work. For example, a donor may contribute a 50% interest in a painting to a museum, with the understanding that the museum will exhibit it for six months of the year and the donor will keep possession of it for the other six months.

While these donations are still possible, the rules have been tightened for contributions made after Aug. 17, 2006. The donee charity must take complete ownership of the item within 10 years or at the donor's death, whichever comes first. Failure to comply results

in the donor's recapture of all charitable deductions claimed, plus interest and a 10% penalty. Also, the fair market value used in determining the amount of each later contribution can't exceed the property's value at the time of the initial contribution.