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CERTIFIED PUBLIC ACCOUNTANTS

2022 Charitable Donation Considerations for Individual Taxpayers

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With the end of 2022 fast approaching, now is the time to review the rules and planning considerations for charitable donations. This article will help individuals assess the limits and opportunities to maximize the tax benefits of their charitable giving. This article will cover the following areas:

- Current rules for tax-deductible cash and property donations
- Record keeping and substantiation requirements
- Planning strategies
    - Bunching
    - Donor Advised Funds
    - IRA donations
    - Conservation Easements
    - Charitable Remainder Trusts

What is a Tax-Deductible Charitable Donation?

A charitable contribution is a gift to or for the use of an entity or organization that is a qualifying organization at the time of donation. Qualifying organizations include nonprofit groups whose purpose is religious, charitable, educational, scientific, literary, for the prevention of cruelty to children or animals, among others. It is best to inquire whether an organization is qualified for tax-deductible donations beforehand. The IRS has a tax-exempt organization search tool to find information about an organization's tax-exempt status. The search tool may not include all qualifying organizations such as churches, governments and religious organizations. Gifts to individuals are not deductible. For example, a donation for a friend's medical bills. If a taxpayer receives any goods or services, the fair market value received reduces the amount of the donation under §6115.

Record-Keeping and Substantiation

Charitable contributions must be properly documented to be allowed. Failure to maintain proper documentation generally results in the disallowance of a deduction. This template can help taxpayers organize information for their donations. No deduction is allowed for any donation of $250 or more unless there is contemporaneous written acknowledgment such as a receipt from the charitable organization §170(f)(8)(A).

Property Donation Deductions

Property donations are subject to additional reporting requirements. Property donations of more than $500 require Form 8283 be submitted with taxpayers' return §170(f)(11)(B). For property donations of $5,000 or more, a qualified appraisal is required, and for larger donations, the appraisal may be required as a return attachment. In general, donations of ordinary income property (inventory) and short-term gain are limited to the taxpayer's basis. On the other hand, long-term gain property can provide a deduction up to the fair market value (FMV). Property sold to a charity for less than FMV, a bargain sale, is treated as both a sale and gift. In a bargain sale, the basis must be allocated to both the gift and sale. This prevents the basis of the donated property being used to offset the sale portion. Property encumbered by debt is generally recognized as a deemed sale to the extent of debt relief. The deemed sale for debt encumbered property may trigger a bargain sale, creating a part sale part gift.

Income Limitations

Deductions for charitable donations are limited to a percentage of the taxpayer's adjusted gross income (AGI). The property donated and type of qualifying organization determines the AGI limitation threshold. If a donation is limited in a tax year, the taxpayer may carryforward the donation generally five years, except for qualified conservation deductions discussed later. The chart below summarizes the AGI limitations and ordering rules apply.

2022 Charitable Limitations			
AGI Limitation %			
	Cash Donation	**Short-Term Gain Property**	**Long-Term Gain Property**
Public Charity	60%	50%	30%*
Private Foundation	30%	30%	20%

*May elect a 50% limit for charitable contributions of LTCG property. The trade-off is the taxpayer must use basis instead of FMV.

Planning with Charitable Donations

Bunching

The Tax Cuts and Job Act of 2017 significantly increased the standard deduction and limited state and local tax itemized deductions to $10,000. Many taxpayers do not receive a tax benefit for their donations because they do not itemize. Under COVID-19 relief in 2020 and 2021, taxpayers could deduct $300-600 contributions in addition to their standard deduction, but this provision has expired for 2022. Taxpayers near the standard deduction could receive a benefit for their donations if they accumulate ("bunch") contributions into one year instead of spreading the donations over multiple years. The table below demonstrates a bunching strategy.

Bunching Strategy				
	Not Bunching		**Bunching**	
	Year One	Year Two	Year One	Year Two
Charitable Donations	$10,000	$10,000	$20,000	$0
Mortgage Interest & Property Tax	$15,000	$15,000	$15,000	$15,000
Total Itemized Deduction	$25,000	$25,000	$35,000	$15,000
Standard Deduction	$25,100	$25,900	$25,100	$25,900
Total Itemized & Standard Both Years	$51,000		$60,900	
Additional Deductions with Bunching	**$9,900**			

Donor Advised Fund (DAF)

One downside of bunching donations is that organizations often find it challenging to operate with fewer, regular donations. A potential solution is a Donor Advised Fund (DAF) §4966(d)(2). With a DAF, the taxpayer is allowed to take a deduction in the year the cash or property is contributed. The assets may appreciate tax-free, and the taxpayer is able to subsequently advise grants from the fund to qualifying organizations. It is important to note that the taxpayer does not get a tax deduction for subsequent distributions from the DAF to charities and ultimate control is relinquished by the donor.

Donations from Individual Retirement Account (IRA)

Taxpayers 70 ½ or older can satisfy their required minimum distributions (RMD) using Qualified Charitable Distributions (QCD). A QCD is a transfer by the IRA trustee to a qualified charity. The QCD will not be taxed and the QCD can reduce the amount of RMDs §408(d)(8)(B). No tax deduction is allowed for the QCD because the distribution from the IRA is already excluded from taxable income. A taxpayer may make up to $100,000 QCDs per year.

Conservation Easements (Qualified Conservation Deduction)

Conservation easements have been a hot topic for taxpayers and tax courts. A conservation easement is a contribution of a qualified real property interest, such as a restriction on the use of the property, granted in perpetuity to a qualified organization exclusively for conservation purposes. The donor retains ownership of the underlying property and gives up specified rights deeded to the conservator. The AGI limitation for a qualified conservation deduction is 50%, or 100% for farmers and ranchers. Unused contributions may be carried forward 15 years. Valuing the restrictions may be a matter of significant debate for taxpayers and the IRS. The IRS would likely rather disallow or limit a deduction on lack of substantiation or other statutory provision instead of debating the valuation.

Charitable Remainder Trusts (CRT)

Charitable remainder trusts are another effective vehicle for making charitable donations and estate planning. A CRT is an irrevocable trust required to make annual distributions to a non-charitable beneficiary with the remainder of the assets left to a qualified charity. The trust generally does not pay income tax. The CRT allows taxpayers to have a predictable income for life or a specified period and plan major donations to their preferred charities. By combining a CRT with a thoughtfully planned life insurance policy, the CRT can be an effective tool for charitable and estate tax purposes.

Closing

Diligent record keeping and proactive planning is advised for taxpayers with charitable intentions. Here is an example of an organizer taxpayers are encouraged to use to track and document their charitable gifts during the year. If you are planning your contributions and have questions, please contact your tax advisor.

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