Morgan Stanley

Charitable Giving Overview

Charitable Giving Strategies

Wealth & Estate Planning Strategists
Family Office Resources

A person may make gifts to charitable organizations and may receive income, gift and/or estate tax charitable deductions. The organization may be a public charity, a private foundation, or a hybrid of the two. Gifts to a public charity are treated favorably for income tax purposes compared to gifts to a private foundation. Federal law restricts a private foundation's activities and may impose excise taxes on the foundation, its directors, donors and/or family members for violations of the rules.

Public Charities

Gifts to certain tax-exempt charitable organizations may be deducted for income, gift, and estate tax purposes, including entities organized and operated for religious, charitable, educational, scientific, or literary purposes and to prevent cruelty to children or animals or foster national or international amateur sports competitions. No part of the earnings of the entity may benefit any private individual and the organization cannot attempt to influence legislation or a political campaign. An organization can be a public charity: (i) if it is organized and operated exclusively for specific purposes (e.g., a religious establishment, hospital or school); (ii) because it passes one of two tests that ensure it receives broad-based public or governmental support; or (iii) because of its relationship with, and support of, another public charity. A gift can be made to a public charity with the restriction that it be held as a separate donor advised fund, which is a fund maintained by a public charity over which the donor is allowed to provide ongoing advice regarding the distribution of the assets to the ultimate charitable beneficiaries (and perhaps how the assets are to be invested by the charity).

Private Foundations

A private foundation is a charitable entity, often funded and controlled by a single donor or family. The foundation may be formed for the purpose of making grants to public charities and, in certain circumstances, to other private foundations or individuals. All charitable organizations are considered private foundations unless they can prove themselves to be public charities. Private foundations are subject to specific rules, which, if violated, result in

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significant excise taxes. Such rules impose excise taxes on acts of self-dealing between the private foundation and persons considered related to it (“disqualified persons”); the failure to distribute a minimum amount each year (generally 5% of the market value of the foundation’s assets); ownership in excess of a certain percentage of the stock of a corporation or interest in a partnership; investment income generated by the entity’s assets; investments that jeopardize the entity’s charitable purpose; and certain expenditures or grants deemed inappropriate for tax purposes.

Quasi-Private Foundations

Certain charitable organizations are subject to the private foundation rules, but gifts to them are subject to the more favorable income tax rules that apply to gifts to public charities. These “quasi-private” foundations include private operating foundations that actively carry out a charitable purpose (rather than make grants to other charities).

Income Tax

In general, either the donor’s cost basis or the fair market value (FMV) of property given to a U.S. tax-exempt charitable organization may be deducted for income tax purposes subject to a limitation expressed as a percentage of the donor’s adjusted gross income (AGI). The amount of the deduction and the applicable AGI limitation are a function of the type of property given (cash vs. short term or long-term capital gain property) and the classification of the charitable organization as a public charity or private foundation. Gifts in excess of the limitations can be carried forward and used as a deduction in any of the five years following the year of the gift. The following is a summary of some of the basic rules:

	Public Charity Amount Of Deduction	AGI Limitation	Private Foundation Amount Of Deduction	AGI Limitation
Cash[1]	Fair Market Value	60%	Fair Market Value	30%
Ordinary income or short-term capital gain property	Lesser of Fair Market Value or Cost	50%	Lesser of Fair Market Value or Cost	30%
Long-term capital gain property (other than qualified appreciated stock)	Fair Market Value[2]	30%	Lesser of Fair Market Value or Cost[2]	20%
Long-term capital gain – “qualified appreciated stock”	Fair Market Value	30%	Fair Market Value3	20%

[1] “Topic 506 – Charitable Contributions.” For contributions of cash, check or other monetary gift (regardless of amount), you must maintain a record of the contribution, such as a bank record or a written communication from the qualified organization containing the name of the organization, the amount, and the date of the contribution. In addition to deducting your cash contributions, you generally can deduct the fair market value of property that you donate to qualified organizations; however, the deduction for appreciated property (other than certain stock) donated to a private foundation is based upon the cost basis. For any contribution of $250 or more (including contributions of cash or property), you must obtain and keep in your records a contemporaneous written acknowledgment from the qualified organization indicating the amount of the cash and a description of any property contributed. The acknowledgment must say whether the organization provided any goods or services in exchange for the gift and, if so, must provide a description and a good faith estimate of the value of those goods or services. One document from the qualified organization may satisfy both the written communication requirement for monetary gifts and the contemporaneous written acknowledgment requirement for all contributions of $250 or more.

[2] “Publication 526 (2019) – Main Content.” In certain situations, you must reduce the fair market value by any amount that would have been long-term capital gain if you had sold the property for its fair market value. Generally, this means reducing the fair market value to the property's cost or other basis. You must do this if: (1) The property (other than qualified appreciated stock) is contributed to certain private non-operating foundations; (2) You choose the 50% limit instead of the special 30% limit for capital gain property; (3) The contributed property is intellectual property; (4) The contributed property is certain taxidermy property; or (5) The contributed property is tangible personal property that is put to an unrelated use by the charity, or has a claimed value of more than $5,000 and is sold, traded, or otherwise disposed of by the qualified organization during the year in which you made the contribution, and the qualified organization hasn't made the required certification of exempt use.

3Gifts of only certain types of long-term capital gain property contributed to a private foundation may be deducted at fair market value. Such stock, called “qualified appreciated stock,” is any stock in a corporation that is long-term capital gain property and for which market quotations are readily available on an established securities market on the day of the contribution. But stock in a corporation doesn't count as qualified appreciated stock to the extent you and your family contributed more than 10% of the value of all the outstanding stock in the corporation.

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