
Charitable donation and tax deduction overview

Offered through Wells Fargo Bank, N.A.

This document is intended to provide an overview of the tax deductibility for donations to charity. The amount of tax deduction you may qualify for depends on the purpose and type of charity. Here, we reference two types that are generally defined as:

- **Public charities** are granted favorable tax status by the IRS: churches, schools, universities, the U.S. Government, state and local governments, community chests, community foundations, donor advised funds, and foundations organized and operated only for charitable, religious, scientific, literary, or educational purposes. (Included in this category are some other types of foundations, including private operating foundations, private “pass-through” foundations, pooled fund private foundations, and certain supporting organizations.)
- **Private non-operating foundations** are often referred to as “private grantmaking foundations” or “private family foundations.” This category also includes some veteran’s associations and fraternal groups. (Generally, “private operating foundations” conduct charitable programming, while “private non-operating foundations” simply make grants. The tax code treats the two types differently.)

Investment and Insurance Products are:

- **Not Insured by the FDIC or Any Federal Government Agency**
- **Not a Deposit or Other Obligation of, or Guaranteed by, the Bank or Any Bank Affiliate**
- **Subject to Investment Risks, Including Possible Loss of the Principal Amount Invested**

Type of asset (outright contributions)	Income tax deduction – public charities	Income tax deduction – private non-operating foundations	Capital gain considerations	Effective date of gift	Transfer considerations	Valuation	Substantiation required
Cash	Amount of cash transferred in year of gift up to 60% of donor’s AGI , with five-year carryover.*	Amount of cash transferred in year of gift up to 30% of donor’s AGI , with five-year carryover. If treated as a conduit foundation, deduction for cash is up to 60% of donor’s AGI.	None.	<ul style="list-style-type: none"> • Cash, check, wire: date of unconditional delivery. • Checks: date of postmark. • Credit card: date of charge. 	None.	Value equals amount of cash.	<ul style="list-style-type: none"> • Retain written communication.¹ • Gifts < \$250: canceled check. • Gifts ≥ \$250: written receipt from charity describing gift and whether goods/ services were received by donor.
Marketable securities	<ul style="list-style-type: none"> • LTCG securities: Market value up to 30% of donor’s AGI. (See “Step-down election” in Capital gain considerations column.) • STCG securities: Cost basis up to 50% of donor’s AGI. (Both with five-year carryover.) 	<ul style="list-style-type: none"> • LTCG publicly traded securities: Market value up to 20% of donor’s AGI. • STCG securities: Cost basis up to 30% of donor’s AGI. (Both with five-year carryover.) • Other limits may apply. (When a donor makes contributions to both public charities and private foundations, deduction calculations may become very complicated.) 	<ul style="list-style-type: none"> • No capital gain reportable when given to charity. • “Step-down election” available for long-term gain property allows donor to deduct cost basis up to 50% of AGI but may not carry over any excess. Election is binding for tax year. Any carryovers from prior years must be recalculated as though election had been made in years in which carryovers arose. • Election is irrevocable.⁶ 	<ul style="list-style-type: none"> • Certificates in negotiable form: date of delivery to charity or its agent, or postmark date if mailed via USPS. • “Street name” securities: date of receipt into charity’s account. • If new certificates are to be issued in the name of the charity, date when security transfer is noted on the books of the transfer agent. 	<ul style="list-style-type: none"> • Certificates in negotiable form: donor must endorse certificates and sign stock power and deliver to charity or agent. • “Street name” securities: may be transferred to charity’s account or be delivered to charity or agent in negotiable form.² 	<ul style="list-style-type: none"> • Listed securities: value is typically the mean between the highest and lowest quoted selling prices on the date of gift. (If no sales on date of gift, may use data from nearest reasonable date of actual sales, or, if no sales within reasonable period, may use mean of bid and ask prices on date of gift.) • Mutual funds: value is the public redemption price (NAV) per share on date of gift. 	<ul style="list-style-type: none"> • Retain written communication.¹ • Gifts < \$250: written receipt from charity describing gift and whether goods or services were received by donor. • Gifts > \$500: receipt from charity, and Form 8283, section A.

*Generally, donor is allowed to deduct up to the applicable percentage limitation during the year of the gift plus the next five years until the deduction is used, subject to the ordering limitations. Please consult your tax advisor.

Source: All data is taken from U.S. Federal Government IRS Publication 526, March 2021 and I.R.C. Section 170.

Key: AGI: Adjusted Gross Income; FMV: Fair Market Value; LTCG: Long-Term Capital Gains; STCG: Short-Term Capital Gains

Quid Pro Quo Statement: Charity indicates whether donor received goods or services in exchange for the donation

Type of asset (outright contributions)	Income tax deduction – public charities	Income tax deduction – private non-operating Foundations	Capital gain considerations	Effective date of gift	Transfer considerations	Valuation	Substantiation required
Closely held C Corp, LLC/LP interest or S Corp stock	<ul style="list-style-type: none"> • LTCG securities: Market value (Appraised/Qualified Appraised) up to 30% of donor’s AGI. • STCG securities: Cost basis up to 50% of donor’s AGI. (Both with five-year carryover.) 	<ul style="list-style-type: none"> • LTCG gain securities: Cost basis up to 20% of donor’s AGI. • STCG securities: Cost basis up to 30% of donor’s AGI. (Both with five-year carryover.) 	No capital gain reportable to the donor in most cases. ¹⁴ Charity avoids gain on gift of C Corp and most LLC/LP gifts. Charity subject to UBTI for all gifts of S Corp stock and some LLC/LP interest depending on the nature of the income. ¹³	Securities in negotiable form: delivery to charity or its agent; or transfer of securities into charity’s name.	Securities in negotiable form: deliver to charity or agent, or transfer of securities into charity’s name.	<ul style="list-style-type: none"> • Value is determined by independent appraisal using IRS rules. • Qualified appraisal required if value is greater than \$5,000. 	<ul style="list-style-type: none"> • Retain written communication.¹ • Written receipt from charity describing gift and whether goods/services were received by donor. • For a single transfer or multiple similar transfers > \$5K, documents above, plus Form 8283, Sections A & B with a qualified independent appraisal.
Real estate	<ul style="list-style-type: none"> • Held long-term: current value appraised up to 30% of AGI for unencumbered property. Contributions of encumbered property are treated as a bargain sale and there may be a reduction to the charitable contribution deduction. • Held short-term: cost basis up to 50% of AGI. (Both with five-year carryover.) 	<ul style="list-style-type: none"> • Held long-term: cost basis up to 20% of AGI, with five-year carryover. • Held short-term: cost basis up to 30% of AGI, with five-year carryover. 	No gain reportable, unless bargain sale rules apply, including gifts of mortgaged property. Deduction is not reduced for prior depreciation deductions, unless donor took accelerated depreciation that would have resulted in recapture of ordinary income upon a sale.	Date that executed deed is delivered to charity or agent. If mailed via USPS, date of postmark. In some jurisdictions, may be date when deed is recorded.	Transfer of title is generally made by quit-claim deed. May use warranty deed.	Value is determined by qualified independent appraisal using IRS rules.	<ul style="list-style-type: none"> • Retain written communication.¹ • Deductions above \$5k, donor also needs qualified appraisal and Form 8283 sections A & B, including declaration of appraiser and donee acknowledgement. Charities will likely require environmental assessment.

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Artwork	<ul style="list-style-type: none"> If put to related use by the charity, market value up to 30% AGI. If non-related use, limited to the lesser of FMV or cost basis. Cost basis up to 50% of AGI if not used by the charity - same applies for an artist who creates a work of art, regardless of use (Related Use Rule). 	Cost basis limited to 30% of AGI.	No capital gain reportable.	Date of delivery of property to charity or agent.	Transfer is made when property is delivered. Donor should consider requesting a deed of gift or bill of sale.	Value is determined by qualified independent appraisal. <ul style="list-style-type: none"> For value > \$20k, photos must be sent to IRS advisory panels. For values > \$50k, donor may request statement of value from IRS “Art Advisory Panel.” 	<ul style="list-style-type: none"> Retain written communication.¹ For a single item, \$501 to \$5k, documents above plus Form 8283 Section A. For a single item, or multiple similar items > \$5K, documents above, plus Form 8283, Sections A & B with a qualified independent appraisal.
Tangible personal property	<ul style="list-style-type: none"> Gift of LTCG property that charity may put to “use related to its purposes”: market value up to 30% of AGI. “Unrelated use”; cost basis up to 50% of AGI (Related Use Rule). 	<ul style="list-style-type: none"> Held long-term: cost basis up to 20% of AGI. Held short-term: cost basis up to 30% of AGI with five-year carryover. 	No capital gain reportable.	Date of delivery of property to charity or agent.	Transfer is made when property is delivered. Best practice: donor should receive deed of gift or bill of sale.	Value is determined by qualified independent appraisal. <ul style="list-style-type: none"> For value > \$20k, photos must be sent to IRS advisory panels. For value > \$50k, donor may request statement of value from IRS “Art Advisory Panel.” 	<ul style="list-style-type: none"> Retain written communication.¹ For a single item, \$501 to \$5k, Form 8283 section A. For a single item (or multiple similar items) > \$5k, Form 8283 sections A & B, with qualified independent appraisal.

Source: All data is taken from U.S. Federal Government IRS Publication 526, March 2021 and I.R.C. Section 170.

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Type of asset (outright contributions)	Income tax deduction – public charities	Income tax deduction – private non-operating foundations	Capital gain considerations	Effective date of gift	Transfer considerations	Valuation	Substantiation required
Incentive stock options (ISO)	Once the ISO is exercised, the stock must be held for requisite time period. Deductible at full FMV as of the date of transfer up to 30% of AGI.	Market value up to 20% of donor’s AGI. (if stock meets definition of Qualified Appreciated Securities/Publicly Traded Securities).	No capital gain reportable when given to charity.	Date of delivery to the charity.	An ISO can only be transferred at the death of the employee holding the options. No <i>inter vivos</i> gift opportunity.	Must determine if there are any contractual or securities law restrictions which could cause the shares to have a lesser value due to lack of marketability. Could also trigger an appraisal requirement.	<ul style="list-style-type: none"> • Retain written communication.¹ • Gifts between \$250 and \$500 require a receipt from charity that describes gift and “quid pro quo” statement. • Gifts > \$500, document above plus Form 8283, Section A. • Gifts above \$5k also require Section B of Form 8283.
Non-statutory stock options (NSO)	Deduction is up to 50% of AGI and becomes available when option is exercised by donee. ^{10, 12}	Deduction up to 30% of AGI. Available when option is exercised by donee. ^{11, 12}	Income property—no capital gain to report. Donor is taxed on income when option is exercised by donee.	Best if given as an “incomplete gift” until the Date of Option Exercise, which the donor can stipulate. In this case, the donor’s income recognition and the deduction would happen at the same time.	Can transfer during life if the Option plan or agreement permits.	Stock Options are often not publicly traded. Therefore the FMV is not readily ascertainable.	<ul style="list-style-type: none"> • Retain written communication.¹ • Gifts between \$250 and \$500 require a receipt from charity that describes gift and indicates whether goods/services were received by donor (“quid pro quo” statement). • Gifts > \$500, document above plus Form 8283, Section A. • Gifts above \$5k also require Section B of Form 8283.

Source: All data is taken from U.S. Federal Government IRS Publication 526, March 2021 and I.R.C. Section 170.

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Type of asset (outright contributions)	Income tax deduction – public charities	Income tax deduction – private non-operating foundations	Capital gain considerations	Effective date of gift	Transfer considerations	Valuation	Substantiation required
Patents and other intellectual property	Initial deduction is limited to the lesser of the property’s tax basis or its FMV. Future income (Qualified Donee Income) the charity receives on the property may be deductible for up to 10 years. ⁴ 100% of Qualified Donee Income is deductible in Year 1, 10% in Year 10. ⁸	Initial deduction is limited to the lesser of the property’s tax basis or its FMV. ⁹	No capital gain.	Date of the transfer.	Transfer is made when the property is delivered. Consider terms of the patent or intellectual property closely.	FMV may be difficult to determine. Consider other factors that relate to the property/patent. For example: Is the technology obsolete? Are there restrictions? When does the patent expire?	<ul style="list-style-type: none"> • Retain written communication.¹ • Gifts between \$250 and \$500 require a receipt from charity that describes gift and indicates whether goods/services were received by donor (“quid pro quo” statement). • Gifts > \$500, documents above plus Form 8283, Section A. • Gifts above \$5k also require Section B of Form 8283.
Cryptocurrency	<ul style="list-style-type: none"> • Held long-term: market value up to 30% of AGI. • Held short-term: cost basis up to 50% of AGI. (Both with a five-year carryover.) 	<ul style="list-style-type: none"> • Held long-term: cost basis up to 20% of AGI with a five-year carryover. • Held short-term: cost basis up to 30% of AGI with five-year carryover. 	No capital gain reportable when given to a charity.	Securities in negotiable form: date of delivery to charity or its agent. If new certificates are to be issued in the name of the charity: date when security transfer is noted on the books of the transfer agent.	Need to find an acceptable vendor for transfer.	Value is determined by a qualified independent appraisal using IRS rules.	<ul style="list-style-type: none"> • Deductions of <\$5k: receipt from charity, “quid pro quo” statement, and Form 8283 Section A. • Deductions of \$5k and above: qualified appraisal and Form 8283 Sections A & B, including declaration of appraiser and donee acknowledgement.

Source: All data is taken from U.S. Federal Government IRS Publication 526, March 2021 and I.R.C. Section 170.

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Footnotes

- 1 Donor must maintain either a bank record or written communication from the donee organization that shows donee's name, date of contribution, and amount of contribution.
- 2 Consider mailing in separate envelopes.
- 3 Recognition of income may be a strong reason to exercise the option before the donation; then either donate stock or cash.
- 4 Deductible only to the extent that income exceeds the initial deduction—calculated using a sliding-scale of percentages that decline over the years.
- 5 Incentive Stock Options (ISO) must be held for at least 2 years from date of option grant and 1 year from exercise of option. Taxed as nonqualified stock option if holding period not met. Source: E.T. Weir, 10TO 996 (5/28/1948)-Holding period of stock acquired by the exercise of a stock option begins on the date after the option is exercised.
- 6 Step-Down Election—the election is only available for noncash charitable contributions to 50% charities (public charities, etc.). Source: IRC Section 170 (b) (i) (c)(iii). Election is made by attaching a statement to the original return. Treasury Regulation 1.170 A-8(D) (2) (iii). Election cannot be made on an amended return.
- 7 Unrelated use occurs when property is not used by the organization in the charitable activities for which the organization was granted tax-exempt status.
- 8 Donor must inform the donee at the time of the contribution that the donor intends to treat the contribution as Qualified Intellectual Property to qualify for the additional deduction. Source IRC Section 170(m) (8).
- 9 IRC Section 170(m) (6)—the additional charitable contribution deduction is not available if the donee is a private non-operating foundation. IRC Section 170(m) (9) excludes property contributed to a non-operating private foundation from the definition of “Qualified Intellectual Property.”
- 10 Nonqualified Stock Options—if income from the exercise of an option is recognized in the same year donor become eligible for a charitable contribution deduction for gift of option, the charitable deduction will be up to 50% of the donor's AGI. Source: Treasury Regulation Section 1.170 A-4(a).
- 11 Self-dealing: See PLR 9411018 and PLR 9411019, if applicable.
- 12 Private Letter Rulings 9737014, 9737015, and 9737016. According to the rulings, the donor/employee charitable deduction equals the excess of the stocks fair market value on the exercise date over the sum of the exercise price and any withholding taxes paid on behalf of the employee, if the employee retained veto power over the exercise of the option. If no veto power is retained, charitable deduction should equal fair market value of the options on the date of transfer. Tax rules treat the contribution of non-qualified stock options (NSOs) as a contribution of an ordinary income asset; however, there is no reduction for the ordinary income component if the recognition of the income by the donor and the contribution (charitable deduction) for the NSOs occur in the same tax year. IRC Section 170(e) and Treasury Regulation 1.170A-4(a).
- 13 See IRC section 512 and 514 for UBTI and UDFI rules.
- 14 The presence of debt in the LLC/LP context may cause the donor to realize tax upon gift of the asset. (See IRC section 514 UDFI.)

Disclosures

Wells Fargo and Company and its Affiliates do not provide tax or legal advice. This communication cannot be relied upon to avoid tax penalties. Please consult your tax and legal advisors to determine how this information may apply to your own situation. Whether any planned tax result is realized by you depends on the specific facts of your own situation at the time your tax return is filed.

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