

The Accountant's Guide to Real Estate Donations

Kars 4 Kids
Real Estate Division

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Real estate donations can be a useful tool in disposing unwanted real estate and still getting a financial benefit. Our guide provides an overview on how your clients can use real estate donations to provide significant tax savings while satisfying their charitable goals.

Timing Strategies

As we are approaching year end, now would be a great opportunity to introduce the topic of real estate donation to your clients. Clients are increasingly reliant on the expertise of their accountant and are looking for solutions to reduce their tax burden now and in the future. Having a conversation with clients about real estate donation can benefit both you and your practice. It can foster a deeper relationship with your clients and potentially lead them to come to you with more of their financial concerns.

Some signs that your client may require your guidance:

- Client is getting ready to sell a property and may wish to donate some or all of it to avoid or reduce taxes
- Client feels burdened by the responsibilities and fees of additional property ownership
- Client inherited a property they are unable to maintain and/or lack time to sell
- Client must pay significant capital gain tax that could have been avoided if they had donated the property to charity
- Client does not have a spouse or heirs and have not included charitable giving in their estate plan.

Allow enough time from contacting the charity to allow for the donation to be completed before year end.

Methods of Donating Real Estate

Real Estate donations can be divided into two categories: (1) immediate or outright gifts and (2) deferred gifts (commonly known as planned giving.)

1. a. Outright Gift

An outright gift is the simplest and most common method of donating real estate. The deed or title is transferred from the donor to the charity. A donor will then receive a tax deduction equal to the fair market value of the property and that deduction may be carried forward for up to five years. More details on the tax savings for outright gifts will be provided shortly.

b. Bargain Sales

A bargain sale is when the donor sells the property for less than its fair market value to a charity. The difference between the fair market value and the sale price is then considered a donation.¹ This allows the donor to recoup funds and receive a tax deduction for the donated portion, a win-win scenario for the donor and the charity.

2. Planned Giving

If your client has approached you regarding estate planning, there are additional vehicles of donation through a charitable gift annuity, charitable remainder trust, and retained life estate. They are discussed briefly below:

Charitable Remainder Trust (CRT) : A charitable remainder trust (CRT) an irrevocable trust that contains property assets where a portion of the trust's value is distributed each year to one or more beneficiaries for a term of years or for life. At the end of the term, the remaining CRT assets are distributed to the charity. Typically, a CRT offers two important tax benefits. (1) a current income tax deduction for the donor, equal to the present value of charity's remainder interest in the CRT² (2) The CRT's exemption from income tax on the capital gain tax on the sale of the property.³

Charitable Gift Annuity: A charitable gift annuity is when a donor makes a contribution and in return receives fixed annual payments for life from the charity. A CGA also allows the donor to claim a partial income tax deduction for the year of the contribution. The value of the annuity is determined under the tables issued under IRC Section 7520.

Retained Life Estate: A retained life estate is when a donor transfers the ownership of their house or farm to a charity but retains the right to use the property for their lifetime. This allows the donor to receive a current tax deduction in an amount that is based upon their and their spouse's age and the value of the property.⁴

Types of Real Estate Eligible for Donation

Almost any type of real estate can be donated including land, residential homes, vacation homes, commercial buildings, industrial properties, apartment buildings, mobile homes, and condos. Some charities may have further restrictions on which properties they will accept and as well as value thresholds that must be met.

¹ IRC Section 1011(b)

² IRC Section 170.

³ IRC Section 2055(e)(2); IRC Section 664.

⁴ IRC Section 25.2512-5(d)

Tax Deduction for an Outright Property Donation

A real estate donation qualifies for an income tax deduction for the fair market value (FMV) or the cost basis of the property.

Your client’s deduction will depend on whether the real estate they donate is a *short-term asset* (held less than one year) or a *long-term asset* (held more than one year)

- Short-term assets qualify for a deduction equivalent to the lesser of the property’s fair market value or its cost basis.
- Long-term assets qualify for a deduction for the fair market value of the property. The deduction is generally limited to 30 percent of the donor’s AGI.⁵

A donor can elect to base the tax deduction for their long term asset on the cost basis rather than the FMV of the property. This will raise their AGI limitation to 50 percent and can allow for a larger current-year deduction but if any of the deduction is carried over, the cost basis and 50 percent AGI limit will apply to those carryovers.

Donors may carry forward a real estate deduction for up to five years.⁶

An important point to convey to your clients is that by donating, rather than selling their property, they will completely avoid paying capital gains taxes which can be quite substantial on a highly appreciated property.

Depreciated real estate are typically subject to §1250 rules, which apply to buildings and structural components. When depreciated in a straight-line basis (as are all real properties put in use after 1986) they do not have “depreciation recapture” and the donation can be deducted for the full FMV.

Income Tax Contribution Deduction Rules

<i>Form of Donation</i>	<i>Amount Deductible</i>	<i>Maximum Deduction as Percent of AGI</i>
Outright Gift of Appreciated Property		
Long-term asset	(1) 100% of fair market value or (2) by election, cost basis	(1) 30% (2) 50%
Short-term asset	Cost basis	50%/30% rule
Bargain Sale of Appreciated Property		
Long-term asset	100% of difference of FMV and sales price, appreciation partly taxed	30%
Short-term asset	None, if sold at basis	

⁵ IRC Section 170(b)(1)(B)

⁶ IRC Section 170(d)(1).

Donation Checklist

Determine Eligibility

For a real estate donation to be eligible for a tax deduction, it must be made solely for charitable or public purposes by an individual who will itemize deduction on Schedule A of form 1040 and is not taking the standard deduction. It must also be made to an organization that has a 501(c)(3) designation from the IRS.

*Quick tip: In order for this to be worth the extra effort and documentation, the total of the itemized deductions for that year would need to be more than the standard deduction one is entitled to in their specific circumstance.

*Quick tip: To verify if the charity is eligible, look up in IRS pub 78, or call IRS Customer Account Services 877-829-5500. There are other charity databases, such as GuideStar.com, which list more information on the charity.

Determine the property's value

The value of real estate in term of tax deduction is measured by the fair market value of the property at the time of donation. For property worth \$5,000 or less, one may use the fair market value, as determined by comparable sales. For property worth more than \$5,000, it must be appraised by a qualified appraiser. Form 8283 must be filed with one's federal tax return and the appraiser must sign the form.⁷ If the charity disposes of the property within three years, the IRS requires it to report the sale price on Form 8282.

*Fair Market value is defined as "the price at which the property would change hands between a willing buyer and a willing seller, neither having to buy or sell, and both having reasonable knowledge of all the necessary facts." The rules relating to how to determine fair market value are addressed in IRS Publication 561, "Determining the Value of Donated Property."

Documentation

For real estate worth \$5000 or less:

- (1) A receipt from the charity
- (2) Section A of the Form 8283 must be completed by the client and attached to their tax return

For real estate worth more than \$5000

- (1) A receipt from charity
- (2) Section B of the Form 8283 must be signed by an authorized official of the charity
- (3) Written appraisal of the property's value. This appraisal must be from a qualified appraiser and must be completed no more than 60 days before the donation and no later than the date of filing taxes.⁸

⁷ Regulations Section 1.170A-13(c).

⁸ Regulations Section 1.170A-13(c).

More Resources

Helpful phone numbers

- Kars 4 Kids Real Estate Division, (855) 227-7454
- Ordering forms, instructions, and publications, (800) TAX-FORM
- Tax questions, (800) 829-1040
- IRS Customer Account Services, (877) 829-5500

IRS forms

- [Form 1040](#), U.S. Individual Income Tax Return
- [Form 1040, Schedule A](#), Itemized Deductions
- [Form 4868](#), Application for Automatic Extension of Time to File Taxes
- [Form 1040 – X](#), Amended U.S. Individual Income Tax Return
- [Form 8282](#), Donee Information Return
- [Form 8283](#), Noncash Charitable Contributions and Disclosure Requirements
- [Form 8453](#), U.S. Individual Income Tax Transmittal for an IRS e-file Return

Other links

- <https://www.kars4kids.org/realestate>
- <https://www.guidestar.org/>
- <https://apps.irs.gov/app/eos/>, Tax Exempt Organization Search
- [Publication 78](#), Cumulative List of Charitable Organization
- [Publication 526](#), Charitable Contributions
- [Publication 557](#), Tax-Exempt Status for Your Organization
- [Publication 561](#), Determining the Value of Donated Property
- [Publication 1771](#), Charitable Contributions – Substantiation